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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. II; E/3743, (paras. 89-145), A/C.3/L.1067, A/C.3/L.1072, A/C.3/L.1074, A/C.3/L.1075/Rev.1, A/C.3/L.1076-1077, A/C.3/L.1079/Rev.1, A/C.3/L.1082/Rev.1, A/C.3/L.1085-1086, A/C.3/L.1088/Rev.1, A/C.3/L.1089-1090 and Add.1, A/C.3/L.1098, A/C.3/L.1100 and Add.1, A/C.3/L.1101, A/C.3/L.1104-1113 and Add.1, A/C.3/L.1114/Rev.1, A/C.3/L.1115/Rev.1, A/C.3/L.1116-1117) (*continued*)

1. The CHAIRMAN requested members to keep their statements as short as possible, bearing in mind that the general debate on the draft Declaration had been concluded and that the voting on the various articles was already under way.

ARTICLE 2 (*concluded*)
Paragraph 1

2. Mr. BAROODY (Saudi Arabia) said that his delegation would accept point 1 of the amendments of Austria and Nigeria (A/C.3/L.1074), which strengthened the text of paragraph 1, but not the other two points. In his view, point 3 of the amendments was particularly dangerous, for, if it was adopted, there was a risk that in a country with a multiracial society, groups of the same race or of the same ethnic origin might invoke that article in order to engage in activities contrary to public policy and the security of the State, or to establish separatist political movements.

3. Mrs. VILLGRATTNER (Austria) stated that the Nigerian and Austrian delegations were willing to withdraw point 2 of their amendments calling for the deletion of the words "in matters of human rights and fundamental freedoms", which in their view would merely have clarified the text of paragraph 1.

4. On the other hand, she considered that the reservations expressed by the delegation from Saudi Arabia and by other delegations with respect to point 3 of the amendments were not justified. The sponsor sought to broaden the scope of the draft Declaration; as at present worded, the declaration afforded groups of persons and institutions no protection against discrimination.

5. The CHAIRMAN called for a vote on point 1 of the amendments of Austria and Nigeria. Since the point did not affect the Spanish text of article 2, paragraph 1, the delegations of the Spanish-speaking countries should not take part in the vote.

Point 1 of the amendments of Austria and Nigeria (A/C.3/L.1074) was adopted by 74 votes to none, with 9 abstentions.

6. The CHAIRMAN put to the vote point 3 of the amendments of Austria and Nigeria.

Point 3 of the amendments of Austria and Nigeria was adopted by 71 votes to 5, with 16 abstentions.

7. Mr. MEANS (United States of America) proposed the deletion of the words "institution, group or individual" in the first line of the paragraph.

The proposal to delete the words "institution, group or individual" was rejected by 65 votes to 7, with 14 abstentions.

8. The CHAIRMAN put to the vote article 2, paragraph 1, as amended.

Article 2, paragraph 1, as amended, was adopted by 84 votes to none, with 10 abstentions.

Proposal concerning the insertion of an additional paragraph

9. The CHAIRMAN invited the Committee to vote on the revised United States amendment (A/C.3/L.1079/Rev.1) calling for the insertion of a new paragraph after paragraph 1 in article 2.

The United States amendment (A/C.3/L.1079/Rev.1) was adopted by 85 votes to none, with 9 abstentions.

Paragraph 3 (*former paragraph 2*)

10. Mrs. KISOSONKOLE (Uganda) expressed concern lest article 2, paragraph 3, might be used as a weapon by unscrupulous Governments anxious to perpetuate the present position of certain racial groups, separating them from the rest of the population on the pretext of seeing to it that they enjoyed their human rights—in other words, by Governments that practised apartheid.

11. Mrs. KONANTZ (Canada) said that her delegation would vote for article 2, paragraph 3, the present wording of which had been adopted by the Commission on Human Rights after lengthy discussions. She recalled that in the Commission, the Canadian delegation had submitted an amendment to the draft prepared by the Working Group, and that the paragraph thus amended had been adopted with only one abstention (see E/3743, paras. 109-110). She would consequently vote against the amendments in documents A/C.3/L.1100 and Add.1 and A/C.3/L.1104

12. The CHAIRMAN put the amendment contained in document A/C.3/L.1104 to the vote.

The amendment contained in document A/C.3/L.1104 was rejected by 31 votes to 14, with 45 abstentions.

13. The CHAIRMAN put to the vote point 1 of the amendments contained in document A/C.3/L.1100 and Add.1, submitted by Ghana, Nigeria and Mali.

Point 1 of the amendments contained in document A/C.3/L.1100 and Add.1 was adopted by 58 votes to 19, with 14 abstentions.

14. Mr. DELGADO (Senegal) said, when he had held informal consultations with the sponsors of the amendments contained in document A/C.3/L.1100 and Add.1, they had appeared to agree to the insertion of the words "in appropriate circumstances" after the word "taken", in the first line of article 2, paragraph 3. If that suggestion was adopted, his delegation would be able to vote for point 2 of the amendments in document A/C.3/L.1100 and Add.1.

15. The CHAIRMAN put the proposal of Senegal concerning the insertion of the words "in appropriate circumstances" to the vote.

The proposal to insert the words "in appropriate circumstances" was adopted by 49 votes to none, with 41 abstentions.

16. Mrs. NGAPETH (Cameroon), supported by Mrs. ARIBOT (Guinea), also recalled that during an informal meeting the sponsors of the amendments in document A/C.3/L.1100 and Add.1 had agreed to insert the word "concrete" between the words "special" and "measures".

17. The CHAIRMAN put the proposal of Cameroon, to insert the word "concrete" between the words "special" and "measures", to the vote.

The proposal to insert the word "concrete" between the words "special" and "measures" was adopted by 48 votes to none, with 41 abstentions.

18. The CHAIRMAN urged delegations in future to come to an understanding before the voting took place, in order to prevent the proceedings being complicated by the submission of last-minute amendments.

19. Mr. BAROODY (Saudi Arabia) said that he had not taken part in the vote on the Cameroonian proposal because he had not grasped its meaning. He regretted that some delegations should have thought fit to submit last-minute amendments; it could be dangerous to allow such a procedure. He would be obliged to refrain from voting in future if such incidents recurred.

20. Mr. CUEVAS CANCINO (Mexico) unreservedly endorsed those remarks; if any further oral amendments should be submitted, his delegation would be compelled to invoke rule 121 of the rules of procedure.

21. The CHAIRMAN drew attention to point 2 of the amendments submitted by Ghana, Nigeria and Mali (A/C.3/L.1100 and Add.1).

22. Mr. Antonio BELAUNDE (Peru) inquired whether that amendment related to the whole of the second sentence of paragraph 3, or only to the first part of the sentence.

23. Miss ADDISON (Ghana) explained that the sponsors of the amendment were proposing the deletion of the entire second sentence of the paragraph. There was a danger that the provisions of that sentence might be used as an escape clause, since they did not specify who would be responsible for deciding

from what time onwards the measures referred to would no longer be required.

24. Mr. Antonio BELAUNDE (Peru) felt that the second part of the sentence should be retained.

25. Miss WACHUKU (Nigeria) said that the authors of the amendments in document A/C.3/L.1100 and Add.1 were not opposed to the deletion of only the words "shall not be maintained after the need for them has disappeared and".

26. The CHAIRMAN put to the vote the proposal of Peru that the words "shall not be maintained after the need for them has disappeared and" should be deleted.

The Peruvian proposal was adopted by 40 votes to 7, with 41 abstentions.

27. Mr. MOLINA SALAS (Argentina) pointed out that in the Spanish text the word "iguales" in the second sentence of paragraph 3 should be replaced by the word "desiguales".

28. The CHAIRMAN said that the necessary correction would be made in the Spanish text. He put to the vote article 2, paragraph 3 as amended.

Article 2, paragraph 3, as amended, was adopted by 87 votes to none, with 3 abstentions.

29. Mr. MEANS (United States of America) was of the opinion that there was a definite contradiction between the first words of article 2, paragraph 1, which read "No State... shall make any discrimination...", and the beginning of paragraph 3, which read: "Special measures shall be taken...". That contradiction would disappear if the word "may" were to be restored, instead of the word "shall".

30. Miss WACHUKU (Nigeria) did not agree. The measures provided for in paragraph 3, far from being discriminatory, aimed at integrating into the whole community individuals or groups of individuals whom certain States had so far kept apart, precisely through discriminatory measures.

31. Mr. HAMID (Sudan) supported the United States representative's remarks.

32. Mr. GILCHRIST (Australia) also shared the United States representative's view. The Australian delegation had abstained from the vote on paragraph 3, precisely because of the contradiction which Mr. Means had pointed out.

33. The CHAIRMAN said that the United States proposal constituted a motion which came under rule 124 of the rules of procedure: according to that rule, permission to speak on a motion to reconsider would be accorded only to two speakers opposing the motion.

34. Mr. SEGOVIA (Uruguay) felt that the contradiction referred to was more apparent than real. In fact, the three paragraphs of article 2 were based on the same principles. Paragraph 3 placed on States the obligation to secure the development or protection of individuals belonging to certain racial groups with the object of ensuring the full enjoyment by such individuals of human rights—and that was a way of fighting discrimination. There was nothing in the paragraph incompatible with the substance of the first two paragraphs.

35. Mr. DELGADO (Senegal) concurred. He observed further that the words "in appropriate circumstances" introduced into the text of the paragraph a shade of meaning which should satisfy the United States representative.

36. Mr. MEANS (United States of America) said that he understood that the contradiction which he feared did not exist in the French and Spanish texts of the paragraph and he therefore withdrew his motion.

37. The CHAIRMAN put to the vote article 2 as a whole, as amended.

Article 2 as a whole, as amended, was adopted by 91 votes to none, with 4 abstentions.

38. The CHAIRMAN proposed the suspension of the meeting for ten minutes.

The meeting was suspended at 4.40 p.m. and resumed at 4.50 p.m.

ARTICLE 3

39. Mr. SPERDUTI (Italy), speaking on a point of order, drew the Committee's attention before the vote was taken to the very great difference which existed between the French text of article 3 and the English and Spanish texts. Differences on which he had not wished to insist already existed between the translations of article 2, but in article 3 it was a question of two completely different ideas, that of "civil rights", which appeared in the French text, and that of "political rights" which appeared in the other texts. He thought that the Committee could not vote on either article 3 or the amendments to it before having decided which of the two concepts should be included in the article.

40. The CHAIRMAN agreed that it was necessary to concord the different translations of article 3; that could be done with the help of point 2 of the amendments of Argentina, Bolivia, Ecuador, Mexico and Venezuela (A/C.3/L.1105).

41. Mr. SPERDUTI (Italy) said that the amendment raised the same difficulty for him. The French text of the draft Declaration adopted by the Commission on Human Rights, which appeared in the Commission's report (see E/3743, chap. XIII, draft resolution VI, annex), also mentioned civil rights. In his opinion, if any text should be corrected it was the English, where the juxtaposition of political rights and citizenship was meaningless. If that text was taken as a basis of discussion, he would be obliged to abstain.

42. Mrs. MANTZOULINOS (Greece) and Mr. COMBAL (France) shared the opinion of the Italian representative. It was not merely a question of translation but of contradiction in substance. If article 3 were to have a universal character, political rights could not be mentioned in it because, in all countries, they were strictly confined to citizens, who alone had the right to vote and be elected.

43. Mr. IVANOV (Union of Soviet Socialist Republics) said that the Russian text, like the English, mentioned political rights as well as citizenship, which must not be confused with the rights of the citizen. The amendments contained in document A/C.3/L.1105, which would replace citizenship by civil rights (or rights of the citizen) would thus profoundly alter the text. He would prefer the text to mention civil rights and citizenship.

44. Mr. PINHEIRO (Brazil) shared the opinion of the previous speakers, for it seemed to him contradictory to mention political rights, and then citizenship, which was part of those rights. The intention was to eliminate discrimination in civil rights, which usually led to discrimination as regards political rights.

45. Mr. YASSEEN (Iraq) also thought that the French text rather than the English should be regarded as authentic. The draft Declaration did not aim to eliminate differences of treatment in the matter of political rights which, as had already been pointed out, were not generally conceded by any State to foreigners. What was necessary in the article under discussion was to condemn discrimination as regards civil rights, such as the right to sell property, to enter into contracts, to marry and to inherit. Citizenship as mentioned in the article, meant, in his opinion, the right to a nationality, and there should be no discrimination in the application of the rules governing the acquisition or loss of nationality. He therefore preferred the French text, which mentioned civil rights and then citizenship, or right to a nationality, that was to say, to the acquisition of ties with a political community.

46. The CHAIRMAN, recalling that he had taken part in the Working Group set up by the Commission on Human Rights, stated, for the information of the Committee, that the Group had taken as a working basis a text submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a text proposed by Denmark and the United States and a text proposed by Poland and the Union of Soviet Socialist Republics. These three texts stressed political rights, as was shown in paragraph 8 of the Sub-Commission's draft (see E/3743, para. 93), paragraph 4 of the draft of Denmark and the United States (*ibid.*, para. 94), and article 3 of the proposal of Poland and the USSR (*ibid.*, para. 95). He pointed out that a discussion of substance might give rise to a prolonged debate and thought that the Committee could define its position by voting on the amendments in document A/C.3/L.1105.

47. Mr. MOLINA SALAS (Argentina) explained that the sponsors had based their amendment on the Spanish text and were simply trying to correct an omission by mentioning civil rights. As to the word "citizenship", in Spanish it was not the same thing as "nationality" but rather the concrete expression of the rights which derive from nationality. It seemed to him that the deletion of the word should not cause any difficulty since citizenship was actually included in political rights.

48. Mr. YAPOU (Israel) was of the opinion that article 6 of the draft submitted by the Commission on Human Rights followed logically from article 3. There was no doubt that the rights it dealt with were nothing but political rights and it seemed to him that the failure to mention political rights made the French text of article 3 faulty. On that point he wished to have the opinion of the representative of Italy, who had been the Rapporteur of the Commission on Human Rights.

49. Mr. SPERDUTI (Italy) pointed out that he had drafted his report in French. It was true that the draft of the Sub-Commission on Prevention of Discrimination and Protection of Minorities mentioned political rights in paragraph 8. However, it did not contain any provision similar to the present article 6, because the Sub-Commission had approached the question from a general point of view and had not deemed it necessary to enumerate the political rights now dealt with in article 6.

50. It was clear that every State should guarantee the exercise of civil rights to all persons within its jurisdiction and that was why article 3 was drafted in

general terms, whereas article 6, which dealt with political rights, mentioned the rights which every person should enjoy in his country.

51. It was therefore his view that the French text should be the guide and that the absence of a reference to civil rights in the English text constituted a serious omission, which could only be the result of an error.

52. The CHAIRMAN indicated that he did not share the view of the representative of Italy, and said that it would be wrong for the Committee to continue a fruitless discussion as to whether the English or the French text should prevail. It seemed to him that the Committee could agree that the French version should be brought into line with the English and the Spanish versions, which were identical, on the understanding that any delegation which had reservations concerning the "political rights" was free to propose an amendment of the text. For example, the sponsors could—and he hoped they would—reword their amendment on that point, proposing two changes, one to replace the words "political rights" by the words "civil and political rights" and the other to delete the word "citizenship". In that way the Committee would be in a position to decide separately on each of the three important ideas involved.

53. Mrs. MANTZOULINOS (Greece) asked whether, in the opinion of the Committee, article 3 had a national significance—in that case she had no reservations concerning the words "political rights"—or universal—and in that case she could not vote for the English version of article 3.

54. Mr. IVANOV (Union of Soviet Socialist Republics) supported the Chairman's suggestion but hoped that the sponsors would not delete the word "citizenship" from the original text.

55. Mr. SARMIENTO CARUNCHO (Bolivia) reported that the sponsors were prepared to change their amendment as suggested by the Chairman, without, however, deleting the word "citizenship".

56. Mr. CUEVAS CANCINO (Mexico) pointed out that point 1 of the five-Power amendment to article 3 (A/C.3/L.1105) dealt only with the translation of the text into Spanish and there was no need to put it to the vote.

57. The CHAIRMAN said that the Rapporteur and the Secretariat would bear in mind point 1 of the five-Power amendment to article 3.

58. Mr. COMBAL (France) said that, if the French text was amended so as to include political rights, it would be necessary to explain that the efforts referred to were to be made within each country. For example, words could be inserted in the French text indicating that "discrimination" meant discrimination between citizens of one and the same country.

59. Mr. YASSEEN (Iraq) said that the reason he hesitated to accept a French text that followed the English and Spanish texts was that in all countries aliens did not have a status equal to that of nationals so far as political rights were concerned. If the idea of political rights was introduced in article 3, the scope of which was very general, aliens would be able to invoke the provision to ask for the same political rights as a country's own nationals. He noted that article 6, which dealt with political rights, contained the words "Government of his country", which rightly limited the scope of the provisions of that article. His delegation saw no difficulty however in

mentioning political rights in article 3 if, to avoid uncertainty, the wording suggested by the representative of France was included.

60. The CHAIRMAN pointed out that some countries received many seasonal migrants or had large colonies of foreigners, and if the wording suggested by the representative of France were adopted, such groups would be deprived of the rights in such matters as housing, and education enjoyed by citizens of those countries.

61. Mr. COMBAL (France) suggested the words "... in the fields of civil rights and, with respect to citizens of the same country, political rights, citizenship".

62. Mr. Antonio Belaunde (Peru) said that the addition suggested by the representative of France might weaken article 3. It was not necessary because it was enough to refer to the articles of the draft International Covenants on Human Rights, which had already been adopted, to see that political rights were reserved to the nationals of each country—a generally recognized principle. It was obvious that the provisions of the draft Declaration had to be interpreted in the light of the other instruments adopted by the Third Committee.

63. Mr. REDONDO (Costa Rica) suggested inserting after the word "discrimination" the words "in all countries" or "in each country".

64. Mr. PINHEIRO (Brazil) said that the members of the Committee appeared to be losing sight of the real meaning of article 3, which aimed at ensuring that no persons would be refused a particular civil, political or other right by reason of race, colour or ethnic origin. There was no question in article 3 of deciding under what conditions a person might enjoy a particular right in a foreign country. There was therefore no reason for the addition suggested by the representative of France.

65. Mr. POLYANICHKO (Ukrainian Soviet Socialist Republic) observed that all the members of the Committee were in agreement on the principle laid down in article 3 and that the delegations of France, Greece and Italy were only asking whether the article was universal in scope or whether it was to be applied as part of the law of each State. For his part, he was in favour of the revised five-Power amendment, and he thought that the Bolivian suggestion also ought to be accepted.

66. Mr. KABBANI (Syria) suggested that the English and Spanish texts should be brought into line with the French text of article 3 and that the idea of political rights should be dealt with in article 3.

67. Mr. SPERDUTI (Italy) supported the suggestion of the representative of Syria, since article 6 specified that the rights mentioned were national rights. He also observed that the draft Declaration should be generally comprehensible without any need to refer to the other documents prepared by the Third Committee. If all delegations were agreed that each country would be required to grant political rights only to its nationals, they should say so clearly. Article 3 obviously dealt with such rights as the right to marry and to sign contracts—in other words, with civil rights—and should therefore be of a general character, whereas article 6 referred to political rights; so that if he had been familiar only with the English text of the draft, he would have proposed that

the words "political rights" should be replaced by the words "civil rights" in article 3 and that political rights should be mentioned in article 6.

68. Mr. COMBAL (France), Mr. REDONDO (Costa Rica) and Mrs. MANTZOULINOS (Greece) supported the suggestion of the representative of Syria.

69. Mr. YASSEEN (Iraq) said that his country did not hesitate to condemn discrimination as regards political rights but it was equally concerned that there should be no derogation from the well-established principle of differentiating between aliens and citizens

in matters of political rights. The Syrian suggestion met both those considerations and would therefore be supported by the Iraqi delegation.

70. The CHAIRMAN suggested that the representative of Syria might draft, in consultation with interested delegations, a formal amendment that they would then submit to the Committee in writing.

It was so agreed.

The meeting rose at 6.10 p.m.