TWO HUNDRED AND FORTY-SEVENTH MEETING

Held at Lake Success, New York, on Wednesday, 12 October 1949, at 10.45 a.m.

Chairman: Mr. Carlos E. STOLK (Venezuela).

Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) *(continued)*

ARTICLES 24 AND 27 *(continued)*

1. The CHAIRMAN called for a vote on the admissibility of the Indian amendment (A/C.3/L. 16). As the amendment had been submitted after the expiry of the time limit fixed by the Committee, a two-thirds majority vote would be needed before it could be discussed. He put to the vote the proposal that the amendment should be admitted.

The result of the vote was 21 in favour, 4 against, and 5 abstentions.

The proposal was adopted, having obtained the required two-thirds majority.

2. Mr. FREYRE (Brazil) was convinced that the convention should be applied equally in metropolitan countries and in Non-Self-Governing Territories. Since, however, there were some local organs of self-government in certain of the colonial territories, the metropolitan Powers had argued that they could not compel the territories in their charge to adhere to a convention without first consulting them. Admitting that the situation was a difficult one, he felt that the solution offered by the existing texts of articles 24 and 27, though not ideal, was acceptable as a temporary measure. He would, therefore, vote for the articles as they stood, together with the Indian amendment, which, if adopted, would provide additional safeguards and would represent a considerable step forward.

3. Mr. JOCKEL (Australia) supported the Indian amendment in principle but thought it would be better to incorporate it in a separate resolution rather than in the article itself. The amendment as it stood did not state what would happen to the communications to be sent to the Secretary-General, nor did it provide for them to be discussed or for any action to be taken in the matter. If, on the other hand, a separate resolution were adopted on the subject, the communications would automatically come up for discussion by the Committee of the Economic and Social Council which had been specially set up to supervise the implementation of resolutions on economic and social questions. In that way, appropriate action would be ensured.

4. He felt, moreover, that such a resolution should apply to all Member States and not only to the metropolitan Powers. If each Member State which failed to sign the convention was required to state its reasons, some constructive action might be taken. Finally, he mentioned that such a resolution had already been adopted in connexion with the 1948 Protocol bringing under International Control Drugs outside the Scope of the Convention of 1931 and in connexion with the Convention on the International Transmission of News and the Right of Correction.

5. Mr. KATZNELSON (Israel) said that, as his country had only recently become a Member of the United Nations, he had not participated in any of the previous discussions on the subject of the colonial application clause. On hearing all the arguments for the first time, he could see no reason why the convention should not apply automatically to the colonial territories as soon as the metropolitan Power became a party to it. During the discussion on article 23, which dealt with the settlement of disputes, he had argued in favour of achieving uniformity among the various international conventions. The plea for uniformity could not, however, apply where article 27 was concerned, because the aim of the convention was to eliminate certain criminal offences and there was no reason why such offences should not be eliminated in the colonial as well as the metropolitan territories. In his opinion, the eradication of prostitution and white slavery in colonial territories was the direct concern of the Powers responsible for their international relations. There was therefore no need to consult the colonial territories before extending the convention to them.

6. He agreed with the statement made by the United States representative at the previous meeting that the slow progress of democracy was preferable to the rapid advances that could be made under a benevolent dictatorship. Nevertheless, the United Nations represented a new form of international democracy and the plea of democratic principles was not sufficient justification for a refusal to extend a convention adopted by the United Nations to the colonial territories.

7. In principle, he supported the Ukrainian amendment (A/C.3/L.10) which proposed the deletion of article 27. Since, however, a vote in favour of deletion would have to be based on the assumption that the Ukrainian amendment to article 24 would subsequently be adopted, the position was extremely difficult. In those circumstances, he would be obliged to vote in favour of article 27 with the Indian amendment, in case the Ukrainian amendment to article 24 should later be rejected.

8. He suggested that article 24 should be put to the vote before article 27.

9. The CHAIRMAN said that a two-thirds majority vote would be required for the Committee to reverse its previous decision to discuss and vote on article 27 first.

10. Mrs. AFNAN (Iraq) said that, from the very outset, her delegation had always been particularly concerned with the fate of Non-Self-Governing Territories, and was proud to have assisted in drafting Articles 73 and 76 of the United Nations Charter. In her opinion, all the difficulties that had become apparent in the course of the discussion had their source in the anachronistic existence of Non-Self-Governing Territories at a time when an international organization was drafting a convention of such scope and magnitude as the one under discussion.

11. She agreed with the representatives of Pakistan and Israel that it would have been better to vote on article 24 before article 27. It would then have been possible to adopt the Ukrainian amendment.

12. She could not support the existing text of article 27 but she would be prepared to support the Indian amendment. Some representatives had argued that the recognition of the moral responsibility of the metropolitan Powers to extend the convention to the territories in their charge was already a step forward. She emphasized, however, that such a moral responsibility was already implicit in Articles 73 and 76 of the Charter. Moreover, those who claimed the precedent of the Convention on the International Transmission of News and the Right of Correction seemed to be wilfully ignoring the essential differences between that convention and the one under discussion.

13. She appreciated the concern of the United Kingdom delegation to promote the development of colonial peoples by giving them responsibility rather than by dictating to them, but she did not think it would be really incompatible with that policy for the metropolitan Powers automatically to extend the benefits of the convention to the territories in their charge. They were internationally responsible for those territories and the convention was an international document. It seemed almost cynical to talk of democracy in connexion with non-self-governing peoples and those who took it upon themselves to decide whether a territory was fit for self-government could surely also undertake to extend a convention which they accepted for themselves to the territories in their charge.

14. Mr. PLEJIC (Yugoslavia) said that each time the colonial application clause came up for discussion the metropolitan Powers consistently refused to assume the legal obligation of extending the provisions of an international convention to their colonial territories. They continually raised constitutional objections instead of abiding by the solemn obligations they had undertaken when signing the Charter. The new arguments that had been raised during the current discussion seemed to show that the metropolitan Powers were themselves aware of the inadequacy of the old ones. It was alleged that the colonial application clause was a sign of progress and the precedents of similar articles already adopted for other conventions were cited.

15. He emphasized that the colonial system was in itself a temporary arrangement and that it was the duty of the metropolitan Powers to hasten the development of their dependent territories towards self-government. Nevertheless, they were contending that the clause which would confirm the colonial territories in their state of dependence was a sign of progress and they were attempting to give a permanent status to provisions which hampered the development of colonies towards independence.

16. His delegation was, as always, strongly opposed to the attitude taken by the metropolitan Powers. In his opinion, the benefits of all international conventions should be extended to the colonial territories, particularly if such conventions dealt with social and humanitarian subjects. Prostitution was a very serious problem in the colonial territories and the peoples of those territories should not be deprived of the benefits of the convention. He would therefore vote in favour of the Ukrainian amendment proposing the deletion of article 27.

17. Mr. PITTALUGA (Uruguay) said that the main objective of the convention would be defeated if it was not universally applied. He shared the view of the representative of Mexico that the convention should be applied automatically at least to the Trust Territories, and he was glad that the United Kingdom representative also shared that view. The interpretation of Article 73 of the Charter had already given rise to much discussion and he did not think it would be very useful to pursue that line of argument.

18. If the greatest possible number of ratifications was to be obtained, a compromise solution should be sought. He would therefore be willing to support the suggestion made by the representative of India.

19. Mr. PANYUSHKIN (Union of Soviet Republics) wondered why the representatives of the colonial Powers were so anxious to adopt an article which would leave them free to decide whether or not the convention should be extended to the territories under their jurisdiction. Some light could be thrown on that subject by the official information available to the United Nations. Indeed, it was clear that the evils of prostitution and traffic in women and children were particularly flourishing in colonial and Non-Self-Governing Territories. For instance, the second report of the Singapore Health Department for 1947 stated that girls bought for sums ranging between 10 and 20 dollars could easily be resold to Singapore brothels for 700 or even 1,000 dollars; sixty young prostitutes detained in 1947 had been suffering from venereal disease. The summaries and analyses of information on Non-Self-Governing Territories transmitted to the Secretary-General in 1948 showed that a similar state of affairs prevailed in West African territories. The *Report on Eritrea* by the Four Power Commission of Investigation for the former Italian colonies showed that the number of prostitutes in the territory had increased four-fold between 1933 and 1947. During the period between January and November 1947, 2,748 unregistered prostitutes had been arrested in Eritrea as compared with 100 throughout the whole of 1939. The main responsibility for that shocking state of affairs rested with the colonial Powers. It should be clearly stated in the convention that the struggle against that evil could not be left to the discretion of the metropolitan countries.

20. The United Kingdom representative had argued that to delete article 27 would be inconsistent with the requirements of the Charter. He failed to see how the extension of the convention to colonies and Non-Self-Governing Territories could be inconsistent with the obligation assumed by the colonial Powers under Article 73 *a* of the Charter "to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses". The responsibility for extending the application of the convention to dependent territories rested entirely with the colonial Powers. He would therefore vote for the Ukrainian proposal to delete article 27, since that deletion would be fully in accordance with the spirit and the letter of the Charter.

21. Mr. KAYSER (France) said that the French delegation would have preferred a text for article 27 similar to those for which it had voted pre-

viously, but since that text of article 27 had already been incorporated in another convention and since it was advisable to ensure a certain amount of concordance between the various international conventions, he was resigned to supporting article 27 as submitted.

22. He could not leave unanswered the allegation that article 27 was an undemocratic clause. Indeed, the agreements concluded between the United Nations and various Administering Authorities under Article 73 of the Charter clearly stipulated that it was for the Administering Authorities to decide whether the provisions of certain international conventions should be extended to the territories under their jurisdiction. In his opinion, no action which was in accordance with the terms of the United Nations Charter could be described as undemocratic.

23. Moreover, the French Constitution was democratic. It provided for a system of consultation with the territories for the diplomatic representation of which France was responsible, and that was an essentially democratic constitutional process. It was important, therefore, that the convention should permit that system to be respected.

24. There were two observations he wished to make on the Indian amendment. He agreed that, according to that amendment, the States concerned should, within a year of adhering to the convention, notify the Secretary-General of those territories under their jurisdiction in which they had not applied its provisions, stating the reasons. He asked, however, whether there was any need to impose upon those States the obligation of repeating the same operation every succeeding year. In his opinion, it should be sufficient for them to inform the Secretary-General of any changes which might have occurred in that field in the territories under their jurisdiction. Secondly, the adoption of the Indian amendment would lead to the creation of two categories of States: those which were obliged to report to the Secretary-General and those which were not. Countries which signed the convention would be under the obligation of reporting to the Secretary-General the reasons why certain territories had not acceded, whereas the countries which did not sign would not need to make known the reasons for their non-adherence. Thus, countries avoiding the application of the convention would escape obligations which would fall exclusively on the signatories to the convention.

25. Mrs. CASTLE (United Kingdom) recalled that during the course of the debate it had been asked how any effective advance could be made towards improved living conditions and higher social standards if the metropolitan Powers refused to assume any resposibility. She wished to make it quite clear that in supporting article 27 her Government in no way wished to evade its responsibility for promoting social advancement in the territoies under its administration, and that it would continue to promote such advancement by means of technical and financial assistance, as it had been doing for a long time past. The record of those efforts could be found in any of the United Kingdom colonial annual reports, as well as in the information sent to the Secretary-General in accordance with Article 73 *e* of the Charter.

26. The Polish and USSR representatives had mentioned several disturbing instances of the unsatisfactory social conditions existing in some territories under United Kingdom jurisdiction. She wished to observe in that connexion that the information, though perhaps adverse to her country, had been freely supplied by the United Kingdom Government itself. She would not deny the existence of serious social problems but it would be equally futile to deny that improvement was hindered by many obstacles and difficulties. Her Government was, however, fully aware of the situation and was doing its utmost to improve it. Indeed, if the Polish representative had not at the previous meeting confined her quotation to one single extract, it would have been clear to all that Nigeria was one of the three West African territories which had taken the lead in bringing into effect extensive modern legislation for dealing with juvenile delinquency, in organizing juvenile delinquency services and in establishing special social welfare departments for implementing their policy. Some details of the work being done in Lagos, for instance, could be found on page 646 of the publication quoted by the Polish representative.

27. The representative of Pakistan had implied that the arguments of the United Kingdom were in fact hypocritical because, as a metropolitan country, it retained a reserve power to override or to coerce colonial legislatures on all questions, including domestic matters. She wished to point out that a reserve power was very different from the power automatically to commit a colonial Government on a domestic matter. Although the United Kingdom Secretary of State for the Colonies had in many cases such a reserve power, he was not only most reluctant to use it but he would in fact, by using it, violate the basic principles of his country's colonial policy. If the reserve power were an effective part of United Kingdom colonial policy, there would be no reason for her Government to oppose the deletion of article 27. Indeed, such deletion would give her Government not a reserve power, to be used in the last resort, but an automatic power to be used at the very outset. The United Kingdom Government rejected that automatic power; it did not even want to use its reserve power. The representative of Pakistan displayed a certain lack of logic, therefore, when he argued that because the United Kingdom Government had the power to override legislatures, it should be compelled to use that power.

28. The representative of Israel had said that the United Nations represented a new form of international democracy which committed nations and not only Governments. She fully agreed that the United Nations should be made aware of the views of the peoples of the Non-Self-Governing Territories; and in that connexion she wished to recall that at the third session of the General Assembly the representative of the United Kingdom, Mr. Grantley Adams of Barbados, had explained the views of the peoples of the United Kingdom dependent territories on the question of the application of international conventions to Non-Self-Governing Territories. His speech, an extract from which she quoted from document A/PV.150, made it quite clear that the people of the territory from which he came, like the peoples of the other British dependent territories, would oppose having legislation forced upon them and would lose all respect for the United Nations if it were the cause of such dictation.

29. She did not oppose the Indian amendment, which sought to impose some supervision on the application of the convention in dependent territories, although the French representatives had rightly remarked that the metropolitan Powers would thus be somewhat penalized. She believed, however, that the same purpose could be achieved on an even wider basis, by involving all the Member States of the United Nations. To leave no doubt as to her Government's good faith in the matter she had submitted a draft resolution (A/C. 3/L.17) to that effect; it would be examined by the Committee as soon as feasible under the existing procedure.

30. Mrs. FORTANIER (Netherlands) believed that it was extremely important that the convention should apply to the largest possible number of countries. The existing text of article 27 fully met that requirement. The Ukrainian proposal to delete article 27 was unacceptable, since many countries could not, for constitutional reasons, undertake to apply a convention automatically in all the territories under their jurisdiction.

31. The problem of the colonial application clause had already been examined at great length in connexion with the Convention on the International Transmission of News and the Right of Correction, which contained a provision similar to article 27. She believed that it would be advisable to follow the precedent and thus ensure a certain amount of uniformity in the matter.

32. While fully appreciating the conciliatory tendency underlying the Indian amendment, she felt that the same purpose could be achieved by Article 73 *e* of the Charter. She would vote for the existing text of article 27.

33. In conclusion, she expressed her approval of the United Kingdom draft resolution, which obviated the disadvantages inherent in the Indian amendment while retaining its principle.

34. Mr. AQUINO (Philippines) said that, like the representatives of Pakistan and Israel, he would have voted for the Ukrainian amendment to article 27 had it not been decided that that vote should be taken before the vote on article 24. In the existing situation, he would vote for the Indian amendment to article 27 rather than for the deletion of that article.

35. It had been encouraging to find almost general agreement on the view that the responsibility for the application of the convention to the Non-Self-Governing Territories was incumbent upon the Governments responsible for their international relations, in accordance with Articles 73 and 76 of the Charter. The French representative's argument that France would be penalized unfairly if the Indian amendment were adopted could not be regarded as valid. The parties to a convention assumed the responsibility for applying it; if those parties were also metropolitan countries, they were bound by every standard of morality and law to assume a similar responsibility for their dependent countries. That was not penalization but an inherent responsibility. To argue that the Non-Self-Governing Territoies should have full rights to make such a decision while at the same time claiming that they were too immature to do so was inconsistent.

36. There were good legal grounds for stating that even if article 27 was deleted, the responsibility for the enforcement of the convention would still devolve upon the administering Powers. That legal obligation should, however, be explicitly stated, as it was in the Ukrainian amendment to article 24. The Indian amendment to article 27 in some measure provided a safeguard against any failure to comply with the requirement that the convention should be applied universally. The substance of that amendment had been incorporated — in a somewhat weaker form — in the draft resolution submitted by the United Kingdom delegation; that was tantamount to a tacit admission that it had been justified. It had been argued, however, that the inclusion of such a provision in the convention itself would hamper its implementation. That was untrue; the machinery of implementation would in practice be the same, provided that the resolution were genuinely carried out. Nevertheless, a resolution was less binding than an article of a convention and might give rise to the suspicion that some form of evasion was contemplated. However unjustified that suspicion might be, there should be no possibility of evasion with regard to precisely those areas in which the evil of prostitution was most prevalent.

37. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) was surprised that certain delegations had argued that they could not vote for the deletion of article 27 because it would not be possible to vote on article 24 previously. His own delegation had been well aware of the probable result of the United Kingdom's procedural proposal and had voted against it. The Philippine representative should therefore vote for the deletion of article 27 and then for the adoption of the Ukrainian amendment to article 24.

38. The Indian amendment to article 27 failed to serve the purpose intended, but rather gave the administering Powers greater latitude to evade full application of the convention. A country such as India, which had itself experienced the lack of self-government, should be particularly careful to see that an attempt to reach a compromise did not in practice lead to the sacrifice of the interests of millions of persons.

39. The arguments advanced against the Ukrainian amendment to article 27 had been neither new nor unexpected, nor, in his opinion, wholly devoid of hypocrisy. The representatives of the administering Powers had argued that their Governments had assumed the obligation to promote the development of self-government in the territories for which they were responsible and that the adoption of the Ukrainian amendment would delay such development. The relevant provisions of the Charter undoubtedly did confer that obligation, but in practice its fulfilment had been limited to mere promises. Not only had almost nothing been done to implement such obligations, but a great deal had been done in violation of them. That was the real reason for the attacks upon the Ukrainian amendment, which, in proposing the deletion of the colonial application clause, aimed at ensuring the full application of the convention to Non-Self-Governing Territories and, thereby, the prohibition of the type of traffic which was extensively practised by the nationals of such territories themselves.

40. It was difficult, in his opinion, to see how such measures as the abolition of brothels, the prohibition of the traffic in persons and the pun-

ishment of the exploitation of the prostitution of others could prevent the United Kingdom and United States Governments from enabling their colonial dependents from expressing their views, from holding free elections and enjoying freedom of information. The United Kingdom representative had gone so far as to call the Ukrainian amendment reactionary. The real question was whether the traffic in persons was to be prevented or not. Those who favoured the retention of evil practices which had flourished in certain territories for many years might be regarded as more reactionary than those who were in favour of an attempt to check them.

41. The administering Powers had argued that they could not dictate to the local legislative bodies nor decide on their behalf that the convention should be implemented in the territories concerned, but that those bodies must decide for themselves. Moreover, they had argued that certain territories enjoyed a certain degree of self-government. The representatives of Pakistan and the Philippines — countries which had once had non-self-governing status — had emphasized the existence of the reserve power of the administering governments. The representative of the United Kingdom had failed to answer that objection adequately. Moreover, the limited extent of the alleged self-government existing in territories under United Kingdom administration was shown by the fact that five and a half million inhabitants in Tanganyika, for example, had only three representatives, and even they were not elected but appointed by the Administering Authority, while the Governor had the power of veto on their decisions. In Kenya, 95 per cent of the inhabitants had no representation. Similar or worse conditions prevailed in other territories. Such local legislative bodies could hardly express the wishes of the indigenous inhabitants. Furthermore, they were not even asked to express their views on such matters as discrimination in labour practices and police action. To argue that the administering government did not wish to make use of its reserve power but would be forced to do so if the Ukrainian amendment were adopted, was to disregard the facts of the existing situation.

42. Mr. Demchenko failed to see the relevance of the precedent for the retention of the colonial application clause in the Convention on the International Transmission of News and the Right of Correction. The truly relevant precedent was provided by the deletion of that clause by the General Assembly in its resolution 126 (II), which related precisely to two previous Conventions which had actually been incorporated in the draft before the Committee — that of 1921 for the Suppression of the Traffic in Women and Children and that of 1933 for the Suppression of the Traffic in Women of Full Age.

43. He was unable to agree with the United States representative (246th meeting) that great caution would be required in applying the convention to territories in which the inhabitants had not yet reached their full development and that its automatic application would prevent them from developing a sound basis for democracy. That would imply that such inhabitants were not mature enough to approve of the elimination of prostitution from their territories and that freedom of prostitution should be regarded as a sound basis for democracy. Nor could he agree with the United Kingdom representative that such freedom would provide a firm foundation for the teaching of self-government.

44. He could see little ground for the pride expressed by the United Kingdom representative in the progress achieved as a result of the colonial application clause. Although many territories had enjoyed United Kingdom administration for years and some for centuries, the Cameroons, for example, had no self-government; the official language in its courts was English; flogging was a recognized and approved punishment. Provision for health and education was wholly inadequate; discrimination in labour practices was prevalent. All the facts supported the argument that article 27 should be deleted.

The meeting rose at 1.10 p.m.

TWO HUNDRED AND FORTY-EIGHTH MEETING

Held at Lake Success, New York, on Wednesday, 12 October 1949, at 3 p.m.

Chairman: Mr. Carlos E. STOLK (Venezuela).

Draft convention for the suppression of the traffic in persons and of the exploitation of the prostitution of others (A/977 and A/C.3/520) *(continued)*

ARTICLE 24 AND 27 (*continued*)

1. Mr. BOKHARI (Pakistan) noted that speakers on article 27 were divided into two groups. The first comprised, *inter alia,* the representatives of the majority of the Asian and African countries, which from their own long experience were in a better position than any others to appreciate the real scope of article 27. They defended their point of view with genuine fervour. The second group appeared to be inspired by equally strong convictions, but they were not above using tactical ruses at times. Thus the Committee had been led into taking an ill-considered decision reversing the order in which it was to examine articles 24 and 27. There was now the proposal of a draft resolution (A/C.3/L.17) as a substtiute for the Indian amendment to article 27 (A/C.3/L.16). The supporters of that resolution, however, failed to mention the difference between a resolution of the General Assembly and the articles of a convention. Whereas the latter were binding on the signatories, the former had no mandatory force. The Committee was faced with a tactical move which was not, indeed, devoid of adroitness but was not of a nature to enhance the prestige of the United Nations.

2. He did not doubt the sincerity of those representatives who desired the retention of article 27.