

there was a risk of reducing the degree of protection provided. Although article-by-article consideration of the draft would be useful, it should be borne in mind that by the following year changes might have been made as a result of the Conference.

22. Mrs. KOROMA (Sierra Leone) agreed with the representative of Poland that it would be wise to await the results of the Diplomatic Conference, since the

latter might adopt provisions which currently could not be foreseen.

23. The CHAIRMAN suggested that the meeting should be adjourned, and that representatives should meet as a working group for the rest of the time available.

It was so decided.

The meeting rose at 11.45 a.m.

1993rd meeting

Thursday, 11 October 1973, at 3.50 p.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1993

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)

1. The CHAIRMAN observed that the Committee had decided by consensus to consider the draft articles of the international convention on the protection of journalists engaged in dangerous missions in areas of armed conflict (A/9073, annex I) article by article, on the understanding that delegations which so desired could also make general comments on the draft convention as a whole. Consultations were currently being held with a view to deciding what position the Committee should adopt: it could either take a decision to defer the question until the following session or decide to vote on some or all of the draft articles. He invited delegations to comment on that matter and expressed the hope that the Committee would be able to reach a decision on the basis of a consensus.

2. Mr. PETHERBRIDGE (Australia) said that, at the current stage of the discussion, the Committee's position on the various draft articles was not yet known. Possibly there would be some difficulties which could not be ironed out and the matter would have to be deferred until the following session; however, an article-by-article examination of the draft convention might enable more progress to be made than was thought, and, if an agreement was reached, the Committee might be able to proceed to a vote. The Committee should therefore consider the draft convention article by article before taking a decision on that point. It could then hold a further discussion on the matter in order to reach a consensus on the procedure to be followed.

3. Mr. BOURGOIN (France) endorsed the view expressed by the representative of Australia. Many delegations had not yet voiced their opinions; accordingly, the Committee should proceed to examine the draft article by article in order to ascertain the opposition to it and the prospects of reaching agreement on

certain articles and, possibly, to vote on all or part of the draft convention. His delegation hoped that, in the spirit of compromise which characterized the Committee, it would be possible to take a decision by consensus.

4. The CHAIRMAN drew the Committee's attention to rule 125 of the rules of procedure of the General Assembly under which, when a proposal had been adopted or rejected, it could not be reconsidered at the same session unless the committee, by a two-thirds majority of the members present and voting, so decided.

5. Mr. SHAFQAT (Pakistan) said that, although the Committee had decided by consensus to examine the draft convention article by article, doubts had been expressed in the statements made at the meeting of the working group that morning regarding the advisability of continuing the discussion on the item under consideration. The question had also been raised what would be the scope of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be held at Geneva in 1974, and to what extent that Conference would consider in detail the matters dealt with in the draft convention. The Committee might therefore wait until the work of the conference was completed before taking a decision on the matter and, should it prove necessary, might possibly elaborate a new draft convention. He would welcome more detailed information regarding that Conference.

6. Mr. SCHREIBER (Director, Division of Human Rights) said that, having conferred with the observer appointed by the International Committee of the Red Cross (ICRC) to follow the work of the General Assembly at its current session, he was in a position to provide information regarding the Conference which was to be held at Geneva in 1974. Following the deliberations of ICRC and at the two sessions of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in 1971 and 1972, the Swiss Government had decided to convene a conference of plenipotentiaries at Geneva during February and March 1974. Two draft protocols to the four Geneva Conventions of 12 August 1949¹ which had

¹ United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

been prepared by ICRC would be submitted to the Conference. The first protocol dealt with international conflicts, the second with non-international conflicts. While the Conference could probably amend its agenda, neither of the two protocols, as they stood, dealt with the question of journalists in the form in which it had been presented to the Third Committee. As had been observed, the protocols dealt with war correspondents representing information media who followed the armies of the belligerents and, by reason of that fact, were subject to certain special types of discipline. The two protocols contained draft articles on the protection of civilians in general. He had been informed that it was unlikely that the conference would have the time or the opportunity to discuss a draft convention such as that submitted to the Third Committee and that there was a possibility that it would be unable to complete its consideration of the protocols and would have to resume its work in 1975.

7. Mrs. HEANEY (Ireland) said that, having studied the text of the draft articles in considerable depth, her delegation believed that the adoption of the draft convention on the protection of journalists engaged in dangerous missions was highly desirable. In its opinion, that convention would not conflict with the draft protocols to the Geneva Conventions of 12 August 1949 which were to be submitted to the Diplomatic Conference but would form a valuable complement to them. At the second session of the Conference of Government Experts held in May 1972, the majority of the experts had been in favour of adopting a special convention which would grant special protection to journalists. While it was true that the draft convention submitted to the Committee was a very modest document, it had the advantage not only of providing special protection to journalists but also of facilitating the free exchange of information throughout the world. Consequently, while reserving its position on some of the articles in the draft convention, her delegation supported the decision to consider the document in depth, on an article-by-article basis, in the hope that the Committee would reach a consensus.

8. Mr. PAPADEMAS (Cyprus) recalled that, at the twenty-seventh session, the Committee had decided to discuss the item under consideration at the twenty-eighth session as a matter of high priority. All delegations appeared to agree on the principle of a convention for the protection of journalists, since no delegation had formally opposed that principle. Moreover, at the time when the Committee had taken the decision to devote eight meetings to consideration of that item, it had already been informed as to the work of ICRC. The Diplomatic Conference should not, therefore, be used as a pretext to defer consideration of the question. Nor could his delegation agree with the view expressed by the representative of Poland (1992nd meeting), who had stated that the matter should be examined by a committee of experts of the Red Cross. The Third Committee could not shirk its responsibilities or delegate them to other bodies. It was for the Committee to consider in depth and to improve the draft articles before it so that, at the end of the debate, it might be in a position to adopt the draft convention as a whole, or at least certain parts of it.

9. Mr. CATO (Ghana) expressed the opinion that, despite the decisions taken the previous year or years, the Committee's work had reached an impasse because

of the divergent views of the various delegations. His delegation, while approving the principle of a convention designed to protect journalists engaged in dangerous missions, continued to entertain serious misgivings regarding certain provisions in the draft convention which had extremely important political and legal implications. It would therefore have preferred consideration of that item to be deferred until all delegations were prepared to accept the draft convention; it wished to emphasize, as the Jamaican delegation had already done (1991st meeting), that the fact that the Third Committee was considering that question in no way implied that it had an obligation to take a decision.

10. Miss DUBRA (Uruguay) observed that the Committee had taken a decision to consider the draft convention article by article. Of course, it was desirable that the Committee should be able to adopt some of those articles, but it was somewhat premature to take a decision at the current stage on the procedure to be followed once consideration of the articles had been completed.

11. Mr. BADAWI (Egypt) emphasized that the Committee had already devoted a great deal of time to the draft convention at its previous session. Many amendments had been submitted and suggestions had been made, and the sponsors of the draft convention had taken them into account in the revised draft which the Committee had before it. Moreover, further amendments had been proposed. The Committee had decided to devote eight meetings to that question, and it should therefore proceed to consider the articles, since it could not possibly know at the current stage what it would choose to do when that consideration had been completed. However, the comments made by the representative of Ghana should be taken into account when the articles were being examined.

12. Mr. SHAFQAT (Pakistan) said that he had the impression that some delegations wanted the Committee to go back on its decision to consider the draft convention article by article; if so, a motion would have to be submitted to that effect. If that was not the case, the Committee should proceed to consider the draft convention article by article, as it had decided to do.

13. Mr. VELA (Guatemala) said that the purpose of the draft convention was purely humanitarian. The representative of Poland had said that the draft recognized certain rights of journalists but did not impose on them any duties or obligations; that was not correct, as could be seen from article 5, paragraph 2. It was true that the possibility of conflicts between the right of information and existing national laws might entail certain difficulties; however that might be, the convention was necessary to ensure the protection of journalists who were daily exposed to serious dangers, and it deserved to be supported in principle.

14. The CHAIRMAN suggested that the Committee should proceed to consider the draft articles since it had decided to devote a certain amount of time to that question; if it was unable to reach agreement, it could then take a decision concerning the possible deferment of consideration of the question to the following session, in accordance with the relevant provisions of the rules of procedure. However, he hoped that after consultations the Committee would be able to clarify its position. Any member of the Committee could, of

course, submit a motion, which would be put to the vote.

15. Mr. LUGO (Nicaragua) said that he understood that three proposals had been submitted: one called for examining the draft article by article, another for deferring consideration of the question to the next session, and, the last one, that just made by the Chairman, for considering the draft convention article by article, and then taking a decision concerning the possible deferment of consideration of the question to the following session. He moved that the Committee should vote on those proposals.

16. The CHAIRMAN said that under rule 125 of the rules of procedure the decision taken by the Committee to consider the draft convention article by article could not be changed unless a delegation submitted a formal motion to that effect and it was adopted by the Committee. He asked if the representative of Nicaragua intended to submit such a motion.

17. Mr. LUGO (Nicaragua) said that he had merely been making a suggestion, having regard to the statements of other delegations.

18. Mr. SHAFQAT (Pakistan) said he would like to know if any delegation was prepared to submit a formal proposal.

19. Mr. SÖYLEMEZ (Turkey), referring to item 53 (a), said that he wished first of all to express the satisfaction of his delegation at the adoption of the draft programme for the Decade for Action to Combat Racism and Racial Discrimination. His delegation had voted in favour of all the amendments and subamendments to the draft programme, including the United Kingdom amendment which the Committee had rejected, because it was convinced of the great importance of the activities contemplated.

20. With regard to the draft articles which the Committee had before it, he felt it was high time that the United Nations took measures to ensure the protection of journalists engaged in dangerous missions in areas of armed conflict, for it was a purely humanitarian problem within the larger context of international humanitarian law. Noting that his country was among the sponsors of the revised draft articles, he said that the Committee should not prejudge the results of the Conference which was to take place at Geneva in 1974; on the contrary, the Committee's work could be expected to contribute to the success of that conference. The United Nations could not but be in favour of the granting of protection to journalists who were defending freedom of information throughout the world. The problem was urgent, for conflicts were unfortunately continuing to erupt. The draft convention, in which the national sovereignty of States was reaffirmed, contained provisions the purpose of which was purely humanitarian. Moreover, it envisaged the co-operation of journalists themselves and of ICRC. A balance had been sought between the rights of States on the one hand and the interests of journalists on the other. The draft convention was juridically compatible with the Geneva Conventions of 1949 and the sponsors had taken care, in article 2 (b), to refer to the provisions of the Geneva Conventions concerning the term "armed conflict".

21. The draft convention was certainly not perfect, but it could be improved. The sponsors were willing to

give sympathetic consideration to any amendments which might be submitted. In addition, the United Kingdom was to be thanked for facilitating the Committee's work by withdrawing all its amendments except one. He hoped that the Committee would be able to adopt a certain number of articles at the current session.

22. Mr. PETHERBRIDGE (Australia) said that in the view of his delegation the question of the protection of journalists engaged in dangerous missions in areas of armed conflict should not give rise to major difficulties. The purpose of the draft convention was purely humanitarian and the proposed procedure for providing cards was aimed simply at ensuring greater efficiency. He drew attention to that connexion to the case of vaccination certificates drawn up in accordance with WHO's standards in order to ensure a certain degree of uniformity but issued by the countries themselves in their own territory for purely practical reasons. The same applied, to a certain extent, to the proposed journalist's card. That relatively simple question had nevertheless been made complicated when delegations had raised manifold problems which the Committee could not possibly settle, such as the definition of armed conflict, whether international or otherwise, the establishment of a code of conduct for journalists and the question of relations between States and journalists. All those matters were far removed from the real objective of the draft convention, which was to ensure the protection of journalists by giving them a means of identifying themselves as such. The convention would be a purely humanitarian one and would in no way be political. Its adoption was urgent, for human lives were at stake and delegations should accordingly show a spirit of conciliation and not become involved in discussions of principle which would lead them farther from the attainment of their goal.

23. Mrs. MARICO (Mali), speaking on a point of order, asked whether the general debate was continuing or whether the debate on the draft, article by article, had begun.

24. The CHAIRMAN recalled that the Committee had decided to examine the draft, article by article; however, it was his understanding that delegations which wished to make general statements could do so.

25. Mr. BOURGOIN (France) said that his delegation wished to reply to certain observations made at the preceding meeting, notably those of the representative of Poland. Several delegations had raised the question of the compatibility of the draft convention with the Geneva Conventions and, in particular, with the two draft protocols, which could not be determined at that point because they had not yet been approved. The Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts had recognized, at its second session, the need to grant special protection, by means of a special convention, to journalists engaged in dangerous missions. In that connexion, he referred delegations to the second subparagraph of paragraph 3.77 of the report of Commission III of the Conference of Government Experts, which had been reproduced in annex III to the report of the Secretary-General² on the item at the preceding session.

² A/8777.

26. In addition, the Polish delegation had maintained that journalists did not need to be protected by a special convention because if they were war correspondents they were protected by the provisions applicable to military personnel and, if they were civilians, by the provisions applicable to civilians. That was true in principle, but unfortunately it could hardly be said that it was true in fact; hence the need, recognized by the General Assembly, the Economic and Social Council, the Commission on Human Rights and the experts to whom he had referred, to adopt a special convention. In any case, draft article 10 (c) provided for granting to journalists, in case of internment, treatment identical to that provided for in articles 79 to 135 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;³ thus the provision in question simply reaffirmed provisions contained in one of the Geneva Conventions. Unfortunately, it had been found that it was not pointless to reaffirm those provisions once again.

27. Some delegations had observed that it would be preferable to await the adoption of the two new protocols which were to be examined at Geneva in 1974. He did not find that argument convincing. The Geneva Conventions had existed since 1949; the definitions set forth in those texts were still in force and were in conformity with those appearing in the draft articles. Should new definitions appear in the two new protocols, it would always be possible to take them into account, but it should be remembered that a protocol was an instrument which supplemented an existing convention and that its definitions must of necessity be in harmony with those appearing in the convention itself. He wished also to remind the Committee of the explanations given by the Director of the Division of Human Rights concerning the two protocols in question.

28. He wished to associate himself with the observations made by the representatives of Cyprus and Turkey. It would not be appropriate for the Third Committee to decline to consider a question which fell within its competence and to fail to discharge its responsibilities.

29. The CHAIRMAN said that, since no other speaker wished to make a general statement, the Committee would proceed to consider the draft convention article by article, beginning with article 1.

30. Mr. SCOTLAND (Guyana), supported by Mr. SRINIVASAN (India), proposed that, in article 1, the words "in areas where armed conflicts are taking place" should be replaced by the words "in areas of armed conflicts" and that the words "provided for in article 4 below and subsequent articles" should be replaced by the phrase "provided for in this Convention".

31. The CHAIRMAN invited the sponsors of the draft articles to comment on the proposal of the representatives of Guyana and India.

32. Mrs. WARZAZI (Morocco) recalled that, at the previous session, discussion had reopened at the time of the vote, despite the fact that the debate, the work of the working group and the amendments had been exhaustive. She therefore wondered whether it would not be wiser, in cases in which, for example, only one suggestion was made in connexion with a particular

article—in the current instance, article 1—to put that article to the vote when the sponsors accepted the suggestion and when no other representative wished to speak.

33. The CHAIRMAN noted that the Committee had decided to examine the text article by article until it had exhausted the meeting time allotted for the consideration of item 54. He invited delegations to comment on article 1.

34. Mr. BOURGOIN (France) said that it was too soon to vote, but suggested that, in instances such as the case in point, the lack of opposition should be recorded by means of a formula which might perhaps read: "No delegation opposed this article." That suggestion was in line with the Moroccan proposal.

35. The CHAIRMAN said he was prepared to recognize any motion submitted under rule 125, which he read out. If no motion was submitted, the Committee would continue its consideration of the draft articles.

36. Mr. BENMEHAL (Algeria), speaking on a point of order, and supported by Mrs. MARICO (Mali) and Mrs. ABDALLA (Sudan), observed that the Committee had taken a very clear-cut decision by consensus, namely, to consider the text article by article, it being understood that no vote would be taken.

37. The CHAIRMAN observed that, as far as procedure was concerned, the Committee had taken a decision to examine and discuss the draft article by article until the end of the meetings allocated for consideration of that question. However, under the rules of procedure any representative could move the adjournment of the debate or move that a vote should be taken.

38. Mrs. WARZAZI (Morocco), speaking on a point of order, said that her observation had been no more than a suggestion and that she accepted the Chairman's ruling. However, she would be grateful if the Chairman did not request the sponsors to reply to the proposals on the articles until the end of the debate.

39. Mrs. MOHAMMED (Nigeria) moved the adjournment of the debate on the item under discussion, in accordance with rule 118 of the rules of procedure. In reply to a question put by the Australian delegation, she said that her motion was for the adjournment of the debate for the duration of the session.

40. The CHAIRMAN, after reading out rule 118, invited two representatives to speak in favour of the motion.

41. Mrs. WARZAZI (Morocco) said that, in her view, the motion would require a two-thirds majority to be carried, since it ran counter to the Committee's decision to study the text article by article.

42. The CHAIRMAN said that, since the Committee had begun its consideration of article 1, a two-thirds majority was no longer required and that rule 118 alone was applicable. He therefore intended to invite two representatives to speak in favour of, and two against, the adjournment motion, after which he would immediately put it to the vote.

43. Mr. CATO (Ghana) said he wished to propose an amendment to the Nigerian motion.

44. The CHAIRMAN said that that was not permissible. If no representative wished to speak in favour of

³ United Nations, *Treaty Series*, vol. 75, No. 973.

the motion, he would give the floor to those who wished to speak against it.

45. Mr. BOURGOIN (France) opposed the Nigerian motion. The question of the protection of journalists was an important matter within the competence of the Committee, which had been studying it for a long time. As the delegation of Cyprus had stated, the Committee should not, for procedural reasons, decline to consider the substance of that question. The sponsors had shown a spirit of goodwill and were prepared to enter into a discussion and, in those circumstances, he was surprised that a motion for adjournment of the debate had been submitted. His delegation believed that it was time for the Committee to face up to its responsibilities.

46. Miss CAO PINNA (Italy) endorsed the statement made by the representative of France. In view of the fact that the most recent decision of the Committee had been to devote eight meetings to consideration of the question, she asked whether rule 125 of the rules of procedure was not applicable.

47. The CHAIRMAN said that the motion submitted under rule 118 had precedence over all other motions and that, consequently, rule 125 was no longer applicable. Rule 121 established the following order of precedence for motions: motion to suspend the meeting; motion to adjourn the meeting; motion to adjourn the debate on the item under discussion; motion to close the debate on the item under discussion.

48. Mrs. MOHAMMED (Nigeria) proposed that consideration of the question should be adjourned until the following meeting.

49. The CHAIRMAN put the Nigerian proposal to the vote.

The Nigerian proposal to adjourn the debate until the following meeting was adopted by 73 votes to 2, with 6 abstentions.

50. Mr. PAPADEMAS (Cyprus) explained the reasons for which he had abstained in the vote. He would have liked to enquire about the intentions of the representative of Nigeria beforehand, for after submitting a motion to defer consideration of the question until the following session—a motion which had been opposed by two delegations—she had moved the adjournment of the debate until the following day. In the circumstances, he wondered whether members of the Committee took its work seriously; he was sorry to have to say that, in the current instance, they had not shown the necessary wisdom.

51. The CHAIRMAN thanked the representative of Cyprus for his comments. Noting that the Committee had a large number of items on its agenda, he appealed to members to display the spirit of co-operation which they had shown during the discussion on the item 53 (a).

The meeting rose at 5.40 p.m.

1994th meeting

Friday, 12 October 1973, at 10.50 a.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1994

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)

1. The CHAIRMAN invited the Committee to consider the draft international convention contained in annex I to document A/9073, article by article.

Article 1

2. Mr. CEDE (Austria) said that the amendment suggested by Guyana at the previous meeting, to the effect that the words "in article 4 below and subsequent articles" should be replaced by the words "in this Convention", involved a non-substantive drafting change and could be dealt with when the draft was approved in final form.

3. Mr. PETHERBRIDGE (Australia) recalled the oral amendment submitted by Tunisia at the previous

session (1950th meeting)—which was not included in annex II to document A/9073—providing for the addition at the end of article 1 of the first part of article 13. He would have no difficulty in accepting that amendment.

4. Mr. BOURGOIN (France) said that his delegation had accepted the Tunisian proposal at the previous session.

5. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee agreed to insert the first part of article 13 at the end of article 1.

It was so decided.

Article 2

6. Mr. BOURGOIN (France), clarifying a point raised by the representative of Mexico, said that the convention would apply only to journalists who held the card provided for, which would automatically accredit them as such. Those who did not hold the card would be protected by the Geneva Conventions on the protection of civilians.

7. Mr. BENMEHAL (Algeria)* said that, in the opinion of his delegation, article 2 of the draft convention

* The statement by the representative of Algeria is reported in an extended manner, in accordance with the decision taken by the Committee (see para. 12 of the present meeting).