



Chairman: Mrs. Helvi SIPILÄ (Finland).

AGENDA ITEM 49

Respect for human rights in armed conflicts (*continued*):

- (a) Report of the Secretary-General (A/8313 and Add.1 to 3, A/8370 and Add.1, A/C.3/L.1895/Rev.1, A/C.3/L.1896/Rev.1, A/C.3/L.1910, A/C.3/L.1911);
- (b) Protection of journalists engaged in dangerous missions in areas of armed conflict: report of the Secretary-General (A/8371 and Add.1, A/8403, chap. XVII, sect. A; A/8438 and Add.1, A/C.3/L.1902 to 1905)

1. Mrs. IDER (Mongolia) said that the item now before the Committee assumed particular importance at a time when wars of aggression were being waged by certain imperialist and colonial Powers in various parts of the world. As everyone knew, the United States of America had for years been waging the most barbaric war against the peoples of Indo-China, bringing death and suffering to the peoples of that region. Although the President of the United States had promised that he would restore peace in Viet-Nam, the war of aggression had been extended throughout Indo-China and, as had been shown by a group of scholars at Cornell University's Center for International Studies, the war had continued to escalate. The group had reached the conclusion that the total tonnage of bombs dropped in that war would reach 6.2 million by the end of the year. More bombs had been dropped in Indo-China since President Nixon had taken office in 1968 than during the whole of the Second World War and the Korean War combined. The zones where indiscriminate bombing was permitted had been given another name, but the same unrestricted military activities were continuing there. An estimated 325,000 civilian deaths had occurred in the past five years.

2. United States pilots had bombed densely populated areas and the victims had been mainly women, children and old people. The United States was using Indo-China as a testing ground for all types of chemical warfare, including poisonous chemicals, gases, napalm, etc. Agricultural lands and forests in South Viet-Nam had been sprayed with chemicals that destroyed crops and sources of food. According to Arthur Weating, the Chairman of the Biology Department of Windhaw College, from 1962 to 1969, 9 per cent of the agricultural land and 13 per cent of the forests of South Viet-Nam had been sprayed with chemicals. In fact, nearly every province had been sprayed with chemicals. The International Commission of Inquiry into United States Crimes in Indo-China had stated that the chemical warfare in Indo-China destroyed the ecological balance in that part of the world, which would have serious consequences for future generations in Indo-China.

3. The Pentagon and the Central Intelligence Agency were still promoting their inhuman campaign of "pacification" in South Viet-Nam, which they regarded as the backbone of the "Vietnamization policy". More than 50 per cent of the operations of the United States forces and more than 80 per cent of those of the puppet forces consisted of "search and destroy" missions in which villages were razed to the ground and tens of thousands of people tortured and massacred. In an article published in *The Baltimore Sun* it was stated that a monthly average of 1,850 people had been disposed of. There was a division of labour between the United States troops and their puppets in the war; the Asian puppets carried out most of the "pacification" missions, that is to say they did the dirtiest jobs, while air attacks were made by United States pilots.

4. As a result of deportations and "search and destroy" missions, more than one third of the population of South Viet-Nam had become refugees. These war crimes and crimes against humanity were the fruit of the United States long-term policy in South-east Asia, and the main burden of responsibility lay with the framers of the policy.

5. Criminal acts of aggression were being committed in other parts of the world also. That was happening, as had been pointed out by various delegations, in the Arab territories occupied by Israel, where hundreds of thousands of Arabs had been forcibly driven from their homes and deprived of their livelihood. The Israeli aggressors were committing such criminal acts as collective punishment, destruction of houses, demolition of entire villages, and the expulsion, deportation and torture of Arab patriots. The crimes perpetrated by the Portuguese colonialists in Angola, Mozambique and Guinea (Bissau) and by the racist régimes in South Africa and Southern Rhodesia against the peoples that were fighting against colonialism, racial discrimination and *apartheid* were further proof of flagrant violations of human rights in armed conflicts.

6. In the view of her delegation, the Committee should resolutely condemn the States that committed such war crimes and crimes against humanity. The best and most effective way of protecting human rights was to eliminate war from international relations, and for that reason the main efforts of the United Nations should be directed to safeguarding the peace and security of all peoples; but since in the contemporary world man was confronted with the dire reality of wars and conflicts, every effort must be made to protect human rights in armed conflicts. To that end, States should ensure strict observance of the principles enshrined in the existing international humanitarian instruments, particularly the Geneva Protocol of 1925 and the four Geneva Conventions of 1949. She therefore supported the suggestion that all States which had not yet done so

should be urged to adhere to those instruments. Mongolia had acceded to the Geneva Protocol of 1925, to the four Geneva Conventions of 1949, to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and to the Convention on the Prevention and Punishment of the Crime of Genocide. As to the preparation of new instruments, she shared the view expressed by many other delegations, namely, that the main existing international conventions applicable in armed conflicts should be preserved but that some of their provisions should be extended and supplemented so that they provided special protection for combatants and civilians engaged in struggles for their liberation from colonial and foreign domination and to secure their right of self-determination, and for participants in guerrilla warfare. The provisions on the protection of the civilian population should be expanded taking into account the current development of increasingly sophisticated weapons of mass destruction; and special emphasis should be laid on the prohibition of the use of such methods of warfare as nuclear, chemical and bacteriological weapons, which, when used, made it impossible to distinguish between combatants and civilians.

7. Mr. BETTAUER (United States of America) said that his country, which had always been in the forefront of all efforts to ensure the protection of human rights, attached special importance to the question of the protection of journalists. Nevertheless, it had some doubts about the preliminary draft international convention recommended by the Economic and Social Council in its resolution 1597 (L). At the Conference of Government Experts convened by the International Committee of the Red Cross divergent views had been expressed about the proposed text and about the advisability of establishing a new category of specially protected persons because that might weaken the general measures of protection extended to civilians. The United States delegation would prefer a more limited text.

8. No text was yet ready for adoption, however. Indeed, the text proposed by the Council and originally introduced by the French delegation was still only a preliminary draft subject to modification and in his view it raised a number of important problems. One of those was what body was to issue the safe-conduct cards. The United States did not feel, for various reasons, such as the high cost involved of the Committee proposed by the working group, that they should be issued by the International Professional Committee mentioned in the preliminary draft.

9. Another problem was that article 2 and article 3, taken together appeared to provide for dual accreditation of journalists. Accreditation procedures should be spelled out much more clearly.

10. Under article 7 of the preliminary draft, foreign journalists would receive the same treatment as a country's own journalists. It might therefore be wondered what additional protection journalists would gain under the preliminary draft convention. The whole purpose of a convention was to set protective norms higher than those already in existence.

11. The issue of safe-conduct cards for specific missions gave rise to another difficulty. In the view of the United

States delegation it would be better to issue safe-conduct cards for a definite period so that they would be available when they were needed.

12. Another part of the preliminary draft with which his delegation did not quite agree was the first paragraph of article 6, which seemed inappropriate and superfluous given the provisions of article 1.

13. As to the lack of agreement on any text likely to be adopted, he pointed out that only 20 countries had sent in replies to the Secretary-General's questionnaire and, of those, only 15 went into questions of substance. Out of the 15 replies, 11 contained reservations about the proposed text, as was the case, among others, for Argentina, Austria, Brazil, Lebanon, Spain and Switzerland. It was obvious that 20 replies were not enough for an important international instrument like the proposed convention.

14. There were many other problems still to be solved: what substantive protection would be extended to journalists? The text should spell out whether they would be entitled to freedom of movement and immunity from seizure of their equipment, whether they might pass freely through the lines, and whether they would be subject to censorship, exempt from national criminal laws, etc. Another important point was how to ensure that identification procedures would not be used as cover for espionage and propaganda and a further question that must be answered was whether journalists would benefit from the additional protection provided by the convention in their relations with their own countries.

15. Despite the doubts he had just mentioned, the United States had wished to participate constructively and had therefore prepared working paper A/C.3/L.1903, which set out to resolve a specific basic problem. The working paper sought to take into account the wishes of journalists, who, broadly speaking, wanted an internationally recognized identity card attesting their status which they could, if taken prisoner, promptly display. The text was not a provisional one: it established a clear-cut identification system incorporating the United Nations emblem. It would not prevent the Red Cross from developing additional methods of protecting civilians.

16. Article 2 (b) of the paper defined a dangerous mission without referring to armed conflicts. In that way, the problem of the distinction between international and non-international conflicts had been avoided, which would allow for greater dispatch. Article 2 stated that the High Contracting Parties might issue the identity card, similar in effect to article 2 of the preliminary draft convention recommended by the Council. Indeed, there was no reason why the issue of the identity card should be more complicated than that of an ordinary passport. Article 3 defined the meaning of the word "journalist" within the context of the convention. Article 4 established the obligation of the High Contracting Parties, under international law, to respect the provisions in articles 2 and 3. The characteristics of the identity card were spelled out in article 5 and article 6 allowed journalists to wear an emblem. Article 7 defined the respect and protection to be accorded to journalists by virtue of their status and under the Geneva Convention, to which explicit reference was

made in article 9, but it included no new substantive protections. There was a very simple obligation in article 7, paragraph 2, namely that if disaster befell a journalist, the authorities of the country concerned should report the matter. Article 8 expressly stated that the identity card to be issued pursuant to the convention would not confer immunity from local law or other similar privilege.

17. Unfortunately, his delegation had not had time to give thorough consideration to the Australian draft convention (A/C.3/L.1902) but it was considered a constructive effort to deal with the problem; however, article 10 of the Australian text would also provide special protection for journalists. In the opinion of his delegation, it would be proper to transmit all the draft conventions to Governments for further consideration. It was difficult to agree with the contents of operative paragraph 1 of draft resolution A/C.3/L.1904 because so few Governments had replied to the Secretary-General's questionnaire. Governments should therefore be asked to submit their comments on all the texts in time for the twenty-seventh session of the General Assembly, when, if the replies were satisfactory, a decision could be taken. An analytic study of the replies by the Secretary-General would also be useful. It would be improper, in the opinion of his delegation, to take a decision on one part of the preliminary draft convention without a clear idea of the scope of the whole instrument.

18. Mr. HANDEL (Czechoslovakia) said that it was 25 years since the Charter of the United Nations had enunciated the principle that the maintenance of international peace and security and the settlement of international disputes by peaceful means were indispensable conditions for the development and observance of human rights and fundamental freedoms. It had unfortunately not been possible to eliminate conflicts, or the violations of human rights that they entailed.

19. It had been said by many delegations that human rights and armed conflicts were two incompatible concepts. That was so, but, so long as the forces of international imperialism persisted in fomenting conflicts in various parts of the world, it would be necessary to face the consequences and endeavour to ensure that human rights were observed as far as possible in armed conflicts.

20. The world was familiar with the crimes committed by United States armed forces and their allies in Viet-Nam where massacres and tortures, devastation and bombing were taking place and napalm, phosphorous bombs and other inhuman devices of war were being used. United States citizens themselves were opposed to the illegal acts of the United States and 'Saigon troops in Indo-China. Czechoslovakia categorically denounced such violations of human rights and fundamental freedoms and fully supported the just struggle of the Viet-Nameese people. It was inadmissible that the United States delegation should attempt to divert the Committee's attention from the crimes its country had committed by raising the question of United States prisoners of war in North Viet-Nam. The United States was deploying its entire military capacity against the Democratic Republic of Viet-Nam without ever having declared war on it. The aggression had brought about tremendous loss of life and material damage. Consequently, the Government of the Democratic Republic of Viet-Nam

regarded the captured United States airmen as criminals and did not apply to them the provisions of the Geneva Convention relative to the Treatment of Prisoners of War, in respect of article 85 of which it had duly formulated its reservations. Nevertheless, in contrast with the treatment of prisoners by United States and Saigon troops, the Democratic Republic of Viet-Nam was pursuing a tolerant and humane policy vis-à-vis the captured United States airmen. The responsibility for the situation rested squarely with the United States, which was still refusing to resolve the question of Viet-Nam by peaceful means on the basis of the proposals made by the Democratic Republic of Viet-Nam, the National Liberation Front of South Viet-Nam and the Provisional Revolutionary Government of South Viet-Nam.

21. The Committee's attention had already been drawn to the illegal and inhuman acts perpetrated by Israeli troops against the Arab population in the occupied territories. The facts had been eloquently set forth in the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Populations of the Occupied Territories which was to be discussed by the Special Political Committee in connexion with agenda item 40. There was no need to repeat that Czechoslovakia categorically denounced such violations of human rights, just as it energetically denounced the ruthless suppression of the national liberation movements of the peoples of Angola, Mozambique and Guinea (Bissau) and the policy of *apartheid* in southern Africa.

22. The most urgent task, in his country's opinion, was to secure the strict observance of existing legal instruments for the protection of human rights in armed conflicts, in particular the Geneva Conventions of 1949, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Protocol of 1925, the Hague Conventions and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. It would be appropriate if, among other things, all States became parties to the conventions he had mentioned. It would also be appropriate to provide for the punishment of violations of the laws and customs applicable to war on a basis of individual responsibility.

23. Because of the new and intricate methods of warfare increasingly being developed, steps should also be taken to widen and improve the protection of human rights in armed conflicts. It would not be desirable to revise the Geneva Conventions or other existing international instruments, whose viability was already proven, but to adopt further measures to strengthen and promote the protection of civilian populations, and to ensure the protection of guerrilla fighters under existing and future international instruments.

24. International protection of the civilian population in armed conflicts was related not only to human rights but also to international law. There was now no *jus ad bellum*; but *jus in bello* needed to be more explicitly defined so that the efforts of neo-colonialist aggressors to suppress national liberation struggles could be checked.

<sup>1</sup> Documents A/8359 and Corr.1 and 2 and Add.1 and Add.1/Corr.1.

25. The mobility and destructive power of the armed forces had increased enormously. Since the introduction of weapons of mass destruction, it was impossible to distinguish between combatants and non-combatants, so that the protection of civilians had become a vain illusion. Thus, any rules for the protection of civilians which disregarded that fact would be inadequate and unreal.

26. Protection of members of national liberation movements was a necessary step forward in the progressive development of contemporary international law. Since the right of peoples to self-determination, and their right to the elimination of colonialism and the eradication of all forms of racial discrimination had been recognized, those who were fighting for those rights were entitled to be protected. Captured members of national liberation movements should be able to enjoy the same rights as prisoners of war in pursuance of article 4 of the relevant Geneva Convention.

27. It was heartening to know that the Conference of Government Experts convened by the International Committee of the Red Cross in 1971 had considered those problems even though no concrete proposals had been made, an omission which should be remedied at the next conference. All States should participate in activities aimed at strengthening the observance of human rights in armed conflicts and therefore no country should be excluded from the Conference of Government Experts to be held in 1972.

28. Mr. AL-SHAWI (Iraq) said that General Assembly resolution 2677 (XXV) reaffirmed the validity of existing humanitarian norms, in particular the Hague Conventions, the Geneva Protocol of 1925 and the Geneva Conventions of 1949. He therefore welcomed the decision of the International Committee of the Red Cross to convene the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. In its comments on the report of the Secretary-General (see A/8313, chap. II), his Government had welcomed that initiative and emphasized that the first thing to be done was to ensure the strictest application of the existing rules. Unfortunately, all the meetings of the Conference of Government Experts had been closed to the public, no resolutions had been adopted, and the application of the existing rules of humanitarian law had virtually been ignored. As the Secretary-General's report indicated (A/8370 and Add.1), all that had emerged from the Conference was a draft protocol on the protection of the wounded and sick, additional to the Geneva Convention relative to the Protection of Civilian Persons in Time of War. As the President of the International Committee of the Red Cross had said, the Conference had demonstrated that solutions were possible and it should therefore continue its work; that was a tacit admission of the failure of the Conference.

29. The best way to protect human rights was to eliminate all wars, but since lasting peace seemed to be a remote possibility it was the duty of the world community to adopt measures to secure the best possible application of existing international instruments relative to the protection of human rights. Nothing—publicity, education, protecting Powers or humanitarian organizations—could alone contribute effectively to the alleviation of human suffering at the present time. Experience had shown the futility of

leaving the responsibility for the application of international instruments to the parties concerned. Measures were needed to guarantee and strengthen international supervision and secure the application of humanitarian rules. There seemed to be no better interpretation of paragraph 1 of common article 10 of the Geneva Conventions than to involve the United Nations directly as an impartial and effective world organization. If, for example, account were taken of all the crimes, atrocities and violations of human rights committed by Israel in the occupied Arab territories, as confirmed by the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, it would be found that all the United Nations and its organs had done was to adopt more resolutions and report proceedings of debating societies such as the one at Geneva.

30. The troubled world did not need any more resolutions or international instruments. What it urgently needed was an act of deliberate courage, a reaffirmation of its determination to enforce all those principles. If only Chapter VII of the Charter were faithfully observed, it would go a long way towards alleviating the sufferings of millions of human beings.

31. Mr. ALVAREZ TABIO (Cuba) said that, as indicated by the Mexican representative at the previous meeting, the two draft resolutions submitted under agenda item 49 (a) offered different solutions to the same question. He supported the second text (A/C.3/L.1896/Rev.1) because it tackled the problem in a positive and active way and reflected the views expressed by many delegations in the debate. He attached great importance to the provisions of operative paragraph 2. The Swedish representative had explained at the 1885th meeting that the draft resolution was designed to limit the use of especially cruel weapons; but there was no mention in that paragraph of fragmentation bombs, which had been designed and perfected to cause great suffering but were totally ineffective on military objectives. Their only purpose was to create terror among the civilian population: they were the arms of genocide, conceived with an indescribable refinement of cruelty. He therefore proposed that the words “such as fragmentation bombs” should be added to the end of operative paragraph 2 (b) of draft resolution A/C.3/L.1896/Rev.1. He also suggested that the words “and all aspects of their possible use” should be deleted from operative paragraph 4, since they might give the impression that there were circumstances in which the use of such arms was admissible. With the example in Viet-Nam of the condition of the victims of arms such as the NPT bomb, made up of napalm, phosphorus and thermite, before his eyes he could not accept any wording which might be open to an erroneous interpretation. He also supported the amendments in documents A/C.3/L.1910 and A/C.3/L.1911 and seconded the Mexican representative's request that priority should be given to draft resolution A/C.3/L.1896/Rev.1.

32. With regard to the preliminary draft convention, in the first place, what was important was to protect civilians and not a particular category of persons. The terms “journalists”, “dangerous mission” and “specified geographical area” which appeared in the draft were too vague. Reference was made to the rights of journalists and the obligations of States, without defining the duties of

journalists. The mention of article 19 of the Universal Declaration of Human Rights was not sufficient in connexion with activities to be carried out in an area of armed conflict. The rights of journalists could not be allowed to take precedence over the interests of the community involved in the conflict; it was well known that journalists in the service of imperialism used the right to freedom of information to distort news. It was dangerous to create supranational instruments limiting the sovereign powers of States. The convention was an attempt to establish a privileged category instead of ensuring the application of the 1949 Geneva Conventions which protected the civilian population as a whole. No State should have its sovereignty subjected to the authority of an international committee. Lastly, it was ridiculous to compare a foreign journalist with nationals, since their rights were accorded only by the receiving State and had nothing to do with the possession of an identity card.

33. With regard to the statement of the United States representative, who had implicitly but quite definitely contradicted the Cuban delegation, he quoted certain paragraphs from official documents published in *The New York Times* which exploded once and for all the great myth that United States troops were in South Viet-Nam to defend the right to self-determination of the people of that State. The United States imperialists were only trying to justify their aggression.

34. Mr. BAL (Mauritania) introduced the amendments to draft resolution A/C.3/L.1896/Rev.1 contained in document A/C.3/L.1911. The resolutions listed in the first amendment were particularly important. He hoped that the sponsors would be able to accept the second amendment. He proposed that in the English version of the second amendment the word "foreign" before the word "domination" should be replaced by the word "alien".

35. With regard to the draft resolution introduced by the United Kingdom (A/C.3/L.1895/Rev.1), while he welcomed the improvements that had been introduced, his delegation still had a number of reservations concerning the revised text. For example, the report of the Secretary-General (A/8313) was noted with appreciation but not the report in document A/8370 and Add.1 which was of special interest to his delegation.

36. With regard to the resolutions mentioned in the United Kingdom draft resolution, they were certainly important but they were only procedural. He therefore asked if the sponsors would be agreeable to amending the first preambular paragraph to read as follows:

*"Recalling its resolutions 2444 (XXIII), 2597 (XXV), 2677 (XXV) and especially paragraphs 11 of resolution 2652 (XXV), 9 of resolution 2707 (XXV) and 11 of resolution 2678 (XXV)."*

That would remove many of his delegations difficulties.

37. Another matter of concern to his delegation was the lack of balance due to the absence of any reference to the Secretary-General's report (A/8370 and Add.1), which mentioned certain resolutions appealing to the United Kingdom, Portugal and the Pretoria régime to treat freedom fighters under detention as prisoners of war in accordance with the relevant international instruments. He proposed

the insertion of a new third preambular paragraph on the following lines:

*"Noting with satisfaction the reports of the Secretary-General (A/8313 and Add.1-3 and A/8370 and Add.1) on respect for human rights in armed conflicts."*

38. There seemed to be a contradiction between the fourth preambular paragraph of the present text, which emphasized that effective protection for human rights in situations of armed conflict depended on universal respect for humanitarian rules, and the fifth, which recognized that existing rules did not meet contemporary needs. The sixth preambular paragraph only added complications to an already complicated text and should be deleted.

39. Operative paragraph 4 was perplexing. How, for example, could the NATO Powers be asked to review their reservations concerning resolutions on the crime of *apartheid*, concerning the inclusion of the word Palestine in resolutions on the Middle East or concerning resolutions on Rhodesia and the Territories under Portuguese domination? If those Powers were to withdraw their reservations it would hardly be necessary for the Committee to discuss the present item, since most of the problems would be resolved.

40. His delegation had the highest esteem for the admirable work done by the Red Cross, the more so because of its limited means, and therefore agreed with the provisions of operative paragraph 3. However, it was to be hoped that the foreign Powers which had caused the conflicts would reflect on the harm they were causing to humanity and would devote all or part of the enormous sums they were spending on battles for power to promote respect for human rights.

41. Draft resolution A/C.3/L.1895/Rev.1 contained no mention of the question of the rules applicable to wars of liberation. The International Committee of the Red Cross had submitted a draft protocol which would modify the conditions set forth in article 4, paragraph A (2), of the third Geneva Convention to allow captured guerrillas to be treated as prisoners of war. That should have been reflected in the draft resolution.

42. Mrs. SELLAMI (Algeria) supported the Mauritanian representative's comments on draft resolution A/C.3/L.1895/Rev.1 and said that there was no point in submitting amendments to it because it was too general in nature and did not adequately reflect the problems expressed during the debate.

43. The CHAIRMAN announced that Tunisia had joined the sponsors of the amendments submitted in document A/C.3/L.1911.

44. She also said that the Committee had agreed that the deadline for submitting amendments to draft resolutions under item 49 (b) would be 5 o'clock that day but it had set no deadline for introducing the actual draft resolutions. The only draft resolution at present before the Committee was draft resolution A/C.3/L.1904 introduced by France. If there were no objections she would assume that it was the only one on the item in question and that the deadline of 5 o'clock should remain for the introduction of amendments.

*It was so decided.*

*The meeting rose at 1.05 p.m.*