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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.716, A/C.3/L.719, A/C.3/L.721-733, A/C.3/L.737) (continued)

PRINCIPLES 2 AND 3 (continued)

1. Mr. MAHMUD (Ceylon), speaking on the six-Power amendment (A/C.3/L.725) to the draft Declaration of the Rights of the Child (E/3229, para. 197, resolution 5 (XV)), said that the third paragraph of the preamble as finally adopted by the Committee (913th meeting) had mentioned the child's need for special safeguards and care "before as well as after birth". That wording had been deliberately kept vague, in order to ensure that it should meet with general acceptance. The phrase "from the moment of conception" proposed in the joint amendment was redundant and even provocative. The Committee was seeking to draft a universal Declaration of the Rights of the Child which would be acceptable to national Governments, the only institutions that could enforce such an instrument. It should be left to those Governments to determine from what point in time the child should be recognized as an individual personality. There was a danger that adoption of the joint amendment would make it difficult if not impossible for certain Governments to accept the Declaration as a whole. Countries with teeming populations and scant resources could not be expected to subscribe to a document which limited their freedom of action when they wished to carry out humane measures of population control. He urged the sponsors of the joint amendment not to reintroduce a subject which had given rise to controversy in the Committee. For its part, the Ceylonese delegation would vote against the joint amendment.

2. Mr. VIDAL GABAS (Spain) said that any amendment sponsored by a group of countries deserved serious attention. His delegation believed that the Declaration should refer to the period of gestation: the representatives of El Salvador and Ireland had cited evidence in support of the fact that the child lived and had sensations from the time of conception. Moreover, the legal systems of most countries provided for the protection of the child during that period. The opposition to the joint amendment voiced in the Committee had been based on questions of de-

tail, not of substance. The basic issue was whether life should be guaranteed between the time of conception and birth or whether it should be left to the mercy of personal caprice or criminal intent. The sponsors of the joint amendment were concerned that the sacred values of civilization should be embodied in the Declaration. The phrase "moment of conception" was merely a juridical formula devised by legislators; the actual moment could be fixed by each country as it saw fit. Furthermore, if the delegations objected to the phrase "from the moment of conception" as too precise, it could be changed to read "from conception". The argument that the principle proposed in the joint amendment was already embodied in the third paragraph of the preamble was invalid: that paragraph merely stated the problem in general language. It was the function of the principles to reflect the provisions of the preamble in clear and precise terms.

3. Mr. FIBEIRO DA CUNHA (Portugal) supported the joint amendment. Civil and property rights were one thing, and the right of the child to life was another. Since the principles included provision for the protection of the expectant mother and for the granting of pre-natal care it was only logical to include the proposed principle among them.

4. Mr. RUDA (Argentina) recalled that at the preceding meeting the Yugoslav representative had mentioned that the law in his own and in other countries allowed abortion in exceptional circumstances. The sponsors of the joint amendment believed that the Committee should not base its decision on exceptions: the important thing was to include the principle, namely, that the wilful destruction of a human being should be condemned. He felt it necessary to point out in that connexion that his own country had very progressive laws on the subject, making provision for legal abortion in exceptional cases. Unlike the Israel representative (915th meeting), he did not consider the embryo to be a future life or a part of the mother but rather a genuine individual, since otherwise it would not be protected by most legal codes. With respect to the doubts raised by the representatives of Cambodia (915th meeting) and Saudi Arabia (911th meeting), the question at issue was not the time of conception but the right to life. The moment of conception might be difficult to determine, but no one could deny that it occurred. Replying to the delegations that had deplored the injection of irreconcilable issues into the debate, he said that the United Nations was a proper forum for expressing divergent views in an effort to achieve some reconciliation between them.

5. Mr. BAROODY (Saudi Arabia) did not agree that the Saudi Arabian or Cambodian attitude towards the proposed new principle was based on peripheral issues. National exigencies sometimes made it necessary for certain countries to take measures which in other countries might be regarded as disrespect for

life. While he respected all religious faiths, he urged members to be guided by the voice of reason and to respect the rights of others. With that thought in mind, he asked if the sponsors would be willing to accept the following wording for their amendment:

"The right to life of the child shall be safeguarded before as well as after his birth."

6. Mr. RUDA (Argentina) requested a brief interruption to enable the co-sponsors of the amendment to reach an agreement.

The meeting was suspended at 11.25 a.m. and resumed at 11.35 a.m.

7. Mr. BAROODY (Saudi Arabia) announced that, as his oral sub-amendment had not proved acceptable to the sponsors of the joint amendment, he would withdraw it.

8. Mr. RULLI (Italy) said that the words "dès la conception" in the French text of the joint amendment were a clear formulation of the point the sponsors wished to make.

9. The CHAIRMAN stated that the texts in the other languages would be brought into line with the French text.

10. Mr. FARHADI (Afghanistan) pointed out that the deletion of the words "the moment of" before the word "conception" in the English text would obviate the difficulties which many delegations had pointed out regarding the practicability of establishing the precise moment of conception.

11. Mrs. ROSS (Denmark) said that, if the proposed new principle 2 was adopted, some countries would be unable to vote for the Declaration as a whole. That text was unnecessary, in any case, as the right to life was covered by the preamble and principle 5. She hoped that it would not be adopted.

12. The CHAIRMAN called upon the Committee to vote on the text suggested in the joint amendment (A/C.3/L.725) for a new principle 2.

At the request of the representative of Italy, a vote was taken by roll-call.

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

In favour: Paraguay, Peru, Portugal, Spain, United Arab Republic, Uruguay, Venezuela, Afghanistan, Argentina, Belgium, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, France, Greece, Guatemala, Haiti, Honduras, Indonesia, Ireland, Italy, Lebanon, Netherlands.

Against: Poland, Romania, Saudi Arabia, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia, Albania, Austria, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chile, Czechoslovakia, Denmark, Ethiopia, Finland, Ghana, Hungary, India, Iran, Iraq, Israel, Japan, Jordan, Nepal, New Zealand, Norway, Pakistan.

Abstaining: Philippines, Tunisia, Union of South Africa, Yemen, Australia, Burma, Cambodia, China, Federation of Malaya, Mexico.

The amendment was rejected by 34 votes to 28, with 10 abstentions.

13. Mrs. LORD (United States of America) explained that she had voted against the joint amendment because a similar amendment to the preamble had already been rejected and it served no useful purpose to raise the issue again.

14. Lady PETRIE (United Kingdom) said that she had cast a negative vote for the same reasons as the United States representative. Furthermore, she had felt that it would be a mistake to introduce into the Declaration a principle about which there was so much controversy, and which put the medical profession in an undesirably embarrassing position on a question of great delicacy.

15. The CHAIRMAN drew attention to the amendments (A/C.3/L.716, A/C.3/L.722, A/C.3/L.726 and Add.1, and A/C.3/L.729) to principles 2 and 3 of the text proposed by the Commission on Human Rights.

16. Mr. FARHADI (Afghanistan) recalled that he had already introduced (915th meeting) his amendment calling for the deletion of the words "and normal" in principle 2 (A/C.3/L.716). He had also proposed the deletion of the words "whenever necessary" in principle 3 because those words were redundant and their deletion would improve the text.

17. Mr. WJESINHA (Ceylon) supported the Netherlands amendment (A/C.3/L.726 and Add.1), which satisfactorily amalgamated principles 2 and 3. It omitted the second sentence of principle 3 but that point was already covered by the sixth paragraph of the preamble.

18. Mr. SUPHAMONGKHON (Thailand) said that the fact that his delegation had proposed the deletion of principle 3 (A/C.3/L.722) did not mean that it was opposed to protecting the child by law. In Thailand, child care was primarily given by parents and, if need be, by relatives and voluntary organizations, without the necessity of legislative intervention. In fact, the law could be effective only if it received the co-operation of men and women. As the child's right to protection was clearly enunciated in principle 2 as well as in the third, fifth and sixth paragraphs of the preamble, the existing principle 3 seemed unnecessary.

19. Mr. RIBEIRO DA CUNHA (Portugal) strongly supported the Netherlands amendment, which replaced a somewhat prolix original text by one of elegant conciseness.

20. Mr. LOPEZ (Philippines) welcomed the Netherlands amendment, which was admirably brief and clear. He was, however, a little doubtful about the omission of one of the three main ideas contained in the original principles 2 and 3, namely, that opportunities and facilities should be provided by law to enable the child to develop satisfactorily. Protection by law was rather a negative idea compared with that more positive concept. He therefore proposed the insertion of some such wording as "and be provided with opportunities and facilities" after the word "protection" in the Netherlands text (A/C.3/L.726).

21. Mrs. NYUN HAN (Burma) approved of the Netherlands proposal to combine principles 2 and 3, which, as they stood, were repetitious. She was in favour of the inclusion of the additional sentence contained in document A/C.3/L.726/Add.1, since the importance of legal protection should be stressed. In countries

whose legal systems were based on Roman law such protection was already provided.

22. Miss MacENTEE (Ireland) said that the additional sentence now proposed by the Netherlands representative (A/C.3/L.726/Add.1) was the most important of all. It contained a creative and imaginative concept, on which much progressive legislation had already been based, and would serve as a stimulus to Governments to improve their legislation. She could not support the Thai amendment (A/C.3/L.722) calling for the deletion of principle 3.

23. Mr. HU (China) observed that principles 2 and 3 dealt with the same subject—the full development of the child's personality and character. He was accordingly in favour of the Netherlands amendment combining the two texts.

24. Mrs. LEFLEROVA (Czechoslovakia) said she understood and sympathized with the considerations which lay behind the Netherlands amendment. Since it included the main ideas contained in the two principles, she would like to support it, but she felt that one important point had been omitted. The amendment should state clearly that all the means necessary to the child's development should be given to it. Although the Philippine suggestion met her point to some extent, she would like to suggest a further change in the amendment (A/C.3/L.726) for the consideration of the Netherlands representative, namely, the replacement of the words "enable him" by the words "ensure him the means to".

25. Mr. MALITZA (Romania) was unable to support the Afghan amendment calling for the deletion of the words "and normal" (A/C.3/L.716). The word "healthy" clearly referred to a state characterized by an absence of illness, while the word "normal" was a statistical notion. It was more in keeping with modern child psychology to retain both words.

26. He preferred the text submitted by the Commission on Human Rights to the Netherlands amendment (A/C.3/L.726 and Add.1). Each principle therein could be referred to by a simple title, as for instance, principle 2: Health and Normal Development; and principle 3: Special Protection. Since the Declaration would be frequently referred to by jurists, educators and the like, that was an important consideration. However, if the majority was in favour of the Netherlands amendment he would not oppose that text, and he would be prepared to support it if the words proposed by the Philippine representative were included.

27. Mr. SCHWEITZER (Chile) felt that the Netherlands text was a great improvement on that of the Commission on Human Rights, being less ponderous. He would accordingly support it, but he hoped that the Netherlands representative would agree to the inclusion of the words suggested by the Philippine representative.

28. On the other hand, he could not support the Afghan amendment (A/C.3/L.716) for the reasons given by other representatives, and he was also dubious about the Uruguayan amendment (A/C.3/L.729). The Uruguayan representative had probably had the growth of juvenile delinquency in mind in asking for the inclusion of the words "and responsibility". The question, however, was a delicate one since legislation did not usually provide for the punishment of the juvenile delinquent. Moreover, the Declaration was

drafted in broad terms and the point in question was a minor one. He therefore asked the Uruguayan representative to consider whether he wished to press his amendment.

29. Mrs. MANTZOULINOS (Greece) said she preferred the text of the Commission on Human Rights to the Netherlands amendment. Principle 3, which dealt with legal protection and referred to the best interests of the child, was extremely important and if it were merged with principle 2 some of its significance would be lost. She supported the Uruguayan amendment (A/C.3/L.729), since she believed that the child should be informed of its responsibilities as well as its rights.

30. On the other hand, she would vote against the Afghan amendment to principle 2, since the words "healthy" and "normal" were both necessary inasmuch as they related to physical and mental states respectively.

31. Mr. SUTANTO (Indonesia) agreed with the Afghan representative that the word "healthy" was comprehensive and included the concept of "normal". He would accordingly vote for the Afghan amendment. He would likewise vote for the Uruguayan amendment, since it raised a new and important point which ought not to be omitted from the Declaration.

32. He could not accept the Thai proposal (A/C.3/L.722) to delete principle 3. It was essential for the child to receive special protection by law and by other means and legal action to implement the principles would certainly have to be taken by States at some future date.

33. As regards the Netherlands amendment, while he was in favour of simplifying the text and combining principles whenever it was possible, he felt that it sacrificed some of the substance of principle 3 in the interests of brevity. Even with the additional sentence proposed, it still omitted certain important points which had been included in the text of the Commission on Human Rights. He therefore hoped that the Netherlands representative would agree to the inclusion of the words suggested by the Philippine representative.

34. Mrs. LORD (United States of America) said she considered the Netherlands text an improvement on that of the Commission on Human Rights, which had been frequently criticized for its length. She would accordingly vote for it.

35. Mr. EL-FARRA (Jordan) stated that he was in favour of combining principles 2 and 3 and found the Netherlands text generally acceptable. However, the addition of the words suggested by the Philippine representative would strengthen it, and he therefore hoped the Netherlands representative would accept them. He agreed with the Afghan representative that the word "normal" was unnecessary and would vote for its deletion.

36. Mrs. DIEMER (Netherlands) said she was happy to note how much support there was for her amendment. She had listened with great interest to the statement made by the Israel representative at the preceding meeting and, while he had not convinced her that the two principles ought not to be combined, she agreed with him that the idea expressed in the last sentence of principle 3 in the text of the Commission on Human Rights was im-

portant. That was why she had submitted the addendum to her amendment. While she did not feel that the first sentence would gain in clarity by the inclusion of the words suggested by the Philippine representative, she was prepared to accept them, as there appeared to be a wide measure of support for them.

37. Mr. PENADES (Uruguay) was in favour of combining principles 2 and 3, as proposed by the Netherlands.

38. The Chilean representative had misunderstood the intent of the Uruguayan amendment. It did not suggest that the juvenile delinquent should be made legally responsible for his crimes. In Uruguay, he was not so responsible until he attained the age of eighteen. All the amendment meant to convey was that the child should be brought up in an atmosphere which would make him aware of his responsibilities.

39. Mr. RUDA (Argentina) congratulated the Netherlands representative on her clear and concise text, which he would support.

40. He had understood the Uruguayan amendment to be concerned solely with the moral concept and not with criminal liability and, since his understanding had been confirmed, he would vote for it.

41. Lady PETRIE (United Kingdom) said she was not happy about the word "responsibility" in the Uruguayan amendment. It was meaningless in its present context, at least in English, and she hoped a more suitable word could be found.

42. Mr. BAROODY (Saudi Arabia) felt that the wording suggested by the Philippine representative might be improved. He preferred "given" or "afforded" to the words "provided with".

43. The CHAIRMAN suggested that the Netherlands and Philippine representatives should together work out a revised text, which could be put before the Committee at its next meeting.

The meeting rose at 12.40 p.m.