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**THIRD COMMITTEE, 1641st  
 MEETING**

Friday, 13 December 1968,  
 at 9.30 p.m.

**NEW YORK**

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Chairman: Mr. Erik NETTEL (Austria).

AGENDA ITEM 62

International Year for Human Rights (continued)  
 (A/7194, A/7195, A/7195/Add.1 and Add.3-9, A/  
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(a) Measures and activities undertaken in connexion  
 with the International Year for Human Rights:  
 report of the Secretary-General;

(b) International Conference on Human Rights

CONSIDERATION OF DRAFT RESOLUTION  
 A/C.3/L.1640/REV.2 (concluded)

1. Mr. SQUIRE (United States of America) said that he had been unable to vote for the Chilean amendment to draft resolution A/C.3/L.1640/Rev.2 because, although his Government was firmly opposed to monopolies, it did not think that their existence was automatically an obstacle to economic and social progress or to freedom of information. He had not voted for the first Ukrainian amendment (A/C.3/L.1655, para. 1) concerning the addition of three new preambular paragraphs because the first of the proposed paragraphs conflicted with operative paragraph 6, the second mentioned some ideologies and omitted others, and the third was much too vaguely worded and did not specify which resolutions were referred to. His delegation had also voted against the second Ukrainian amendment (A/C.3/L.1655, para. 2) for the insertion of a new operative paragraph; it was sorry that that amendment had been approved, because it objected to the practice of mentioning some ideologies and not others and because it did not believe that freedom of information could be "promoted". He had also voted against the Ukrainian amendment (A/C.3/L.1655, para. 4) to operative paragraph 6 because, in his opinion, it was better to give priority to the draft Declaration, in view of the controversial nature of the subject.

2. Mr. HANDL (Czechoslovakia) said that he had voted in favour of the fourth Ukrainian amendment in the belief that at the twenty-fourth session the Committee should complete its consideration of the draft Convention on Freedom of Information of which it had already adopted the preamble and the first four articles, which were the most important. Since that amendment had been rejected, his delegation had had to vote against the draft resolution as a whole, although it had agreed with most of its provisions. His delegation wished to stress, however, that its vote in no way prejudged its Government's position on the question of freedom of information in general or on the draft Declaration which the Committee envisaged adopting.

3. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that he had voted against draft resolution A/C.3/L.1640/Rev.2 because of the provisions of operative paragraph 6; he believed that the Committee should give the draft Convention priority over the draft Declaration, since it would be impossible, in his opinion, to define principles in so short a time.

4. Mr. MOUSSA (United Arab Republic) said that he had voted in favour of the Ukrainian amendments to the preamble (A/C.3/L.1655, para. 1) because his Government whole-heartedly supported the resolutions which were mentioned. He had voted for the Chilean amendment, since his Government was opposed to all monopolies. He had also voted for the Moroccan amendment, because he was convinced of the importance of objectivity in information. He had abstained on the Ukrainian amendment to operative paragraph 6 and had voted for the original text of that paragraph, since he believed that priority should be given to the draft Declaration.

5. Mr. MILTON (United Kingdom) said that, although he had voted for the draft resolution as a whole, he had serious reservations about the new operative paragraph 3, adopted upon the proposal of the Ukrainian SSR (A/C.3/L.1655, para. 2). He had voted against the Chilean amendment, because he considered that the existence of monopolies was not necessarily an obstacle to freedom of information. He had also voted against the Ukrainian amendments to the preamble (A/C.3/L.1655, para. 1), since they had been connected with the Ukrainian amendments to the operative part to which his delegation had been opposed.

6. Miss FERRINGA (Netherlands) said that she had voted in favour of the draft resolution as a whole. She had voted against the Ukrainian amendments and against the Chilean amendment, because she considered that the existence of monopolies did not necessarily restrict freedom of information.

7. Mr. EL-FATTAL (Syria) said that, as his delegation understood the expression "propaganda for war" in operative paragraph 4, it applied only to wars of aggression and not to resistance movements against foreign occupation.

CONSIDERATION OF DRAFT RESOLUTION  
A/C.3/L.1641/REV.1

8. Mrs. ROQUET (Canada), introducing, on behalf of the sponsors, draft resolution A/C.3/L.1641/Rev.1, said that its purpose was clearly stated in the fifth preambular paragraph. The desire to strengthen the observance and protection of human rights and fundamental freedoms through the provision of legal aid to aggrieved individuals had been expressed in the past in many documents adopted by the Third Committee, which would have a long-term effect, but it must find expression in more specific recommendations. The draft resolution had distant roots in the Universal Declaration of Human Rights and links with the International Covenant on Civil and Political Rights. Its purpose was to ensure the equality of all citizens before the law by preventing poverty or ignorance from causing a denial of justice. One of the basic problems which legal aid to aggrieved individuals raised was that of relations between the individual and the State. Problems differed, of course, from State to State, according to the legal system involved.

9. Member States were asked in operative paragraph 1 (a) to encourage the development of comprehensive legal aid systems, because the right of recourse, to be effective, should not be limited to the right to be defended by counsel, but included a number of other essential rights, such as that of obtaining evidence from witnesses. The professional legal assistance mentioned in operative paragraph 1 (b) referred to the bar associations and philanthropic groups which, in some countries, offered free legal aid. States were asked in operative paragraph 1 (d) to review their legal procedures so as to simplify them and make them accessible to all citizens. The draft resolution left it to Member States to devise, in keeping with their legal systems, as comprehensive and effective a scheme for legal aid as was possible. She hoped that the draft resolution before the Committee would have the support of all delegations, since the text was similar to that of resolution XIX adopted at the Teheran Conference.

10. Mr. VALDIVIESO (Peru) said that the word "aggrieved" in the fifth preambular paragraph prejudged the decision of the court and implied that it would not be fair.

11. Miss MUTER (Indonesia) said that she fully supported the draft resolution and would vote for it.

12. Mr. RIOS (Panama) also supported the draft resolution, which was motivated by the noblest humanitarian considerations, and asked to be included among its sponsors. He suggested that a provision guaranteeing the security of counsel against pressure or threats, particularly when they defended persons accused of political offence, might be added later.

13. Mr. SANON (Upper Volta) observed that legal aid often involved inequality, not in principle, but in fact, and he hoped that the adoption of the draft reso-

lution would render a service to the poorest segments of society. He also wished to be included among the sponsors of the draft resolution.

14. Mr. MOUSSA (United Arab Republic) proposed that in operative paragraph 1 (a) the word "encouraged" should be replaced by "guaranteed" and the words "for the protection of" by the words "for protection against violations of". He also proposed that in operative paragraph 1 (d) the words "laws and" after the word "simplify" should be deleted. He did not understand what the expression "to the extent appropriate" in operative paragraph 1 (e) meant, and he would like some further information concerning operative paragraph 2, which did not seem to be clear.

15. Mr. GARZON VALDEZ (Argentina) said that he agreed with the spirit of the draft resolution but had some reservations with regard to certain points in the text. He believed that operative paragraph 1 (b) repeated the content of operative paragraph 1 (a). The expression "appear to have been violated" in operative paragraph 1 (b) seemed unclear to him, since it should be determined in advance that there had been a violation. He shared the United Arab Republic representative's view that operative paragraph 1 (d) should only mention procedures, and not laws. The expression "financial and other resources" seemed obscure to him. He wondered with whom States were being asked to co-operate in operative paragraph 1 (e). In his view, operative paragraph 2 was also vague, and he agreed with the United Arab Republic representative on the subject.

16. He therefore proposed that in operative paragraph 1 (b) the words "financial, professional and other legal assistance" should be replaced by "legal or financial assistance" and the words "appear to have been violated" by "have been violated". With regard to operative paragraph 1 (d), he supported the United Arab Republic proposal for the deletion of the words "laws and", and he proposed that the words "and other" should also be deleted. Lastly, he proposed that the words "co-operation to the extent appropriate in extending" in operative paragraph 1 (e) should be replaced by "extension of".

17. Mr. ZORRILLA (Mexico) associated himself with the Argentine representative's remarks. He fully endorsed the objectives of the draft resolution and would vote for it. He stressed the importance of seminars and said that in Mexican universities law students offered their services free of charge to individuals who needed them.

18. Miss MARTINEZ (Jamaica) observed that, when a person was unable to plead his case for lack of legal aid, one might consider him "aggrieved" without thereby prejudging the decision of the court. She emphasized that the provisions of operative paragraph 2 had no financial implications, since the action which was envisaged was to be taken "within the limits of the programme of advisory services in the field of human rights". The word "guaranteed" proposed by the United Arab Republic representative for operative paragraph 1 (a) was, in her view, somewhat too categorical; she proposed the words "progressively guaranteed".

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*The motion abstentions.*

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19. Miss FERRINGA (Netherlands) said that she would vote for the draft resolution, which she considered most constructive. She proposed, however, that the words "standards be devised" in operative paragraph 1 (b) should be replaced by "provisions be made".

20. Mrs. WARZAZI (Morocco) endorsed the Peruvian representative's comment concerning the expression "aggrieved individuals" in the fifth preambular paragraph and in operative paragraph 1 (e). The expression "auxquelles il a accès" in the French text of the fourth preambular paragraph seemed, in her view, to contradict the rest of the paragraph. She also suggested that the conditional should be used in the French version of paragraph 1 (d), so that the phrase would read: "qui leur aurait été causé".

21. Mr. ARTAZA (Chile) complimented the sponsors of the draft resolution on their initiative and suggested that they should make it clear in the operative part, in conformity with the third and fourth preambular paragraphs, that legal aid was intended for persons with low incomes.

22. Mr. FORSHELL (Sweden) formally moved the closure of the debate.

23. Mr. VALDIVIESO (Peru) opposed the closure of the debate because he wished to propose an amendment to operative paragraph 1 (b).

24. Mr. CHERIB (Tunisia) also opposed the closure of the debate, because he would like the sponsors to provide some clarifications, so that the members of the Committee could cast an informed vote.

*The motion was rejected by 29 votes to 22, with 13 abstentions.*

25. Mr. VALDIVIESO (Peru) agreed with the Argentine representative's comment on the last part of operative paragraph 1 (b) and proposed that the words "whose fundamental rights appear to have been violated" should be replaced by "who believe that their fundamental rights have been violated".

26. Mr. SANON (Upper Volta), replying to the representatives of Argentina and Peru, said that the use of the word "appear" in operative paragraph 1 (b) was justified in view of the legal principle that the guilt of an accused person could not be asserted until he had been tried. The draft resolution dealt with the provision of assistance before trial—in other words, before it was proved whether or not the rights in question had in fact been violated.

27. Mr. LUGOE (United Republic of Tanzania) said that most of the amendments which had been proposed distorted the text. For instance, the Netherlands delegation's proposal that the words "standards be devised" should be replaced by the words "provisions be made" in operative paragraph 1 (b) weakened the text considerably. As the representative of Jamaica had pointed out, it was essential for States to fix minimum criteria. The same applied to the proposal that the words "professional and other" in operative paragraph 1 (b) should be deleted; for it was important to retain the idea of professional assistance, which did not duplicate legal assistance but supplemented it. Moreover, as the representative of the

Upper Volta had said, it was essential to retain the words "appear to have been violated". Lastly, the amendment which had been proposed to operative paragraph 1 (e) was inappropriate.

28. Mr. VALDIVIESO (Peru) said he maintained that the individuals themselves must consider that they were aggrieved in order to be able to request legal assistance; it should not be left to the court—which at times used arbitrary criteria—to decide whether an individual's fundamental rights had been violated and whether he was therefore entitled to legal assistance.

29. Mr. RIOS (Panama) urged the delegations which had submitted amendments to withdraw them, for all they did was to make a clear text obscure. The only relevant one was the amendment of the United Arab Republic to operative paragraph 1 (d) for the deletion of the words "laws and".

30. Mr. MILTON (United Kingdom) thanked the sponsors for having brought to the Committee's attention resolution XIX on legal aid adopted by the International Conference on Human Rights. He suggested that they might replace the words "aggrieved individuals" in the fifth preambular paragraph and in operative paragraph 1 (e) by the word "defendants". Some of the proposed changes apparently could be attributed to the fact that the English text was written in the passive voice, whereas the French and Spanish versions were in the active voice; thus, the meaning of the word "encouraged" in operative paragraph 1 (a) was more obvious in the French text than in the English text.

31. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) noted that the text of the draft resolution under consideration was similar to that of resolution XIX, which had been adopted unanimously by the Teheran Conference. It therefore seemed unnecessary to prolong the debate and to consider each country's particular situation. The representative of Canada should reply to the suggestions which had been made to her and the draft resolution should be put to the vote forthwith.

32. Miss BEHARRY (Guyana) felt that operative paragraph 1 (a) suggested that legal aid should be provided only to persons whose fundamental rights had been violated. However, aid must be provided to all individuals and in all cases, whether or not a violation of human rights was involved; for the fact that an individual, for whatever reason, did not have access to the courts was in itself a violation of human rights. She therefore hoped that the sponsors would modify paragraph 1 (a) accordingly.

33. Mrs. ROQUET (Canada) thanked those delegations which had made useful suggestions regarding the draft resolution, and in particular the Tanzanian representative, who had behaved like a sponsor.

34. As the representative of Morocco had pointed out, the phrase "auxquelles il a accès" in the French text of the fourth preambular paragraph was unsatisfactory and should be replaced by the words "auxquelles il a le droit de recourir". In the fifth preambular paragraph, the words "aggrieved individuals" could be replaced by the words "in appropriate cases". The

latter phrase could also be inserted between the words "legal aid systems" and the word "for" in operative paragraph 1 (a).

35. The United Arab Republic representative's proposal that the word "encouraged" in operative paragraph 1 (a) should be replaced by "guaranteed" was acceptable to the sponsors of the draft resolution, who proposed that the paragraph should be revised to read: "that the progressive development of comprehensive legal aid systems in appropriate cases for the protection of human rights and fundamental freedoms be guaranteed". That formulation would have the twofold advantage of taking into account the United Arab Republic delegation's suggestion and the sponsors' desire to make allowances for what each State could do.

36. The notion of protection against violations of human rights which the United Arab Republic delegation suggested should be introduced in paragraph 1 (a) was restrictive, and the sponsors therefore would prefer to leave the original text unchanged.

37. As to the Argentine representative's request that the words "professional and other" should be deleted, she noted that the aid required included not only legal assistance, but also psychological or social assistance. However, if the wording proposed by the sponsors was not considered satisfactory, paragraph 1 (b) might be revised to read: "that standards be devised for granting, in appropriate cases, financial, legal or professional assistance...". The sponsors were also willing to delete the last phrase of paragraph 1 (b), which was causing difficulties, since the idea was conveyed by the expression "in appropriate cases" earlier in the sentence.

38. With regard to paragraph 1 (d), the sponsors had felt they should recommend that States should simplify their laws, because their complexity often made them difficult to understand. However, in a spirit of cooperation, they agreed to replace the words "to simplify laws and procedures" by the phrase "to simplify legal procedures". Moreover, as the representative of Morocco had suggested, the conditional should be used in the French version of paragraph 1 (d), so that the phrase would read: "qui leur aurait été causé".

39. In accordance with the Argentine delegation's suggestion, paragraph 1 (e) would read: "that extension to the extent appropriate of competent legal assistance in appropriate cases be developed".

40. Lastly, with regard to operative paragraph 2, the representative of Jamaica had already given the United Arab Republic delegation the clarifications which it had requested.

41. In the light of the changes made in the draft resolution by the representative of Canada, Miss FERRINGA (Netherlands) and Mr. VALDIVIESO (Peru) withdrew their amendments to paragraph 1 (b) and Mr. GARZON VALDEZ (Argentina) withdrew his amendments to paragraph 1 (b) and paragraph 1 (e).

42. Mr. CHENG (China) said that it would be desirable for reasons of form to draft the Chinese text of operative paragraph 1 in the active rather than the passive voice.

43. Mr. PAOLINI (France) said that he would prefer the original text of the draft resolution. He did not

believe that it was necessary to repeat the phrase "in appropriate cases" in four different places. It should be retained in paragraph 1 (b), where it had originally appeared, but it served no purpose in paragraph 1 (a), since it was obvious that appropriate cases were in question, or in paragraph 1 (e), which already contained the phrase "to the extent appropriate". He would prefer the use of the expression "indigent persons", since the individuals who would receive the legal aid in question would do so, not because they were aggrieved, but because they were indigent.

44. Miss MARTINEZ (Jamaica) said she thought that it would be advisable to reword the English text in such a way as to use the active rather than the passive voice in all the sub-paragraphs of paragraph 1, as in the French text.

45. Mr. MILTON (United Kingdom) agreed.

46. Mr. ARTAZA (Chile) said he agreed with the representative of France that the phrase "indigent persons" could be used.

47. Mr. NAÑAGAS (Philippines) said that, while he recognized that indigent persons needed legal assistance, individuals who, although not indigent, were unaware of how to assert their rights or were victims of political oppression would also need such assistance. It would therefore be better to use the phrase "persons who need it", rather than "indigent persons", which in his view was too restrictive.

48. Mrs. WARZAZI (Morocco) asked the representative of Canada whether the draft resolution related solely to indigent persons. If not, the wording "aggrieved individuals" could be left in the fifth preambular paragraph, legal aid could be mentioned in general terms in operative paragraph 1 (a) without using the expression "in appropriate cases", and the phrase "in cases of indigence" could be used in paragraph 1 (b).

49. Mrs. ROQUET (Canada) proposed that the wording "to persons in need" should be used in the fifth preambular paragraph and in operative paragraph 1 (a). The words "in appropriate cases" would be retained in paragraph 1 (b) but deleted in paragraph 1 (e).

50. Mr. PAPADAPOS (Greece) moved the closure of the debate.

51. Mr. VALDIVIESO (Peru) said he did not believe the debate should be closed, and he objected to the financial implications of operative paragraph 2.

52. Mr. KITI (Kenya) moved that the meeting should be suspended to allow the sponsors of the draft resolution to consult among themselves.

*It was so decided.*

*The meeting was suspended at 11.45 p.m. and resumed on Saturday, 14 December, at 12.45 a.m.*

53. The CHAIRMAN announced that the sponsors had made the following changes in the draft resolution.

54. In the fifth preambular paragraph, the words "aggrieved individuals" were replaced by "those who need it".

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55. The sub-paragraphs of operative paragraph 1 were worded as follows:

"(a) To guarantee the progressive development of comprehensive systems of legal aid to those who need it in order to protect their human rights and fundamental freedoms;

"(b) To devise standards for granting, in appropriate cases, financial, legal or professional assistance;

"(c) To consider ways and means of defraying the expenses involved in providing such comprehensive legal aid systems;

"(d) To consider taking all possible steps to simplify legal procedures so as to reduce the burdens on the financial and other resources of individuals who seek legal redress;

"(e) To encourage co-operation among appropriate bodies making available competent legal assistance to those who need it;"

56. Mrs. WARZAZI (Morocco) said that, in the French text of the fourth preambular paragraph, the words "auxquelles il a accès" should be replaced by "auxquelles il doit avoir accès".

57. Miss HLASS (Jordan) move that the debate should be closed.

*It was so decided.*

*Draft resolution A/C.3/L.1641/Rev.1, as orally revised, was adopted unanimously.*

58. Mr. SQUIRE (United States of America) reserved the right to explain his vote on the draft resolution at a later meeting.

59. The CHAIRMAN pointed out that the Committee had decided at an earlier meeting to complete its consideration of agenda item 62 on Friday, 13 December. There was one draft resolution still to be considered. The Committee could therefore either take up that draft resolution immediately, thus adhering to its time-table, or, in view of the lateness of the hour, reconsider its earlier decision and decide to take up the draft resolution on the International Year for Human Rights on Monday, 16 December, after it had disposed of the other items it had scheduled for consideration on that day.

60. Mrs. WARZAZI (Morocco) said she did not think that the last of the draft resolutions on the International Year for Human Rights would be controversial; she hoped the Committee would adopt it at the current meeting.

61. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) proposed that one of the sponsors of the draft resolution in question, should waive the right to introduce the text or should introduce it very briefly, and that the Committee should waive discussion and proceed to vote immediately.

62. Mr. ABOUL-NASR (United Arab Republic) said that, in his opinion, that procedure was not acceptable. He moved the adjournment of the meeting.

63. The CHAIRMAN pointed out that the Committee had formally decided to complete its consideration of the item on the International Year for Human Rights at the current meeting; it would therefore have to take a further formal decision, before the meeting was adjourned, if it wished to defer consideration of the last of the draft resolutions relating to that item until a later meeting.

*The United Arab Republic representative's motion was rejected by 45 votes to none, with 16 abstentions.*

*The Ukrainian representative's proposal was rejected by 44 votes to 4, with 14 abstentions.*

64. Mr. PAOLINI (France) said he thought that the Committee might take up the draft resolution at its next meeting, on Monday, 16 December.

65. Mr. KITI (Kenya), supported by Mr. ARTAZA (Chile) and Mr. VALDIVIESO (Peru), proposed that the Committee should reconsider its earlier decision and defer consideration of the last draft resolution until Monday, 16 December.

66. The CHAIRMAN said the Kenyan proposal that the Committee's earlier decision should be reconsidered required a two-thirds majority for adoption.

*The result of the vote was 59 in favour and 5 against, with 5 abstentions.*

*The proposal was adopted, having obtained the required two-thirds majority.*

*The meeting rose on Saturday, 14 December, at 12.45 a.m.*