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Chairman: Mr. Francisco CUEVAS CANCINO (Mexico).

AGENDA ITEM 62

Elimination of all forms of religious intolerance (concluded):

- (a) **Draft Declaration on the Elimination of All Forms of Religious Intolerance (concluded);**
- (b) **Draft International Convention on the Elimination of All Forms of Religious Intolerance (concluded)**

1. Mrs. VILLGRATTNER (Austria) said that, had her delegation been able to attend the previous meeting, it would have voted against the first Saudi Arabian amendment (A/C.3/L.1227) to operative paragraph 1 of the draft resolution (A/C.3/L.1215) and in favour of the oral amendment submitted by India and of operative paragraph 1 as a whole, as amended. It would also have voted against the second Saudi Arabian amendment to operative paragraph 2; it would have abstained in the vote on the deletion of the words "and draft Convention"; and it would have voted in favour of operative paragraph 2 as a whole, and of the draft resolution as a whole, as amended.

AGENDA ITEM 58

Draft International Convention on the Elimination of All Forms of Racial Discrimination (continued)* (A/5803, chap. IX, sect. I; A/5921; E/3873; chap. II and annexes I and III; A/C.3/L.1208 to L.1212, L.1216 to L.1225, L.1226 and Corr.1, A/C.3/L.1228, L.1231 and Corr.1)

2. The CHAIRMAN observed that the Committee had considered the preamble thoroughly. Negotiations

were taking place with a view to settling certain points in dispute and it would be preferable to await their outcome before voting. He therefore suggested, with the agreement of the Committee, that it begin consideration of article I.

ARTICLE I

3. Mr. RESICH (Poland) recalled that, because of the reservations expressed in the Commission on Human Rights during its discussion of article I of the draft International Convention on the Elimination of All Forms of Racial Discrimination (A/5921, annex), the Commission had left it to the General Assembly to decide whether there was a need for a distinction to be made between ethnic and national origin. His delegation felt that that distinction should be preserved and had submitted an amendment (A/C.3/L.1210) calling for the retention not only of the word "national" in the first sentence of article I, but also of the last sentence of paragraph 1 of that article, which explained the precise meaning to be attached to that word. Such an explanation was necessary because of the deletion of article VIII from the text originally submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities (see E/3873, paras. 242-256).

4. Since the Convention was to be of universal application, the Committee should bear in mind the fact that in many languages and cultural systems "national origin" meant something different from "ethnic origin" and that distinction might serve as a basis for discrimination. That distinction had been recognized by the Slavic countries in their legal texts. The draft Convention mentioned two other similar concepts: race and colour. In English and French, "race" represented a sociological concept and "colour" an anthropological one, while in other languages, such as Polish, "race" and "colour" were concepts of physical anthropology exclusively.

5. A "nation" was created when persons organized themselves politically on the basis of a common culture, common traditions or other factors. There were nations that were made up of different ethnic groups, such as Switzerland. But there were also situations in which a politically organized nation was included within a different State and continued to exist as a nation in the social and cultural senses even though it had no government of its own. The members of such a nation within a State might be discriminated against, not as members of a particular race or as individuals, but as members of a nation which existed in its former political form. The deletion of the word "national" from the Convention would imply that the Committee rejected the principle

* Resumed from the 1302nd meeting.

that all persons should be protected from any type of racial discrimination.

6. The difficulty to which the French representative had referred at the 1299th meeting could be overcome by the inclusion of the second sentence of paragraph 1. The French and United States amendments (A/C.3/L.1212), however, went too far.

7. He understood the six-Power amendment (A/C.3/L.1224) to imply the retention of the word "national" in article I and the insertion of a new paragraph 2 to explain it. If that was correct, his delegation could accept the amendment. If, on the other hand, the amendment, like the first Indian amendment (A/C.3/L.1216), implied that ethnic origin included national origin, he could not accept it.

8. The fifth amendment submitted by the sixteen Powers (A/C.3/L.1226 and Corr.1) and the first Brazilian amendment (A/C.3/L.1209) referred only to States composed of different nationalities; in his delegation's opinion, all States were made up of different nationalities, although the proportion of any one to the total might be very small.

9. In reply to a question by Mr. TSAO (China), Mr. DAYRELL DE LIMA (Brazil) said that the word "nationalities", as used in his delegation's first amendment (A/C.3/L.1209) referred to citizens of different ethnic and cultural origins.

10. Mr. VERRET (Haiti) observed that article I merely reflected the Universal Declaration of Human Rights. He favoured the deletion of the word "national", not because a State could not be made up of different nationalities—there was, for example, the case of States which were federations—but because it was superfluous, since after joining the federation, all citizens acquired the same nationality, the nationality of the federation. The Roman Empire, for example, had been composed of many nationalities, as were the Union of Soviet Socialist Republics and Switzerland today.

11. His delegation would support the fifth amendment submitted by the sixteen Powers (A/C.3/L.1226 and Corr.1) which strengthened article I by recalling once again principles which all Members had already accepted.

12. Miss AGUTA (Nigeria) said that in the amendment of which her delegation was one of the sponsors (A/C.3/L.1225) the replacement of the word "underdeveloped" in article I, paragraph 2, by "underprivileged" had been proposed because the application of the former term to a racial group could only have a derogatory connotation. The former word was more applicable to economies or geographical areas than to people.

13. Mr. VILLGRATTNER (Austria) urged the retention of the word "national" in article I of the draft International Convention. For half a century the terms "national origin" and "nationality" had been widely used in literature and in international instruments as relating, not to persons who were citizens of or held passports issued by a given State, but to those having a certain culture, language and traditional way of life peculiar to a nation but who lived within another State. The former Austro-Hungarian monarchy

had ruled over a number of nationalities, not all of which were of different ethnic origin, but each of which belonged to a different national group. She did not believe that the word "national" as used in article I was likely to be misunderstood, particularly since the United Nations itself had organized a seminar on the multinational society in June 1965. Deletion of the word might lead to uncertainty concerning the rights of certain groups and perhaps, eventually, to their denial.

14. Mrs. PONCE DE LEON (Colombia) suggested that the word "nationalities" in the first Brazilian amendment (A/C.3/L.1209) should be replaced by "ethnic and cultural communities".

15. Mr. COMBAL (France) observed that it was not surprising that the term "national origin" had given rise to difficulties, since it could be interpreted in two entirely different ways. In the Brazilian amendment it was used in a sociological sense, but it might also be equated with the word "nationality", which in many countries had a very specific legal meaning. If the term was to be used in the draft International Convention, some explanation of its meaning must be given. The explanation provided in the amendments submitted by France and the United States of America (A/C.3/L.1212) was the minimum that would serve and was by no means the perfect formula. His delegation would prefer to find a different way of defining the notion which it was sought to include in article I, and the first Indian amendment (A/C.3/L.1216) represented an interesting approach. He hoped that the sponsors of the various amendments would be able to agree on a text that would eliminate the ambiguity involved in the use of the word "national".

16. Mr. GUEYE (Senegal) noted that the expression "national origin" had given rise to controversy, apparently because some delegations feared that its use would confer on aliens living in a State equality of rights in areas, political or other, which under the laws of the State were reserved exclusively to nationals. His delegation believed that the expression should nevertheless be retained, since it would offer protection to persons of foreign birth who had become nationals of their country of residence and who in some cases suffered from discrimination, as well as foreign minorities within a State which might also be subjected to persecution. It had therefore co-sponsored an amendment (A/C.3/L.1224), the effect of which was virtually the same as that of the amendments submitted by France and the United States of America (A/C.3/L.1212). He hoped that a text satisfactory to all delegations would be found.

17. Mr. KOCHMAN (Mauritania) said that his delegation supported the French-United States amendments, which were very clear. In his view, the six-Power amendment (A/C.3/L.1224) was open to misinterpretation.

18. Mr. MACDONALD (Canada) saw little difference between the many amendments which had been submitted, so far as their substantive consequences were concerned. He agreed with previous speakers that the sponsors should meet and attempt to select the clearest and least complicated expressions of their ideas, among which the texts submitted by

France and the United States of America (A/C.3/L.1212) and by India (A/C.3/L.1216) were perhaps the best.

19. Mr. SAKSENA (India) noted that the Commission on Human Rights and the Third Committee were generally agreed that the purpose of the draft International Convention was to eliminate all forms of racial discrimination which might exist between the inhabitants of a given State; no delegation had suggested that the rights guaranteed and the duties imposed under national constitutions should be extended to aliens. The difficulty confronting the Committee in connexion with article I was the lack of agreement on the meaning of the word "national", which had been included in the text of article I as drafted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, subject, however, to the qualification contained in draft article VIII (E/3873, para. 242), subsequently deleted by the Commission on Human Rights. His delegation had submitted an amendment (A/C.3/L.1216) in an attempt to overcome the difficulty, but it agreed that an attempt should be made to find a formulation acceptable to the largest possible number of delegations.

20. While appreciating the motives and purposes underlying the first amendment submitted by Mauritania, Nigeria and Uganda (A/C.3/L.1225), his delegation understood the word "privileges" to mean the existence of special rights for some particular section of the community, and denial of the same to others. In legal terms, "privilege" was the negation of equality before law. Therefore, the word "under-privileged" would be inappropriate in a legal document such as the one before the Committee. The situation in India was that the "scheduled castes", to whom article I, paragraph 2, would apply, were not under-privileged, as like any other citizen they enjoyed equality before law. In addition, they had been granted some extra facilities, such as in the field of education, for the purpose of securing their adequate development and for levelling of the social order.

21. Mr. BECK (Hungary) said he had learnt from informal discussions with various delegations that the term "national origin" was open to different interpretations, even among countries speaking the same language. Most European countries, and especially those which had once formed part of the Austro-Hungarian Empire, knew from experience the importance of mentioning national origin in article I of the draft International Convention; however, the quite legitimate misgivings of many delegations could not be overcome either by translation changes or by the definition given in the French-United States amendments (A/C.3/L.1212). He hoped that the sponsors of the various amendments, when attempting to arrive at a generally acceptable text, would bear in mind the need to find a clear formulation prohibiting discrimination against persons who were full citizens of a State but had a different nationality, in the sense of another mother tongue, different cultural traditions, and so forth.

22. Mr. AL-RAWI (Iraq) said that the term "national" had the same meaning in his language as it did in English and French, and he would therefore have difficulty in accepting it in the context of article I.

Wording should be found which would be clear and unambiguous in all languages.

23. Miss WILLIS (United States of America) said that she would like to clarify her delegation's understanding of the differences in meaning between "national origin" and other terms used in article I and in the amendments to that article co-sponsored by France and the United States (A/C.3/L.1212). National origin differed from nationality in that national origin related to the past—the previous nationality or geographical region of the individual or of his ancestors—while nationality related to present status. The use of the former term in the Convention would make it clear that persons were protected against discrimination regardless of where they or their ancestors had come from. National origin differed from citizenship in that it related to non-citizens as well as to citizens; she noted in passing that the laws of her country concerning racial discrimination applied to both. National origin was narrower in scope than ethnic origin; the latter was associated with racial and cultural characteristics and inclusion of a reference to it would not necessarily cover the case of persons residing in foreign countries where their national origins were not respected.

24. Her delegation had borne those distinctions in mind in co-sponsoring the amendments submitted in document A/C.3/L.1212. The purpose of the amendments was to ensure that the Convention applied to racial discrimination in all its forms, while allowing certain accepted distinctions between citizens and non-citizens to be made by States.

25. Miss AGUTA (Nigeria) supported the first Indian amendment (A/C.3/L.1216), which avoided the word "national", and the six-Power amendment (A/C.3/L.1224), which provided for a distinction between citizens and non-citizens. She could not agree with the Indian representative's views on the word "under-developed". A large proportion of the world's population was underprivileged, while no group of human beings could justifiably be called under-developed.

26. Mrs. BANGOURA (Guinea) supported the six-Power amendment (A/C.3/L.1224) and the replacement of "under-developed" by "underprivileged". Paragraph 2 of article I dealt with the vital question of protecting racial groups or individuals who were the victims of under-development. Such groups and individuals were to be found in all countries, not only in the developing ones. It should be clearly understood, however, that it was not the individuals or groups but their condition that was under-developed.

27. Mr. WALDRON-RAMSEY (United Republic of Tanzania) considered the word "under-developed" entirely inappropriate in the present context. In matters of economics and trade, the word had acquired a clear and valid meaning in the United Nations. But to transfer the word to human beings was unjustifiable and dangerous. It would open the Convention to insidious interpretations which would expose certain groups to the very treatment against which the Convention was supposed to protect them. Those who discriminated against others often chose to call them under-developed, in order to justify their own attitudes and actions. Surely the Committee did not wish to provide legal support for that practice.

There was no question that the term "under-developed", which could be legitimately applied to countries in an economic context, was not valid in connexion with human beings. He strongly supported the use of the word "underprivileged". It suggested the very situation for which the Convention was most needed—the situation in which one group suffered disabilities at the hands of another, dominant group.

28. Mr. CHKHIKVADZE (Union of Soviet Socialist Republics) agreed with previous speakers that the term "under-developed" was not applicable to people and that "underprivileged" was the appropriate word. If certain colonial peoples were denied education, for example, the fault lay not with them but with the colonialists, and the victims were not under-developed, but underprivileged.

29. He believed that a reference to national origin must be included in the Convention. Discrimination against national groups had been and still was widely practised and should be explicitly prohibited by the Convention.

30. Mrs. SEKANINOVA (Czechoslovakia) said that her delegation's amendment to article I (A/C.3/L.1220) was directed against racial persecution. Persecution of racial groups was a serious and wide-spread practice to which specific reference should be made in the article that defined racial discrimination.

31. Mr. RIOS (Panama) said that the draft Convention had been very carefully drawn up by experts in human rights, sociology, international relations and law. The Committee should not alter its basic terminology without first making certain that the changes were legally, sociologically and politically acceptable. Otherwise, the Convention might fail to obtain the support hoped for.

32. Mr. GOUDARZANIA (Iran) said that he supported article I with the exception of the word "national", which when translated into his language, would give rise to some confusion.

33. Lady GAITSKELL (United Kingdom) agreed with the Tanzanian representative's remarks, although she felt that "underprivileged" was open to the same abuse as "under-developed". She suggested, instead of either word, "groups or individuals discriminated against in any way".

34. Mr. JATOI (Pakistan) said that the words enclosed in square brackets would give rise to varying interpretations and might raise serious difficulties in States interested in immigration. His delegation would support any amendment which would remove the ambiguity. It would also support the replacement of "under-developed" by "underprivileged".

The meeting rose at 12.30 p.m.