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Chairman: Mrs. Georgette CISELET (Belgium).

AGENDA ITEM 64

Draft Declaration of the Rights of the Child (A/4185, E/3229, chap. VII, A/4143, chap. VII, sec. V, A/C.3/L.712 and Corr.1, A/C.3/L.713/Rev.1, A/C.3/L.714-736) (continued)

PREAMBLE (continued)

1. Miss MacENTEE (Ireland) said that the principle that the child should enjoy protection by law from the moment of his conception was universally recognized, for although such legislative measures as those mentioned by the Danish representative (911th meeting) did not provide complete guarantees, they were at least a means of preventing abuses; while providing only a relative measure of protection for the child, they showed that a general principle did exist, and they brought the exceptions under the control of the law.

2. In common with the representative of Iraq (912th meeting), she hoped that the Committee would adopt the draft Declaration of the Rights of the Child unanimously, but she did not think that it should be weakened merely to make it acceptable to the greatest possible number of countries. The Iraqi representative had emphasized that the Declaration should be in line with modern trends, but the role of the United Nations was not necessarily to sanction an existing situation; an example in point was the problem of urbanization, which was well known to the Third Committee. The Iraqi representative had, in addition, pointed out that abortion might become legal in an increasing number of countries. She was however convinced that not only was abortion unlikely to be permitted by law without strict regulation, but that recourse to legal abortion as a solution for certain problems represented a temporary phase in social development which would later be replaced by more positive measures. The very fact that doctors and jurists had not succeeded in agreeing on the cases in which abortion was allowable proved that it was an unsatisfactory solution which would one day be discarded as medicine, surgery and psychiatry advanced and the level of living rose.

3. Mr. LOPEZ (Philippines) recalled that in the Commission on Human Rights, the Philippine representative had asked for recognition of the thesis that the child should, except in exceptional circumstances, be protected from the very moment of his concep-

tion.^{1/} He was therefore ready to support the Italian amendment to the third paragraph of the preamble to the draft Declaration of the Rights of the Child (E/3229, para. 197, resolution 5 (XV)), in either its original (A/C.3/L.713) or its revised form (A/C.3/L.713/Rev.1). However, in order to meet the views of other representatives, the Philippine delegation now proposed (A/C.3/L.734) that in the revised Italian amendment the words "from the moment of his conception" should be replaced by the words "before as well as after birth". It hoped that, thanks to that drafting change, countries which had not come under the influence of Roman law would be able to vote for the principle that the child was entitled to protection before his birth.

4. Mr. FARHADI (Afghanistan) felt that, although the Philippine amendment (A/C.3/L.734) was worth considering, it did not establish the principle that the child should be protected from the time of his conception. While his delegation appreciated the work done by the Commission on Human Rights and its Rapporteur at the Commission's fifteenth session, it did not believe, as did the Iraqi delegation, that that principle was the expression of an opinion—and, moreover, a controversial opinion—based on religious considerations. He believed that the idea that the child should be protected "from the moment of his conception" was based on the deep respect of all men, whatever their belief, for the life of the child. The fact that the representative of Denmark, a country where abortion was permitted by law in exceptional cases, was supporting the revised Italian amendment showed that the problem was not impossible of solution.

5. Mr. ANDERSON (United States of America) said that, as the principle of protecting the child from the moment he was conceived gave rise to controversy, it would be preferable not to include it in the draft Declaration. The Philippine amendment provided a satisfactory compromise solution which all members of the Committee should be able to support.

6. Mr. WIJESINHA (Ceylon) thought that the Committee would be well advised to avoid controversial expressions. He supported the Philippine amendment, in which the idea contained in the revised Italian amendment was expressed in a different form.

7. Miss FUJITA (Japan) was of the opinion that the formula proposed in the Philippine amendment was well chosen, for it was very general in character and did not have any legal implications.

8. Mr. RUDA (Argentina) said that a problem of substance could not be dealt with by a mere change in terminology. The problem which the Committee was discussing was a problem of substance and if, as the representative of Ceylon had maintained, the proposed Philippine text expressed the same idea as the

^{1/} See E/CN.4/SR.631 and E/CN.4/L.531.

revised Italian amendment, it was difficult to see what purpose it would serve. He would welcome an explanation from the Philippine representative.

9. Mr. ALWAN (Iraq) supported the Philippine amendment as a skilful compromise that should satisfy all delegations.

10. Mrs. MANTZOULINOS (Greece) said that, while appreciating the Philippine delegation's efforts to reconcile the different points of view, she felt that the Italian amendment was more precise, as it established the moment of conception as the starting-point of a human life. She would therefore be able to vote for the Philippine amendment only if the Italian delegation accepted it.

11. Mrs. LUPINACCI (Italy) said that her delegation had submitted a sub-amendment (A/C.3/L.735) to the Philippine amendment (A/C.3/L.734) because it felt that the words "before as well as after birth" were not sufficiently precise and did not ensure complete protection of the rights of the child. Principle 5 already stated that pre-natal care should be provided for the child. In the view of her delegation, that did not go far enough, and the words "from the moment of his conception" should be inserted in the third paragraph of the preamble, so that the fundamental and inalienable rights of the human being, of which the right to life was one, should be guaranteed from the very first moment of life.

12. Mr. BAROODY (Saudi Arabia) considered it regrettable that the Committee should allow delegations to attempt to reintroduce the text of their original amendments by means of a sub-amendment to another sub-amendment.

13. The proposal to insert the words "dès sa conception" gave rise to much controversy, and it must be admitted that the expression "from the moment of his conception", in the English text of the revised Italian amendment and in the Italian sub-amendment was not easy to interpret. It was, indeed, impossible to determine the exact moment of conception: he asked whether what was meant was the moment of conception in the medical sense, or the moment of conception as it emerged from the application of the legal period of pregnancy. Such a period was in any case provided for only in those systems of law which admitted the principle that the child was considered born as soon as he was conceived. It should be kept in mind that many countries which did not recognize that principle should nevertheless be able to approve the draft Declaration.

14. The Philippine amendment, which employed a broader formula, namely, "before as well as after birth", solved the difficulty. That amendment was not a compromise. It afforded as effective protection of the rights of the child as the Italian sub-amendment, for the period before birth obviously began at the moment of conception. It did not, however, establish a moment which was impossible to determine as the time at which the child should be given protection and it did not use certain unnecessary words which were controversial.

15. The CHAIRMAN said that she had allowed the Italian representative to submit her sub-amendment (A/C.3/L.735) because the rules of procedure did not clearly indicate the procedure to be followed in such a case. She recalled that there was, in any event, a

precedent as far back as the sixth session of the General Assembly in connexion with the discussion by the Third Committee of the question of self-determination.

16. Mr. SCHWEITZER (Chile) supported the Philippine amendment (A/C.3/L.734), which did not involve controversial ideas and seemed likely to receive a wide measure of support.

17. Mrs. HOLT (Canada) also supported that amendment, which provided an excellent compromise solution.

18. Mr. OSEGUEA (El Salvador) supported the Italian amendment for in his view it was pertinent to recall that the life of the child should be protected from the moment of his conception. He proposed, however, that the words "el momento de" should be deleted from the Spanish text.

19. Mrs. LUPINACCI (Italy) said that the French text of her sub-amendment, which contained only the expression "dès sa conception", was an accurate reflection of the thinking of her delegation and that the other texts should be brought into line with the French text.

20. Replying to a question by Mr. BAROR (Israel), the CHAIRMAN explained that the first point of the amendment submitted by Mexico and Peru (A/C.3/L.717), concerning the first five paragraphs of the preamble, affected only the Spanish text. The joint amendment had been accepted without objection at the 911th meeting, in reference to the first paragraph, and she took it that the other four paragraphs of the Spanish text could be considered as having been similarly amended.

It was so agreed.

21. The CHAIRMAN noted that some delegations had indicated that they would ask that parts of certain paragraphs should be put to the vote separately. She would suggest therefore that the Committee should vote first on the amendments to each paragraph and then on the paragraph itself with any amendments that might have been adopted.

It was so decided.

The first paragraph was adopted by 63 votes to none, with 1 abstention.

The second paragraph was adopted by 65 votes to none, with 1 abstention.

22. The CHAIRMAN pointed out that in the Italian sub-amendment (A/C.3/L.735) to the Philippine amendment (A/C.3/L.734) to the third paragraph the word "whereas" was retained in the English text and the words "the moment of" and "el momento de" were deleted in the English and Spanish texts, in accordance with the request of the Italian representative.

A vote was taken by roll-call on the Italian sub-amendment (A/C.3/L.735), as so amended.

Ireland, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Ireland, Italy, Lebanon, Morocco, Netherlands, Peru, Philippines, Spain, Venezuela, Afghanistan, Argentina, Belgium, Brazil, Costa Rica, Dominican Republic, El Salvador, France, Greece, Guatemala, Indonesia.

Against: Israel, Japan, Jordan, Libya, Nepal, New Zealand, Pakistan, Poland, Romania, Saudi Arabia, Sudan, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Yemen, Yugoslavia, Albania, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, Colombia, Cuba, Czechoslovakia, Denmark, Federation of Malaya, Finland, Haiti, Hungary, India, Iraq, Iran.

Abstaining: Mexico, Norway, Portugal, Union of South Africa, Australia, China, Ethiopia, Ghana, Guinea.

The sub-amendment was rejected by 40 votes to 20, with 9 abstentions.

A vote was taken by roll-call on the Philippine amendment (A/C.3/L.734).

Panama, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Spain, Sudan, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yemen, Yugoslavia, Albania, Belgium, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Canada, Ceylon, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Federation of Malaya, Finland, Ghana, Guatemala, Guinea, Haiti, Hungary, India, Indonesia, Iraq, Iran, Israel, Japan, Jordan, Libya, Mexico, Morocco, Nepal, Netherlands, New Zealand, Norway, Pakistan.

Against: Ireland.

Abstaining: Afghanistan, Argentina, Australia, Costa Rica, El Salvador, Ethiopia, France, Greece, Italy, Lebanon.

The amendment was adopted by 58 votes to 1, with 10 abstentions.

23. After an exchange of views in which Miss MacENTEE (Ireland), Mr. CUEVAS CANCINO (Mexico) and Mr. LOPEZ (Philippines) participated, Mr. COX (Peru) and Mr. CUEVAS CANCINO (Mexico) withdrew their amendment to the third paragraph (A/C.3/L.717).

24. The CHAIRMAN stated that the third paragraph was therefore adopted in the form in which it appeared in the Philippine amendment (A/C.3/L.734).

25. Mr. CUEVAS CANCINO (Mexico) and Mr. COX (Peru) withdrew their amendment to the fourth paragraph (A/C.3/L.717) and supported the text proposed by the Philippines (A/C.3/L.720).

The fourth paragraph, in the wording proposed in the Philippine amendment (A/C.3/L.720), was adopted by 65 votes to none, with 3 abstentions.

26. Mr. CUEVAS CANCINO (Mexico), supported by Mr. RUDA (Argentina), asked that the word "pueda" should be replaced by "puede" in the Spanish text of the fifth paragraph as the indicative was stronger than the subjunctive.

The fifth paragraph, as amended, was adopted unanimously.

27. Miss BERNARDINO (Dominican Republic) said that she would be unable to support the Philippine amendment to the sixth paragraph of the preamble unless the sponsor would agree to replace the word "individuals" by the words "men and women".

28. The CHAIRMAN suggested that the Committee should not vote on the sixth paragraph until the afternoon meeting in order to give members time to study the Soviet sub-amendment (A/C.3/L.736) to the Philippine amendment (A/C.3/L.720).

It was so decided.

The meeting rose at 1 p.m.