

United Nations
**GENERAL
ASSEMBLY**

EIGHTEENTH SESSION

Official Records



**THIRD COMMITTEE, 1230th
MEETING**

Monday, 14 October 1963,
at 10.45 a.m.

NEW YORK

CONTENTS

	<i>Page</i>
<i>Agenda item 43:</i>	
<i>Draft Declaration on the Elimination of All Forms of Racial Discrimination (continued)</i>	
<i>Article 9 (continued)</i>	<i>87</i>

Chairman: Mr. Humberto DIAZ CASANUEVA
(Chile).

AGENDA ITEM 43

Draft Declaration on the Elimination of All Forms of Racial Discrimination (A/5459, A/5503, chap. X, sect. III; E/3743, paras. 8^o-145; A/C.3/L.1067, A/C.3/L.1185, A/C.3/L.1090 and Add.1, A/C.3/L.1111, A/C.3/L.1116/Rev.3, A/C.3/L.1117, A/C.3/L.1124/Rev.1, A/C.3/L.1125-1126) (continued)

ARTICLE 9 (continued)

1. Mr. FINGER (United States of America) said that further extensive consultations had taken place with a view to finding a new text for article 9 which would be acceptable to most, if not all, delegations. The final details were now being worked out. Pending agreement on the new text, it should be understood that his delegation had not withdrawn its sub-amendments (A/C.3/L.1116/Rev.3) to the nine-Power amendments (A/C.3/L.1090 and Add.1). To meet the wishes of the delegation of the United Arab Republic, he would be prepared to substitute the word "offence" for the word "affront" in point 1 of his sub-amendments, if that delegation would withdraw its own sub-amendment (A/C.3/L.1124/Rev.1).

2. Mr. GHORBAL (United Arab Republic) replied that, if the informal consultations now in progress resulted in the submission of a new amendment, his own would be among the texts superseded by the new proposal. In the meantime, he could not agree to withdraw his sub-amendment, unless the United States delegation agreed to incorporate it fully into its text. His delegation had inserted the word "therefore" in the sentence "all propaganda justifying or promoting racial discrimination . . . should be considered an offence against society and therefore subject to law" so as to make it quite clear that no law worthy of its name could fail to punish the offence described.

3. Mr. SARMIENTO CARUNCHO (Bolivia) moved that the meeting should be suspended, in order to give time for the informal consultations to be concluded.

The motion was adopted by 66 votes to none, with 14 abstentions.

The meeting was suspended at 11.5 a.m. and resumed at 11.50 a.m.

4. Mr. PINHEIRO (Brazil) said that the first two paragraphs of the new text for article 9, as read to the Third Committee by the Spanish representative (1229th meeting) appeared to be acceptable to all delegations which had taken part in the informal consultations. He announced that the third paragraph had been redrafted to read:

"3. In order to put into effect the purposes and principles of this Declaration, all States shall take immediate and positive measures, including legislative and other measures, to prosecute and, in appropriate cases, outlaw organizations which incite to and use violence for purposes of discrimination based on race, colour or ethnic origin."

5. He was not moving the adoption of the new text, but merely reporting on the work done in the informal consultations. The new text, he believed, was acceptable to United States as well as to other delegations which had proposed amendments to article 9. His own delegation, as he had repeatedly pointed out, would be prepared to accept the text presented by the Commission on Human Rights, if all delegations agreed to withdraw their amendments. It did, however, favour stronger language and that was why it had sponsored the nine-Power amendments. Those amendments would not be withdrawn, but the Brazilian delegation would not oppose any eventual agreement on the compromise text which he had read out and which, although less incisive than his own proposals, was also stronger than the original draft.

6. Mr. Antonio BELAUNDE (Peru) said that his delegation was prepared to co-sponsor the text read out by the representative of Brazil.

7. Mr. GHORBAL (United Arab Republic) observed that, unlike the representative of Brazil, he could not express satisfaction with the original wording of article 9; he was glad, therefore, that it had been generally agreed to move forward from a mere condemnation of propaganda and incitement such as was contained in that article. There had been very wide agreement during the informal consultations on the first two paragraphs, as read out by the Spanish representative, but where paragraph 3 was concerned, the delegations of Tunisia and the United Arab Republic wished to propose the following wording:

"In order to put into effect the purposes and principles of this Declaration, all States shall take immediate and positive measures, including legislative and other steps, to prosecute and/or outlaw organizations which use violence or which incite to the use of violence for purposes of discrimination based on race, colour or ethnic origin."

8. If that formulation was adopted, the article would begin with the basic premise that all propaganda and organizations of the type in question should be severely condemned; paragraph 2 would indicate that any incitement to violence or any act of violence, whether

by individuals or groups, was *ipso facto* an offence against society and therefore punishable under law: paragraph 3 would provide that States which, by signing the Declaration, assumed a certain obligation, would take steps to put the principles of the declaration into effect in their domestic legislations by undertaking the prosecution or the outlawing of the organizations concerned, or both.

9. He hoped that the text, which represented a clear advance on the version submitted by the Commission on Human Rights, would be put to the vote first; delegations which opposed the words "and/or" could, of course, request a separate vote.

10. Mr. FINGER (United States of America) said that the adoption of the text read out by the representative of Brazil would enable his delegation to vote in favour of the draft Declaration as a whole, although it would have preferred the words "to prosecute or outlaw" in paragraph 3. The United States had accepted various suggestions made by Tunisia and the United Arab Republic and he hoped that the wide agreement achieved would not be jeopardized by pressure for a further concession. While his delegation was prepared to see priority given to the text read out by the representative of Brazil, he pointed out that any deletions from it would destroy the delicate compromise on which it was based.

11. Miss WACHUKU (Nigeria) thought that it should be made clear that a majority of the delegations taking part in the informal consultations had agreed on the version of article 9 read out by the representative of the United Arab Republic with which her delegation wished to associate itself.

12. Mr. SHERVANI (India) said that his delegation would co-sponsor the version read out by the representative of Brazil, which was the result of a considerable drafting effort. He suggested that the first two paragraphs, on which there was virtual unanimity, should be put to the vote first, and that the United Arab Republic text should be voted upon next as a sub-amendment to paragraph 3 as read out by the representative of Brazil.

13. The CHAIRMAN inquired whether the sponsors of the new texts intended to submit them as sub-amendments to the nine-Power amendments originally introduced by Brazil (A/C.3/L.1090 and Add.1) or as amendments to the draft Declaration as prepared by the Commission on Human Rights (A/5459). In the latter case, the Committee would have to decide whether the amendments were in order, in view of its earlier decision (1215th meeting) that 1 October should be the time-limit for the submission of amendments.

14. Mr. Antonio BELAUNDE (Peru) said that the representative of India and he himself would like to submit the text, which they were co-sponsoring, as a sub-amendment to the nine-Power amendments, so that

it might have priority in the voting. The proposal was the product of arduous collective efforts and had a wide measure of support. It would seem a mistake, after all the time spent on its preparation, to give it a secondary place.

15. Mr. GHORBAL (United Arab Republic) stated that, if the text co-sponsored by India and Peru was to be submitted as a sub-amendment to the nine-Power amendments, then the United Arab Republic and Tunisian proposal for paragraph 3 would be a sub-amendment to that sub-amendment.

16. Mr. DELGADO (Senegal) said that his delegation fully appreciated the efforts made toward conciliation but felt that those efforts had not been basically successful, since the United States delegation had not been won over to the stronger wording proposed by the United Arab Republic and Tunisia. Since the aim of unanimity had not been achieved, he would give his support to the nine-Power amendments.

17. Mr. GELDERS (Belgium) observed that members did not seem to be moving towards agreement and asked, in that connexion, whether it was not open to the Committee to accept article 9 in its original drafting. That seemed the only way out of the present impasse.

18. The CHAIRMAN recalled that, earlier in the proceedings (1221st meeting), it had been decided under rule 131 that the Committee could not return to the original text and ignore the amendments that had been submitted.

19. Mr. BAROODY (Saudi Arabia) said that the negotiations on article 9 had introduced a new difficulty which could compromise the chances of full agreement on the article. Both new versions of paragraph 3 referred to the possibility of outlawing organizations engaged in racial discrimination. The willingness of the United States to seek a compromise wording was laudable, but there were some countries, among them his own, which were most anxious to see that freedom of association was not tampered with. Encouragement to outlaw organizations was extremely dangerous. An otherwise innocent organization might be outlawed because one or two of its members were racists. Worse yet, an unscrupulous Government could plant an agent in an organization it disapproved of, have him advocate or commit racial violence, and on that ground outlaw the whole organization. It seemed to him quite sufficient for the article to speak of "prosecution", or perhaps "prosecution by due process of law". But in the present-day world, when Government propaganda and State power had grown to such proportions, to encourage interference in the lives of citizens even further was a serious error. He hoped that, before the Committee came to vote, members would carefully weigh the consequences of introducing the word "outlaw" into the draft Declaration.

The meeting rose at 1.25 p.m.