

tain the relevant information concerning the powers granted to the International Professional Committee. There was an obvious lack of co-ordination between the obligations of States and the rights of the International Professional Committee, which would be composed of experts, not representatives of States. That fact should be borne in mind when the issue, authentication, renewal or withdrawal of the card was considered.

49. With regard to article 4, paragraph 4, he had doubts concerning the annual report which the International Professional Committee was to submit to the General Assembly through the Secretary-General. He did not quite see what the proposed Committee was to report on annually. In article 4, paragraph 6, no reference was made to where the International Professional Committee would normally meet. He asked the sponsors of the draft to enlighten him on that point.

50. Mrs. MAIR (Jamaica) said that she shared the doubts expressed concerning the anomaly of having a committee with a limited membership financed by Member States but not answerable to them. In addition, the International Professional Committee would make regulations that Member States would have to observe. All those circumstances seemed to put journalists in a more favoured position than members of other professions.

51. Mrs. KOROMA (Sierra Leone) said that she had doubts concerning the type of report which the International Professional Committee would submit annually to the General Assembly through the Secretary-General, for given the powers with which the proposed Committee would be invested, it could confine its report to whatever subjects it chose to include.

52. Mr. SCOTLAND (Guyana) said that Guyana did not agree that the International Professional Committee should have such broad powers. His country shared Colombia's doubts concerning the proposed Committee's power to make regulations that would be binding on Member States. Furthermore, the question of expenses should be considered with great care.

53. Mr. SCHREIBER (Director, Division of Human Rights), referring to the financial implications of the draft convention, said that under article 4, paragraph 5, the expenses relating to the activity of the International Professional Committee would be borne by the States parties to the convention and, consequently, would not add to the financial responsibilities of the United Nations. According to his interpretation of the text, the International Professional Committee would differ in that respect from the Committee on the Elimination of Racial Discrimination, since the apportionment of expenses would be decided by the States parties.

54. For example, in the case of the Committee on the Elimination of Racial Discrimination the United Nations was responsible for conference services, while the expenses of the members of that Committee were borne by the States parties in accordance with the decisions taken at meetings convened specifically for that purpose. The amounts contributed were determined by those States through a partial application of the system of equal contributions from all States parties and the scale of assessments of the United Nations.

55. Mr. SHAFQAT (Pakistan) thanked the Director of the Division of Human Rights for his explanation. He asked whether the proposed Committee would have a permanent secretariat and, if so, what the financial implications would be.

56. Mr. BAL (Mauritania) said that the members of the Third Committee now knew that a scale of assessments would have to be established. He repeated his proposal that the expenses of the International Professional Committee should be borne through voluntary contributions.

57. Mr. SCHREIBER (Director, Division of Human Rights) said that the representative of Pakistan should address his question to the sponsors of the draft, since the text was still in the preparatory stage. However, if the proposed Committee did have a permanent secretariat, its expenses would, according to the text, have to be borne by the States parties.

*The meeting rose at 1 p.m.*

## 1995th meeting

Friday, 12 October 1973, at 3.20 p.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1995

### AGENDA ITEM 54

**Human rights in armed conflicts: protection of journalists engaged in dangerous missions in areas of armed conflict: report of the Secretary-General (continued) (A/9073)**

**DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS IN AREAS OF ARMED CONFLICT (continued)**

#### Article 4

1. The CHAIRMAN asked members of the Committee whether they had further remarks concerning

article 4 of the draft articles before the Committee (A/9073, annex I).

2. Mr. BAL (Mauritania) recalled that at the previous meeting he had suggested that paragraph 5 be modified to show that the expenses relating to the activity of the proposed International Professional Committee should be borne by voluntary contributions from the States parties to the convention. He wished to know what the sponsors of the draft articles thought of that suggestion which, he made clear, was not a formal amendment.

3. Mr. WIGGINS (United States of America) said that his delegation thought it would be preferable if all operations concerning the card were to be undertaken

directly by Governments, without establishing a committee. It understood, however, that such a procedure would leave many problems unsolved, in particular, those that had been mentioned by the representative of Algeria at the preceding meeting. He nevertheless regretted that the representative of Algeria had injected purely political questions into the debate which had no place there. He would not consume the Committee's time by discussing whether the United States intervention in Cambodia as imperialist aggression, as charged by the representative of Algeria, or defence of the legitimate Government. That issue should not have been raised in the Committee and could not possibly contribute to the useful discussion of the humanitarian question before the Committee. As to whether the current conflict was a war of national liberation, as described by the Algerian representative, or a legitimate Government's defence of its existence against attacks, aided by outside forces, that too, was a matter that should not have been raised in the Committee.

4. His delegation had serious reservations about the establishment of the committee proposed in article 4 because it meant that Governments would be subject to regulations which they had had no part in drawing up. Furthermore, as the representative of Algeria had pointed out, it did not seem appropriate to establish machinery that would place restrictions on journalists; the press should have free access to areas of conflict.

5. Mr. SHEN (China) said that his delegation would make only preliminary remarks because it was participating in the Committee's work for the first time and had to study the question more thoroughly. For the moment it wished to join in the reservations expressed concerning article 4, paragraph 2: he did not think it was right for a committee to be empowered to prescribe regulations for States to follow; that would run counter to the principle of the sovereignty of States which the draft convention claimed to respect. It was for Governments themselves to take all decisions relating to the issue of the card.

#### Article 5

6. Mr. VON KYAW (Federal Republic of Germany) said that his delegation had already pointed out (1992nd meeting) that the statement to be printed on the back of the card was too one-sided. It would be premature at the current stage to propose a more balanced wording, but he wished to draw attention to the matter.

7. Mrs. MARICO (Mali) said that the statement suggested in paragraph 2 of the article was pointless. The proposed text represented, in a way, a code of conduct; but journalism, like all professions, had its own rules and regulations and the presence of a text, whatever its wording, on the back of the card would not influence the conduct of the journalists. Consequently, her delegation would prefer to avoid any such reference on the back of the card—if one were to be issued—and thus, to delete that paragraph.

8. Mr. BERGH-JOHANSEN (Norway), supported by Mr. WIGGINS (United States of America), said that his delegation, as it had pointed out in the Committee at the previous session and in the Commission on Human Rights at its twenty-eighth session, believed that the international community had to take appropriate measures for the protection of journalists engaged in danger-

ous missions in areas of armed conflict. That should be the purpose of any international instrument to be drawn up, not to restrict the activities of journalists in the practice of their difficult and important profession. His delegation would therefore have some difficulty in supporting article 5 as it stood, because it felt that the convention should contain no provision which might be interpreted as constituting a code of conduct for journalists. It believed, of course, that journalists must conform to the laws and regulations in force in the territories in which they were; however, the convention was not the proper place to list the obligations they should meet because, in some cases, they could be used for restrictive purposes.

9. Furthermore, it was very important that the validity of the card should not be limited to precise geographical areas because journalists would be in a very difficult position whenever the armed conflict spread to places outside the area of their mission. For that reason, Norway whole-heartedly supported the amendment proposed by the United Kingdom to the first sentence of paragraph 4 of article 5 (A/9073, annex II, para. (d)).

10. Mr. KABINGA (Zambia) pointed out that the nationality of the bearer of the card would raise a problem in cases where journalists had dual nationality.

11. Mr. MACRAE (United Kingdom) said that his delegation had withdrawn all the amendments that it had submitted, with the exception of the one relating to the first sentence of paragraph 4 of article 5. That amendment had been retained because of the difficulty in determining cases of armed conflict. If, in a given territory, a difficult political situation, fighting, violence or exciting events arose, it was difficult to see how it would be possible in each case, for the purposes of the issue of the card, to determine whether or not there was an armed conflict. For that reason, the card should be valid anywhere in the world for a period of 12 months and for any place in the world where the journalist could be considered to be carrying out a dangerous mission.

12. The text of draft article 6 provided that the competent authorities of the States parties should be responsible for the issue of the card. That should present no problem since it would not be a question of accrediting journalists and would, consequently, be a simple formality. On the other hand, several points on the question of nationality would have to be clarified. He wondered, for example, whether a journalist who was a resident of long standing in a country other than his own, would have to apply to the authorities of the country in which he lived and worked or to those of his own country.

*Mrs. Bertrand de Bromley (Honduras), Vice-Chairman, took the Chair.*

13. Mr. FØNS BUHL (Denmark) said that he too feared that the statement to be printed on the back of the card could be interpreted as restricting the right of the journalist to disseminate information freely. He recalled that the wording of the statement had been the subject of lengthy debate at the previous session and that some of the sponsors of the draft articles, including Denmark, had had difficulty with it. The text should be redrafted and improved. The problem was not one of substance: it was simply a matter of finding a more concise wording that would preclude the possibility of

preventing a journalist from sending reports or expressing his personal opinion on particular events on the pretext that he did not meet "the highest standards of journalistic integrity".

14. Mr. NODA (Japan) said that his delegation supported the United Kingdom amendment to article 5 because of the very nature of journalism and because the convention should be practical and realistic.

15. Mr. PAPADEMAS (Cyprus) felt that the United Kingdom amendment did not appreciably alter the tenor of article 5. Indeed, regardless of the conditions under which the card was issued, the country in which the journalist was on mission retained absolute rights over the admission of the journalist to its territory. The card was comparable to a passport: some countries admitted visitors on simple presentation of a passport, while others required an entry visa. In the circumstances, it mattered little that the validity of the card was limited in duration or in the number of countries accepting it. In any event, his delegation was prepared to support the United Kingdom amendment.

16. He recalled that at the previous session there had been lengthy discussions on the question whether or not a statement should be printed on the back of the card and the wording of that statement. He believed that it was not the presence of that statement on the back of the card that would in any way change the conduct of a journalist. His delegation, however, had no set position on the matter; perhaps a compromise solution could be found at a later stage.

17. Mr. BAL (Mauritania) said that his delegation had misgivings about the ambiguity of some articles. Article 5, paragraph 6, mentioned "authorities" responsible for the issue of the card. Were they governmental authorities or the committee provided for in article 4? The two articles agreed neither in form nor in substance.

18. He associated himself with the remark made by the representative of Mali concerning article 5, paragraph 2; he too believed that the presence of a statement on the back of a card would in no way be binding on a journalist.

19. He did not see the point of the amendment proposed by the United Kingdom (A/9073, annex II, para. (d)); in fact, it ran counter to the spirit of the convention. In the case of a conflict between two States not parties to the convention, he wondered which journalists would be sent, for example, to Rhodesia: British journalists or journalists from the national liberation movements?

20. Turning to a point of procedure, he said that he hoped that, once the article-by-article discussion was completed, the sponsors of the draft articles would state their positions on the proposals put forward for the deletion or amendment of specific paragraphs or subparagraphs.

21. Mr. SMIRNOV (Union of Soviet Socialist Republics), pointing out that article 5, paragraph 2, had given rise to long discussions at the previous session, said that the wording in the draft articles represented a compromise solution. It had been said that such a statement might restrict the freedom of journalists and hence freedom of information. He did not share that opinion and thought that the declaration was merely intended to oblige the journalist to conduct himself in accordance

with very high standards of integrity. In any case, it would not carry enough weight if it were merely printed on the back of the card: it was essential for it to appear in the text of the convention. Clearly a journalist should not take part in any political or military activity and that provision was the least of the obligations to be imposed on him.

22. As for the amendment proposed by the United Kingdom, he did not think that it added anything whatsoever to article 5, paragraph 4, nor that it improved the text of the draft convention. It simply broadened the geographical area in which the card was valid, and that matter should be considered at the same time as draft article 13.

*Mr. Mahmassani (Lebanon) resumed the Chair.*

23. Mr. SCOTLAND (Guyana) commented on the statement made by the representative of the United Kingdom, who had mentioned the difficulty of defining cases of armed conflict; yet, he had used such expressions as "violence, fighting, exciting events". He wondered whether it followed that that was his definition of an armed conflict which was not of an international nature. Did it also mean that a newspaper editor was the person to decide whether there was an armed conflict in a particular territory where he wished to send his journalists? The representative of the United Kingdom had said that the purpose of the card was solely to identify the journalist. Surely journalists already had press cards for that purpose and, that being so, they hardly needed another card. As for geographical limits, he drew attention to article 13, paragraph 1, where it was clearly prescribed that national laws with respect to the crossing of frontiers or the movement of residence of aliens were applicable and by virtue of that article, States had the right to deny any journalist access to their territory.

24. With regard to the second sentence of paragraph 1 of article 5, which stated that the card should state the name and address of the organization employing the journalist, he wondered if free-lance journalists had been taken into account. The expression "highest standards of journalistic integrity" in paragraph 2 of that article was very vague for anyone outside the profession. He wondered whether each State was to interpret the meaning as it saw fit.

25. He would like to have the views of the sponsors on those questions and in that connexion, he wished to associate himself with the comment made by the representative of Mauritania.

26. Miss CAO PINNA (Italy) said that article 5, paragraph 4, was one of the few provisions on which her delegation had serious doubts, because of its restrictive nature. The card would be issued for each dangerous professional mission in any area of armed conflict, which would obligate States to determine in each case whether or not there was an armed conflict in a given area. The representative of the United Kingdom had very properly stressed the difficulties involved and, for that reason, her delegation would support the amendment proposed by the United Kingdom.

27. In article 5, paragraph 2, the statement which was to appear on the back of the card represented a compromise solution which the Committee had reached with great difficulty at the previous session. Her delegation would prefer not to have any statement on the back

of the card, but realized that such a statement allayed the apprehensions of some delegations which wanted to ensure that journalists would not interfere in the domestic affairs of States. She was therefore ready to agree to the text of that statement.

28. Mr. GUERRERO (Philippines) associated himself with the comments made by the representative of Poland (1992nd meeting) and considered that, taking into account the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts to be held early in 1974 at Geneva to discuss two additional protocols to the Geneva Conventions, the Committee's review of the draft articles was not particularly urgent. His delegation shared the doubts expressed by several delegations regarding the scope of article 5, paragraph 4, in the light of the provisions of article 6.

29. As for the text proposed in article 5, paragraph 2, he agreed with the representative of the Soviet Union that the statement should be included in the convention itself since, if it appeared only on the back of the card, it was not really binding on the card-holder. He was surprised to see that some delegations seemed to have objections regarding the text of that statement. It was hard to see how the commitment of a journalist not to take part in any political or military activities and not to interfere in the domestic affairs of States could be regarded as a restriction on the exercise of his profession. He felt that the proposed text should normally be accepted without difficulty by any professional journalist.

30. Miss ABDALLA (Sudan) said that journalists' obligations were not clearly defined in the proposed statement in article 5, paragraph 2. The "standards of journalistic integrity" might vary from one State to another or from one journalist to another; it was a very subjective definition. She asked whether the Committee envisaged including more precise definitions in an annex to the convention. The question of non-interference in the domestic affairs of States was very controversial: who was to determine whether or not there was such interference?

31. Mr. KABINGA (Zambia) considered article 5, paragraph 5, to be superfluous because withdrawal of the card should be automatic.

32. Mr. BOURGOIN (France) said that the comments made on article 5 were very interesting on the whole. He pointed out, however, as the representative of Italy had already done, that the article was a compromise which had been reached with great difficulty, and it would henceforward be very difficult to amend it. In his statement at the 1991st meeting, he had discussed the difficulties encountered in drafting the statement in paragraph 2. He agreed with the representative of the Philippines in that respect, and felt that a professional journalist should have no difficulty in accepting the substance of that text. The statement seemed to go some way towards the amendment proposed by the Soviet Union for article 11 (A/9073, annex II, para. (g)), without, however, going quite so far. In any case, the sponsors could not now revise the text. The same was true for paragraph 4. The United Kingdom amendment (*ibid.*, para. (d)) had its merits, but there again it was impossible to change the draft article to which it referred since that too was a compromise solution arrived at by the sponsors in an effort to avoid certain stumbling-blocks.

33. Mr. FØNS BUHL (Denmark), in reply to the representative of the Philippines, who had expressed surprise at the objections of the Danish delegation to article 5, paragraph 2, wished to point out that his country fully agreed with the principles laid down in that paragraph, but feared that its provisions might be open to interpretations which might restrict journalists' freedom of reporting.

34. Mr. LÖFGREN (Sweden) said that article 5 as it stood was the main reason why his delegation could not subscribe to the draft convention. The provisions of that article were too restrictive and were incompatible with the concept of journalism as understood in Sweden.

35. Mrs. GERÉB (Hungary), referring to the comments on the sovereignty of States and noting the importance that delegations attached to that idea, was surprised at the misgivings aroused by article 5, paragraph 2, which was merely intended to ensure respect for the sovereignty of States on the part of journalists; journalists could not use freedom of information as an excuse to interfere in the domestic affairs of a State or take part in military or political activities. She conceded, however, that article 5 was perhaps not quite clear; the draft convention included several articles on the obligations of States; perhaps a special article should be drawn up on the obligations of journalists in order to ensure the necessary balance between the rights of sovereign States and the rights of journalists.

36. Mr. MACRAE (United Kingdom), referring to the points raised by the representative of Guyana, said that in his previous statement he had used various terms instead of the term "armed conflict" as defined in article 2 (b), of the draft convention merely in an attempt to explain what might happen in practice: it was clear that, if an "exciting event" which could be interpreted as an "armed conflict" occurred in a country which was a party to the convention, journalists would immediately be sent to the spot, whatever the definition given to the words "armed conflict". Furthermore, according to article 13, paragraph 1, it was still open to the country where the "event" was taking place to refuse access to its territory to journalists. That country could also state that there was no armed conflict and refuse journalists any special protection.

37. The paragraph was somewhat ambiguous with regard to the geographical validity of the journalists' card and should be redrafted in the light of article 7. He considered that the card to be issued to journalists under the convention would, in a sense, be different from a simple press card because of the special obligations which States parties to the convention recognized they had towards journalists.

38. Mr. SCOTLAND (Guyana) thanked the United Kingdom representative for his clarification, but pointed out that the difficulties raised by the words "armed conflict" remained unresolved.

#### Article 6

39. Mr. BAL (Mauritania) said his delegation had the same misgivings about article 6 as about articles 4 and 5. Article 6 referred to the "competent authorities of the States parties to this Convention", whereas article 4 referred to the "International Professional

Committee" and article 5, in very vague terms, to "the authorities responsible for the issue of the card".

40. His delegation would appreciate clarification of the meaning of the phrase "who is under its jurisdiction" in article 6, paragraph 2. If it meant that only the colonial authorities would be authorized to issue cards to journalists who were nationals of the Territories they administered, his delegation would be absolutely unable to support article 6 or the convention as a whole.

41. Mr. GRAEFRAETH (German Democratic Republic) said he, too, would welcome clarification of the meaning of the words "the competent authorities of the States parties to this Convention": did they mean that liberation movements would have no right to issue cards to their own journalists and that, for example, only Portugal would be authorized to issue cards to journalists who were nationals of Angola?

42. Mr. BOURGOIN (France), replying to the representative of Mauritania, explained that the International Professional Committee would not be competent to issue the card; it would merely make regulations prescribing the conditions for the issue, renewal and withdrawal of the card as well as its form and contents. Articles 6 and 4 were complementary.

43. The words "competent authorities" in article 6, paragraph 1, had been used because the regulations for the issue of cards differed from country to country: cards could be issued by State authorities or by professional bodies. Thus, the term selected was deliberately vague in order to allow each country to follow its own rules.

44. He recognized that article 6, paragraph 2, posed a problem. For its part, France was willing to accept the expression "or who has his permanent residence in it" if the Committee preferred that wording.

45. Mr. BERGH-JOHANSEN (Norway) felt that the International Professional Committee and not States parties to the convention should issue the card. Norwegian journalists were totally opposed to the handling of the matter by States, fearing that would limit the freedom and independence of the information media. His delegation hoped it would be possible to revise that aspect of the draft convention in conformity with the wishes of the great majority of the journalists whom the convention was intended to protect.

46. Mr. GUERRERO (Philippines) observed that the objections of most delegations concerned the contradictory provisions in articles 6 and 4, regarding the authorities competent to issue cards and accredit journalists. If the card was issued by an international professional committee, that body would be a supranational authority, something many Governments would not accept. For States themselves to issue the card would, however, be unacceptable to countries which guaranteed their journalists freedom to express their opinions without the prior approval of the national authorities. It seemed that at the current stage of the debate the Committee should ask itself whether the draft convention was viable in its existing form. Until the dilemma between respect for State sovereignty and for the freedom of journalists had been resolved, discussion of any other question would be pointless.

47. Mr. BOURGOIN (France) agreed that the problem mentioned by the representative of the Philippines was a delicate one. Clearly, the relations between the

International Professional Committee, States and journalists gave rise to a problem of international law. The relations between States and journalists, however, were not covered by the draft convention, since they were different in each country. His delegation did not share the fears expressed by other delegations concerning the establishment of the International Professional Committee, since it considered it normal that the members of the profession should define their own code of ethics.

48. Mrs. KOROMA (Sierra Leone) shared the concern of the representative of the German Democratic Republic concerning article 6 and wondered which authorities would be competent to issue cards to the journalists of liberation movements.

#### Article 7

49. Mr. SHEN (China) pointed out that, according to paragraph 1 of the article, "all parties to an armed conflict in the territory of a State party to the Convention" should recognize the card. However, in view of the principle of State sovereignty, it did not seem possible to oblige parties to an armed conflict who were not parties to the convention to observe that provision, any more than a State which was not party to an armed conflict could be compelled to recognize the card. Paragraph 2 seemed to contradict article 4, paragraph 3, according to which the International Professional Committee was to send a description of the card only to States parties to the convention; how, then, were States which were not parties to the convention to become acquainted with the card? His delegation considered article 7 required further study.

50. Mr. GRAEFRAETH (German Democratic Republic) said there was a contradiction between the provisions of articles 6 and 7. Whereas article 6 stated that it was "the competent authorities of the States parties" which issued the cards, the effect of article 7 would be to oblige liberation movements to recognize cards issued by the colonial Powers they were fighting.

51. Mr. BOURGOIN (France) agreed that article 7 should be studied more thoroughly, as the representative of China had suggested. The representative of the German Democratic Republic had raised a particularly difficult problem of international law; it was with that problem in mind that the words "as far as possible" had been included in article 7, paragraph 1, in order to leave it open to the liberation movements to recognize the card if they wished or were able to do so. In practice, some liberation movements which were not parties to the Geneva Conventions of 12 August 1949 had stated their willingness to apply their provisions. The current case was similar and it was in the interest of the liberation movements to recognize the convention on the protection of journalists, since that would give them greater influence at the international level.

52. Mr. SCOTLAND (Guyana) said that he could not agree with the remarks just made by the representative of France. The liberation movements which were not parties to the Geneva Conventions of 12 August 1949 but which applied the provisions of those Conventions enjoyed in return the benefit of the protection afforded under those Conventions. However, according to article 7 of the text under consideration, the liberation movements would be required to recognize cards is-



sued by States without themselves having the right to issue cards and to require States to recognize them.

53. Mr. CEDE (Austria) pointed out that according to the generally accepted rules of international law the expression "and, as far as possible, all parties to an armed conflict in the territory of a State party to the Convention", which also appeared in article 10, created obligations for States which were not parties.

#### *Articles 8 and 9*

54. Mr. SCOTLAND (Guyana) said that the word "holder" in article 8, paragraph 1, could give rise to problems; it might be preferable to use another term. He suggested that the expression "as necessary" in article 9, paragraph 2, should be replaced by "always".

#### *Article 10*

55. Mrs. HEANEY (Ireland) said that the wording of article 10 was not clear. She would like some clarification, for example with regard to the meaning of the term "reasonable protection" in paragraph 1 (a). As far as paragraph 1 (b) was concerned, she wondered how and by whom journalists could be warned to keep out of dangerous areas. It might be well to reconsider the wording of those two paragraphs.

56. Mrs. KOROMA (Sierra Leone) expressed concern that paragraph 1 (b) might serve as a pretext for preventing journalists from visiting certain areas. She inquired exactly what was meant by "dangerous areas".

57. Mrs. MARICO (Mali) noted that paragraph 1 (c) referred to the Geneva Convention relative to the Protection of Civilian Persons in Time of War. That being so, she, like other representatives, was of the view that before examining the convention on the protection of journalists the Committee should await the outcome of the 1974 Diplomatic Conference, during which protocols would be worked out to fill the gaps in the Geneva Conventions. If the Committee adopted that course of action, it would not, in her view, be evading its responsibilities in any way, as had been stated at a previous meeting.

58. Mr. BAL (Mauritania) observed that radio and television broadcasts frequently distorted the facts and proposed that the sponsors should insert the following new subparagraph to ensure that journalists would confine themselves to gathering information: "Any pictures, films or reports produced in the course of an armed conflict may not or must not in any way have a commercial character or be used for purposes of profit, publicity or neo-colonialism."

59. Mr. GRAEFRAETH (German Democratic Republic) noted that article 10 raised the same problem as article 7. With regard to article 10, paragraph 1 (c), he pointed out that since virtually all States were parties to the Geneva Convention mentioned in that paragraph, they would not have any difficulty in granting the protection sought. But what would happen in the case of parties to an armed conflict which were not States? That question was dealt with in article 3 of the Geneva Convention, which provided that "The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention."

60. Mr. SCOTLAND (Guyana) said that although article 10 appeared to offer a degree of protection, the expressions "as far as possible" and "to the maximum extent feasible" permitted the parties to determine the extent of the protection to be afforded. With regard to paragraph 1 (a), he shared the concern expressed by the representative of Ireland and, with regard to paragraph 1 (c), he was of the same view as the representative of Mali.

61. On the other hand, with regard to paragraph 2, and in particular the phrase "journalists have the right to protection from an immediate danger resulting from hostilities only to the extent that they shall not expose themselves to danger without needing to do so for professional reasons", his delegation would find it difficult to accept the existing text, which seemed to remove the right of protection at the same time as it gave it.

62. Mr. SRINIVASAN (India) wondered what was meant by the expression "reasonable protection" in paragraph 1 (a). He further considered that paragraph 1 (b) was not constructive, for there was no doubt that by virtue of the very nature of his work a journalist receiving such a warning would be eager to visit the area from which he was barred.

63. Mr. BOURGOIN (France) recalled that at the preceding session the working group, which had been open to everyone, had devoted several meetings to article 10, which in its current form differed considerably from the initial text. Although his delegation could accept article 10 as a whole, it also had some comments to make on it and considered in particular that the wording of paragraph 1 (b) was not the best possible and that that paragraph should be redrafted.

64. With regard to paragraph 1 (c), he said that, as he had already observed, the Geneva Conventions were not always applied in practice with the utmost rigour; accordingly, the sponsors had thought it a good idea to include a reference to the relevant Convention. If his delegation and other delegations had thought it necessary to propose that a convention should be drawn up within the framework of the United Nations, that was—as had been acknowledged in paragraph 3.78 of the report<sup>1</sup> of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts—because of the need to prepare a special convention relating to journalists.

65. It was noteworthy that paragraph 1 (d) contained a new element, namely, the element of making information public, and that the International Committee of the Red Cross was mentioned in that connexion. In his delegation's view, paragraphs 1 (c) and (d) of article 10 were of the greatest importance.

66. He recalled that article 10 was the fruit of the labours of 40 delegations; he could not, of course, speak on behalf of all those delegations.

67. Mr. SCOTLAND (Guyana) expressed the hope that the view of his delegation would be taken into account.

68. Mrs. KOROMA (Sierra Leone) agreed with the representative of France that paragraph 1 (b) should be redrafted. She also wondered whether it might not be

<sup>1</sup> A/8777, annex III.

possible to delete that paragraph or incorporate it in paragraph 2.

69. Mr. BOURGOIN (France) assured the representative of Guyana that his delegation would give careful attention to the points raised by delegations, in particular that raised by the delegation of Guyana. He pointed out that his comments on paragraph 1 (b) had been made on behalf of his delegation alone. However, no vote would be taken at the current session, and his delegation did not wish to commit itself while other delegations declined to do so.

70. He pointed out once again that the draft articles before the Committee were a collective work and that was why his delegation could not always give satisfactory explanations.

#### *Article 11*

71. Mr. GUERRERO (Philippines) said he did not see the point of article 11, for there was no doubt that any State party to the convention would undertake, by the very fact of signing it, to comply with and to ensure compliance with it in all circumstances.

72. Mr. CEDE (Austria) said that, like the representative of the Philippines, he was of the view that article 11 could be deleted.

73. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that there was much talk in the draft convention of the protection to be accorded to journalists but, as the Soviet delegation had pointed out many times, the text should also cover the obligations of journalists. That was why the Soviet delegation had proposed a new draft article 11 (A/9073, annex II, para. (g)).

74. Mr. PETHERBRIDGE (Australia) said that article 11 had been taken from the Geneva Convention and was a usual clause in conventions.

#### *Article 12*

75. Mr. BAL (Mauritania), observing that article 7 provided that States parties to the convention and all parties to an armed conflict should recognize the journalist's card, asked whether that article did not conflict with article 12, which provided that the application of the convention should have no legal effect on the status of the parties to the conflict.

76. Mr. BOURGOIN (France) pointed out that the text under consideration was not the initial version of article 12, which had referred to the international status of the parties.

#### *Article 13*

77. The CHAIRMAN pointed out that paragraph 1 of the article had been transferred to article 1 and that the Committee should therefore consider only paragraphs 2 and 3 of article 13.

78. Noting that no delegation had any comment on the article, he invited the Committee to take up the following article.

#### *Article 14*

79. Mr. KABINGA (Zambia) requested clarification of the expression "shall affect".

80. Mr. SCOTLAND (Guyana) found that article 14 added nothing to the convention, since it was quite clear that nothing could affect the provisions of the Geneva Conventions.

81. Mr. BOURGOIN (France) said that, while he did to some extent share the views of the delegation of Guyana, the provision had been included in order to show that the convention should not impinge upon the matters covered by the Geneva Conventions. Fears had been expressed on several occasions that there was some conflict between those Conventions and the draft convention on journalists. Article 14 gave precedence to the provisions of the Geneva Conventions and implied that in the case of a conflict of laws the Geneva Conventions would prevail.

82. Mr. GUERRERO (Philippines), reverting to a view expressed at the 1992nd meeting by the Polish representative, asked whether it would not be possible to provide that, to the extent to which they were applicable, the provisions of the Geneva Conventions of 1949 and their Protocols would modify the provisions of the convention on journalists.

83. Mr. BOURGOIN (France), replying to the Philippine representative, said that the initial text had contained a reference to the Conventions and their Protocols, which had already been under discussion at the time, but that jurists had drawn the sponsors' attention to the fact that it was not possible to refer to protocols which had still to be adopted.

84. Mr. SCOTLAND (Guyana) said that, if article 14 implied that the Geneva Conventions should prevail in case of conflict between them and the convention on journalists, his delegation would prefer that to be stated more clearly. As to the Philippine representative's remarks, he thought that it should be possible, without referring to protocols, to refer to future amendments to the Conventions.

#### *Article 15*

85. Mr. VALTASAARI (Finland) said that, although the provisions of article 15 were culled from the traditional concluding provisions of many international instruments and did not affect the substance of the convention, his delegation had reservations on them, even though Finland was a sponsor of the draft articles. The Finnish delegation would prefer a wording providing for the participation of all States and could therefore not support the so-called Vienna formula that had been used.

86. Mr. SMIRNOV (Union of Soviet Socialist Republics) agreed with the Finnish delegation with regard to the so-called Vienna formula. The latter, although frequently used, was old and should no longer be included in contemporary conventions. The Soviet delegation hoped that it would be possible to redraft paragraph 1 and to use some wording to the effect that the convention would be open to all States.

87. Mr. GRAEFRAETH (German Democratic Republic) supported the Soviet proposal and pointed out that the German Democratic Republic had always held the view that it should be possible for all States to accede to conventions of a humanitarian character.

88. Mr. SHEN (China), pointing out that on 25 October 1971 the General Assembly had adopted resolution 2785 (XXVI) which had restored the lawful

rights of the People's Republic of China in the United Nations, said that the resolution had not been implemented by certain organizations in which the seat of the People's Republic of China had been usurped by the Chiang Kai-shek clique. Paragraph 1 of article 15 as it stood would open the door to that clique, and the Chinese delegation could not accept it for that reason.

89. Mr. KHMIL (Ukrainian Soviet Socialist Republic) thought that the formula used at the end of paragraph 2 was not consonant with that used in legal documents and that it would be better, instead of saying "which have signed it", to say "which have signed this Convention". Furthermore, he did not think that there was a clear indication that ratification was necessary.

90. Mr. ROPOTAN (Romania) agreed that the universality of the convention should be stressed and that all States should have the right to accede to United Nations conventions.

91. Mr. VON KYAW (Federal Republic of Germany) said that he would prefer the wording of paragraph 1 to remain unchanged. If some other formula were used, there would be a danger that any entity could declare itself to constitute a State.

92. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that there was no reason whatever in the context of article 15 to open a discussion as to what

constituted a State—a concept that was well understood in international law. The formula "by all States" appeared in numerous conventions; if difficulties arose, they would not be legal difficulties but difficulties born of discriminatory political manoeuvres.

93. Mr. NENEMAN (Poland) said that the previous 10 years had proved that the so-called Vienna formula had become outmoded and therefore invited the sponsors to accept the formula "by all States".

94. Mr. BOURGOIN (France) pointed out that the so-called Vienna formula used in paragraph 1 was an extended version since it read "and by any other State which has been invited by the General Assembly of the United Nations to become a party to the Convention". In any case, the phrase in question was not peculiar to the convention. As members of the Committee knew that they would reach no decision on the draft articles at the current meeting, he proposed that they should wait until the following meeting to begin a debate on the formula used.

95. As to the question of ratification, he pointed out in reply to the Ukrainian delegation that in paragraph 2 of the French version the expression "shall be subject to ratification" was in conformity with current practice. Perhaps the Russian text should be revised.

*The meeting rose at 6.05 p.m.*

## 1996th meeting

Monday, 15 October 1973, at 10.45 a.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1996

### AGENDA ITEM 54

**Human rights in armed conflicts: protection of journalists engaged in dangerous missions in areas of armed conflict: report of the Secretary-General (continued) (A/9073)**

**DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS IN AREAS OF ARMED CONFLICT (concluded)**

1. The CHAIRMAN invited the Committee to continue its consideration of the articles of the draft convention on the protection of journalists engaged in dangerous missions in areas of armed conflict (A/9073, annex I).

#### Article 16

2. Mr. CEDE (Austria), noting that under paragraph 2 of the article, the convention would enter into force for each State ratifying or acceding to it after the deposit of the thirtieth instrument of ratification or instrument of accession, said that his delegation considered that the number specified was too large and should be reduced.

3. Mr. BOURGOIN (France) said that the number of 30 had been chosen in order to take into account an

amendment submitted by Canada. The French delegation also thought the number was too large for a humanitarian convention.

#### Article 17

4. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that the provision in paragraph 1 of the article was unsatisfactory, since disputes should be referred to the International Court of Justice for decision only when both parties to the dispute so agreed. For that reason, the phrase "at the request of any of the parties to the dispute" should be replaced by the words "with the consent of all the parties to the dispute". There would then be no need for paragraph 2. In addition, it would also be possible to settle disputes in other ways with the agreement of all the parties.

5. Mr. BOURGOIN (France) said that article 17 was optional and concerned only the two parties concerned. Moreover, paragraph 1 explicitly stated that the disputants could "agree to another mode of settlement".

#### Article 18

6. Mr. SMIRNOV (Union of Soviet Socialist Republics) thought that the third sentence of the article should be deleted, since it had no justification. The usual procedure for the denunciation of a convention should be followed.