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SUMMARY RECORD OF THE 38th MEETING\*

Chairman: Mrs. MAIR (Jamaica)

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The meeting was called to order at 3.25 p.m.

AGENDA ITEM 80: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued) (A/32/3, chap. VI, sect. A, A/32/138, A/32/180, A/32/222, A/32/225; A/C.3/32/L.13, L.14 and L.15)

1. The CHAIRMAN suggested that, since further proposals were to be submitted in connexion with the item under discussion, the Committee should not take a decision on the three draft resolutions before it, but should proceed with the general debate.
2. Mr. TARASYUK (Ukrainian Soviet Socialist Republic) said it was not the first time that the Committee had had to deal with the question of torture and other cruel, inhuman or degrading treatment or punishment. At the international level, the question had already been resolved with the approval of certain provisions prohibiting such practices, namely article 7 of the International Covenant on Civil and Political Rights and similar provisions in the Universal Declaration of Human Rights and the Declaration on the Protection of All Persons from being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The use of torture and other cruel, inhuman or degrading treatment or punishment had also been condemned by world public opinion. Unfortunately, however, such practices continued, particularly in certain countries.
3. Under the racist régimes in southern Africa, hundreds of patriots struggling against apartheid and racial discrimination were subjected to torture and cruel treatment. Security Council resolution 417 (1977) demanded that the racist régime cease torture forthwith.
4. According to the report of the Ad Hoc Working Group on the Situation of Human Rights in Chile (A/32/227), the Chilean Junta continued to ignore United Nations resolutions calling for an end to violations of human rights, particularly the practice of torture and other inhuman or degrading treatment. The Working Group had concluded that torture and other cruel, inhuman or degrading treatment or punishment continued to be applied to persons in detention and had become an integral part of the new system of intimidation described in the Working Group's report ... and could therefore be termed an institutionalized form of torture (A/32/227, para. 136). Accordingly, the situation referred to in General Assembly resolution 31/124 continued to exist, and increasingly sophisticated methods of torture were being used.
5. As shown in document E/5927 (pp. 68-71), torture and other cruel, inhuman or degrading treatment or punishment were still being used in the Arab territories occupied by Israel. The South Korean régime also used torture and did everything it could to stay in power and oppress the masses.
6. The objective of the resolution to be adopted by the General Assembly at the current session should be to put an end to the practice of torture and other violations of human rights and to obtain the release of political prisoners in Chile, South Africa, Southern Rhodesia, Israel and South Korea.

7. Mr. NYAMEKYE (Ghana) said that his delegation shared the concern which other delegations had expressed in connexion with the item under discussion. In particular, it agreed with the representative of Portugal that torture was an offence to the human being. There appeared to be unanimous agreement that torture in any form must not be used. Over the years, his country had condemned racist régimes for using torture as an instrument of repression against nationalists struggling for freedom and human dignity.

8. His delegation supported measures aimed at preventing the use of torture and had therefore become a sponsor of draft resolution A/C.3/32/L.13. The draft resolutions already before the Committee and those of a similar nature about to be submitted would have his delegation's support.

9. Not all Member States had had an opportunity to study the proposals contained in the draft code of conduct for law enforcement officials (A/32/138); the draft code of conduct had apparently not been sent for comment to Member States other than those which were members of the Committee on Crime Prevention and Control or the Economic and Social Council.

10. For that reason, and since the draft code of conduct was a far-reaching document, he proposed that consideration of the draft code of conduct be postponed until the thirty-third session of the General Assembly so that all Governments would have an opportunity to study the text and submit their comments, thereby enabling the Committee to make more meaningful recommendations to the General Assembly. His delegation was in no way attempting to block the passage of the draft code of conduct, since it attached great importance to the question of torture and believed that consideration of the code should be treated as an urgent matter and given top priority.

11. Mr. BOZA (Peru) said that the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as the constitutions and legislation of most countries in the world contained provisions condemning the practice of torture and the use of cruel, inhuman or degrading treatment or punishment. It was a recognized fact that the danger of someone being subjected to torture increased when people were deprived of liberty and were in the hands of the police. In order to reduce the risk of such a situation arising, the laws of most countries required that certain conditions be met before a person could be detained; they also prohibited the use of methods of interrogation which violated a person's dignity or integrity.

12. Despite the codification of such laws and the efforts of Governments and the United Nations, the practice of torture continued to be a matter of profound concern because it was a world-wide and persistent phenomenon; in fact, technological progress had even made it possible to refine it. The draft code of conduct for law enforcement officials (A/32/138), which stressed the obligation of such officials to respect human dignity, categorically prohibited the use of torture and established the illegality of acts of corruption, constituted an essential contribution to efforts to eliminate torture, and his delegation therefore fully supported it.

(Mr. Boza, Peru)

13. Torture as a political practice was unacceptable per se, irrespective of the political or social context in which it was used. It was a problem which, if it was to be effectively and completely eliminated, must be dealt with as a single phenomenon, not admitting of distinctions or exceptions.

14. Turning to the draft resolutions before the Committee, he expressed his delegation's support for draft resolution A/C.5/32/L.13. He regretted that the Committee on Crime Prevention and Control was not mentioned in the text since he believed that the task of preparing the draft convention should be carried out by that body, working in conjunction with Governments. Accordingly, he proposed the insertion of a new preambular paragraph between the fourth and fifth preambular paragraphs to read as follows: "also having regard to the code of conduct for law enforcement officials drafted by the Committee on Crime Prevention and Control,".

15. Finally, his delegation would also support draft resolutions A/C.3/32/L.14 and L.15 and any other effort undertaken in the Committee or in any other forum to eliminate the shameful practice of torture.

16. Miss MARKUS (Libyan Arab Jamahiriya) observed that the United Nations had done its utmost to establish human rights in international instruments. The Declaration of Human Rights and the Covenant on Civil and Political Rights categorically prohibited torture, a practice which was as old as history and existed throughout the world. Despite the enormous progress made by man in various fields, the situation with regard to torture had not improved; instead torture had become more widespread as a result of technological progress. A concerted approach must be taken to the question because of its adverse effects on human rights.

17. The Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts had adopted two additional protocols to the 1949 Geneva Conventions, which contained provisions relating to the protection of human rights and constituted a considerable advance in that field.

18. Torture had been used for political purposes in various parts of the world and Libya had suffered a great deal in that respect during the fascist colonialist period. In South Africa and occupied Palestine, torture continued to be used against political prisoners.

19. As an Islamic country, the Libyan Arab Jamahiriya denounced torture and advocated charity and kindness, principles of its religion which were embodied in its legislation.

20. She expressed appreciation for the work of Amnesty International and optimism concerning the work being done by the Commission on Human Rights. She also expressed appreciation for the work of the Committee on Crime Prevention and Control, stressing the importance of the code of conduct for law enforcement officials. She welcomed the efforts of WHO to prepare a draft code on medical ethics. In that field, what mattered was the will to preserve human rights and eliminate colonialism and racism in all their forms.

21. Mrs. COLLINS (Liberia) said that the speediest methods must be employed so that all States would condemn torture because it was humanly degrading. Recalling article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, she asked who was to blame for the fact that all States had not acceded to those important instruments.
22. The Liberian Government opposed all forms of inhuman treatment. Consequently, it had established a project aimed at raising funds for the liberation movement in South Africa and the President of Liberia had made the first contribution to those funds at the OAU Summit Conference held in Togo in 1977. In keeping with the position of its Government, the Liberian delegation had co-sponsored the draft resolutions submitted under the item relating to torture and would vote in favour for them.
23. Torture was a far-reaching practice and was unacceptable on both moral and legal grounds. Her delegation believed that the position adopted with regard to the death of Stephen Biko would serve as a deterrent, and was prepared to support all efforts aimed at putting an end to the distressing situation in South Africa.
24. Her delegation was certain that other delegations were equally concerned because, despite the many measures adopted by the United Nations, not much progress seemed to have been made in putting an end to torture. That did not mean that it did not recognize the magnitude of United Nations efforts. It also realized that the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights must constitute the basis of any discussion of the question of torture.
25. She noted that chapter I of the report of the Commission on Human Rights contained three draft resolutions numbered I A, I B and II, and eight draft decisions, numbered from one to eight, which were recommended for adoption by the Economic and Social Council. Her delegation supported the early adoption of those draft decisions and resolutions.
26. Mr. SHERIFIS (Cyprus) drew attention to the provisions of article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights and expressed regret that torture was still very much a fact of life in many parts of the world. It was imperative to adopt concerted international measures to eliminate that inhuman practice. His delegation welcomed the progress that had been made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in drafting a body of principles for the protection of all persons under any form of detention or imprisonment.
27. The elimination of the practice of torture was a matter of moral urgency, for the human conscience could not accept that anachronism for any reason whatsoever, certainly not as a means for repressing the legitimate aspirations of freedom fighters, as was the case with the tragic death of the African leader, Stephen Biko, in a Pretoria prison. His delegation considered that the adoption of an international convention against torture and other inhuman or degrading

(Mr. Sherif, Cyprus)

treatment or punishment would constitute an important step in providing protection against those practices. It therefore supported the proposal in document A/C.3/32/L.13, which it had co-sponsored. With reference to draft resolution A/C.3/32/L.14, he said that States with a small civil service like his own often found it difficult to fill out the questionnaires sent to Governments by the United Nations. However, since the draft referred to the implementation of the Declaration on the Protection of all Persons from being subjected to Torture and other Cruel, Inhuman or Degrading Treatment, his delegation would vote for it. Cyprus was among the original sponsors of draft resolution A/C.3/32/L.15 and he urged the Committee to adopt it.

28. He concluded by observing that in speaking of torture, one usually referred to the forms of torture practised against individuals by uniformed or secret police. But there was also torture practised on a much larger scale when a State used its powerful military machine to occupy another State, when an entire population found itself deprived of its basic human rights and fundamental freedoms. And that form of torture was equally objectionable whether it referred to South Africa, Namibia and Zimbabwe or to the Middle East, Cyprus or any other part of the world, since human rights standards were universally applicable. When people were forcibly deprived of their homes and property and became refugees, they were being subjected to torture. When a people confined to an enclave in an occupied area was subjected to pressure and intimidation aimed at forcing them to leave their homeland, that was torture - indeed, it might be said to be mass torture. It was common to speak of police brutality against individuals, but one could also speak of the brutality practised by one nation against another. In seeking to eliminate the former, an effort should be made to eliminate the latter as well.

29. Mr. OTAKA (Japan) stated that torture and other cruel, inhuman or degrading treatment or punishment should be eliminated because they constituted grave violations of the right to life, liberty and security of person and deprivation of those rights was not only extreme cruelty, but an assault on human dignity. While political instability or economic and social difficulties could create situations in which there was a temptation to use torture, his delegation was firmly convinced that those reasons could not be accepted as excuses for resorting to torture.

30. The United Nations could contribute to the elimination of torture by such means as the universal codification of standards, the collection of information and the strengthening of world awareness and censure of torture. His delegation therefore welcomed the initiatives taken by many countries in introducing draft resolutions aimed at ensuring the elimination of torture and other cruel treatment. It supported draft resolutions A/C.3/32/L.13, L.14 and L.15 and while it could go along with the proposed code of conduct for law enforcement officials, it felt that some articles and commentaries required more precise definition and clarification. For example, the phrase "the needs of justice" in article 4 was open to various interpretations. Similarly, with regard to articles 6 and 9, his delegation would welcome greater flexibility in the application of those principles, depending upon the circumstances of each country.

31. In closing, his delegation hoped that, with the co-operation of its Member States, the United Nations could play a significant role in eliminating torture or cruel, inhuman or degrading treatment or punishment.
32. The CHAIRMAN announced that Iraq had become a co-sponsor of draft resolution A/C.3/32/L.13.
33. Mr. RAMLAJI (Observer for the Palestine Liberation Organization), exercising his right of reply, said that he did not intend to answer Israel, but would endeavour to clarify a few facts since the Zionist representative had been incapable of dealing with the facts he had presented the previous day on the use of torture in the parts of Palestine occupied by Israel in 1948 and 1967. The method of torture which had become the policy of the Zionist régime was the most dangerous and vicious because it was linked with the establishment of the State of Israel in Palestinian territory and bent on exterminating its population, including the children, and expelling the inhabitants in order to create a "pure" Jewish State. The word "pure" meant based on Judaism, which was one of the fundamental aspects of the Zionist movement's racism.
34. The representative of Prime Minister Begin, a notorious terrorist and fanatic, had not referred to the places and methods of torture used by the racist régime against the Palestinian people because he had no means of defending those savage and terrible crimes committed on the pretext of preserving the order and security of the State. Foreign Minister Dayan, in the General Assembly, had also evaded the issue and confined his remarks to the hijacking of aircraft in flight. He had no right to raise that issue because in 1973, his country had shot down a Libyan civil aircraft over Egyptian territory, killing many innocent people. That action was so cruel that even the friends of the Zionist State condemned it strongly. Similarly, there was the raid on the Beirut airport in which civil aircraft were destroyed and innocent officials murdered, and the hijacking of a Lebanese plane on a flight to Baghdad, forcing it to land in Haifa. The Zionist representative of Israel had no right to mention those matters unless he wished to condemn himself and condemn his own State.
35. In contrast, the Palestine Liberation Organization had not been responsible for any incident involving the hijacking of aircraft in flight and had condemned and would continue to condemn that practice.
36. The Zionist representative claimed that the representative of the International Red Cross had issued a statement asserting Israel's innocence with regard to the use of torture on Palestinians in Israeli prisons. Who was the representative but a Zionist representative living in Israel, since the Red Cross had been barred from visiting the Palestinian detainees?
37. The Zionist representative had also referred to equality before the law. How could he justify the law of the right of return which conferred Israeli nationality on any Jew wanting to settle in occupied Palestine but denied that right to the legitimate owners of the land? Furthermore, the right of expropriation empowered the Israeli authorities to expropriate Palestine land and property, forcing the owners to abandon their homeland. What law was the Zionist representative referring to and what equality did those laws guarantee?

(Mr. Ramlawi, Observer, PLO)

38. The Zionist practices of Israel undermined the most fundamental human values and the international community had repeatedly condemned Israel on those grounds.

39. Mr. SHOBY (Egypt) read out an extract from a report which had appeared in the Sunday Times, entitled "Israel and torture". It stated that the Israeli authorities had not been given details of the substance of the report for three reasons. The first was that the bulk of the allegations was known to the Israeli authorities and courts and had rejected them in not very convincing circumstances. The second was that although a number of Arabs had agreed to be named, others involved would agree to be identified only to an international tribunal and a few were frightened even of that. The third was that Israel had for years successfully resisted outside inquiries into such matters and particularly into charges of torture. He also read out a report of an observer mission of the Swiss League of Human Rights (Ligue suisse des droits de l'homme) stating that the court records contained for the most part the confessions of the accused in Hebrew, a language which they neither spoke nor understood. Furthermore, such sentences as "I am a terrorist", which appeared in those documents, would never have been used by the accused; they would have referred to themselves in such terms as "I am a Palestinian freedom fighter".

40. He then read out a communique from the New York-based National Lawyers Guild, dated 1 August 1977, which said that the National Lawyers Guild confirmed charges by Amnesty International and the London Sunday Times that Israeli military interrogators frequently used torture to extract confessions.

41. Lastly, he referred to the Amnesty International Report, 1975-1976, which indicated that on 28 May 1976, Amnesty International had sent a letter to Prime Minister Rabin concerning allegations of torture that in many cases were supported by doctors' reports.

42. Mr. WINTER (Chile) said that in view of the reference to his country made by one delegation during the meeting, he was repeating the full text of the statement he had made on Tuesday, 1 November in exercise of his right of reply. His delegation would reply to all charges at the appropriate time and place.

AGENDA ITEM 77: CRIME PREVENTION AND CONTROL: REPORT OF THE SECRETARY-GENERAL (A/32/163; E/CN.5/536; A/32/199)

43. Mr. MUELLER (Assistant Director of the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs) said that in many parts of the world, the incidence of crime had reached a point at which it adversely affected the quality of life. The Assembly and its subsidiary bodies had recently placed strong emphasis on crime prevention efforts.

44. Three separate issues arose in connexion with agenda item 77. First, document A/32/163 (Note by the Secretary-General), in its annex A, contained the draft resolution recommended by the Economic and Social Council for adoption by the General Assembly, entitled "Methods and ways likely to be most effective in preventing crime and improving the treatment of offenders". The draft resolution had been submitted in compliance with the Council's resolution 2075 (LXII). The



(Mr. Mueller)

report which the Assembly had requested the Committee on Crime Prevention and Control to prepare (resolution 3021 (XXVII)) was to be found in the Committee's report on its fourth session (E/CN.5/536). The report on the methods and ways likely to be most effective in preventing crime and improving the treatment of offenders was the product of the hard work of the Committee on Crime Prevention and Control over three of its sessions. The Committee was a prestigious body of 15 renowned experts, appointed by the Economic and Social Council on the recommendation of the Secretary-General on the basis of equitable geographical representation and serving in their individual capacity. In preparing the report, the Committee had profited greatly from the experience of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Geneva in 1975 and attended by representatives of 101 Governments, plus many liberation organizations, intergovernmental and non-governmental organizations and specialized agencies.

45. In the report, which had been reviewed by the Commission for Social Development and the Economic and Social Council before being submitted to the Third Committee, the Committee on Crime Prevention and Control, while recognizing national responsibility in formulating crime prevention policies, had clearly called for international action and stressed the importance of incorporating crime prevention and control policies in comprehensive international and national social and economic planning so as to increase the effectiveness of criminal justice systems. It had also called for regional co-operation, especially among homogeneous countries, and a strengthening of the United Nations system for the fight against crime. The Committee had, in particular, analysed six areas requiring attention: economic criminality, violence of transnational significance, interpersonal violence, the criminality of the young, criminality associated with alcohol and drug abuse and the criminality of women. It had then examined the scope and function of international co-operation, the role of the police and of judicial procedures as well as of corrective practices and had called on the United Nations to develop measures and guidelines for dealing effectively with criminality, especially in those areas.

46. Under the terms of draft resolution A (A/32/163, annex), the General Assembly would take note of the report as a guideline for future United Nations activities, invite Member States to make use of the report in formulating and implementing national policies and strategies on crime prevention, call on Member States, intergovernmental and non-governmental organizations and specialized agencies to collaborate fully with the Secretariat and each other and urge all Member States and intergovernmental and non-governmental organizations to contribute to the United Nations Social Defence Trust Fund and to support the international and regional institutes for crime prevention and control. Lastly, it would call on the Secretary-General to draw on the report in formulating future medium-term plans in crime prevention and criminal justice,

47. Under the terms of draft resolution B (A/32/163, annex), entitled "Report of the Fifth Congress on the Prevention of Crime and the Treatment of Offenders", the General Assembly would endorse the conclusions of the Congress as amended. The Congress would be remembered for having drafted the Declaration on the Protection of all Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading

(Mr. Mueller)

Treatment or Punishment, which had subsequently been adopted by the General Assembly as its resolution 3452 (XXX). Under the terms of draft resolution B, the Assembly would further request that, in the light of the needs emphasized at the Fifth Congress, the Secretary-General should implement to the fullest extent possible the conclusions of the Congress. He should do so by giving them the widest possible circulation and dissemination and by stimulating international efforts to exchange experience and knowledge; by gathering and disseminating information concerning crime trends and criminal policies, with special emphasis on economic criminality and abuses of economic power that had a detrimental effect on national economies and international trade, and by developing strategies to deal with them; by providing to Member States at their request, advice and assistance for the re-evaluation of their criminal justice systems and of the purposes and effectiveness of such systems in relation to national and local requirements; by elaborating guidelines for the development and implementation of policies designed to make criminal justice systems more responsive to current social needs, to ensure strict observance of fundamental human rights and to promote a more rational, consistent and integrated approach to the prevention of crime and the treatment of offenders; by fostering the exchange among countries of information relating to crime and to the functioning of the criminal justice systems and establishing an international system for a unified informational data base; and by transmitting for appropriate action to the Economic and Social Council and its functional commissions, as well as to all other United Nations organs and organizations concerned, those conclusions of the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders that fell within their respective spheres of competence. The General Assembly would further stress the need for intensive co-operation and co-ordination in crime prevention and control among all the United Nations organs concerned, especially the United Nations Development Programme, the various regional commissions and institutes and the specialized agencies. It would urge that technical assistance in crime prevention and control be made available to Governments requesting it as a matter of urgency, and that high priority be given to the provision of regional and interregional technical advisory services and co-operation, particularly in the light of recent directives of the policy-making bodies of the United Nations. It would invite Member States to give maximum attention and support to the conclusions and recommendations of the Fifth Congress and draw their attention to the existence of the United Nations Trust Fund for Social Defence, established in pursuance of Economic and Social Council resolution 1086 B (XXXIX) of 30 July 1965, and urge them to contribute to it. The General Assembly would also appeal to all Member States to support international action for crime prevention, especially through the sharing of costs of international meetings, seminars, workshops and training courses, and by acting as hosts to regional research centres. It would request them to furnish to the Secretary-General, in time for submission to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held in Sydney, Australia, in 1980, information relating to the measures taken to implement the recommendations and conclusions of the Fifth Congress. Lastly, the Assembly would request the Secretary-General to take the necessary measures for the preparation of the Sixth Congress and to prepare a report on the information received in response to its previous request for submission to the Sixth Congress and to the General Assembly.

48. Another document before the Committee under agenda item 77 was the report of the Secretary-General entitled "Crime prevention and control" (A/32/199), prepared in compliance with paragraph 4 of General Assembly resolution 3021 (XXVII), which invited Member States to submit information to the Secretary-General on the situation concerning crime prevention and control in their own countries and the measures being taken for incorporation in a final report to the General Assembly. That report was based on the replies received from 65 Member States. It consolidated all the national responses and endeavoured to present a world-wide analysis of the problems of crime and the administration of justice. It was not easy to summarize the findings of that complex report, which constituted a first effort to overcome the difficulties of cross-cultural comparison. But it was safe to say that the report documented the fact that the great majority of countries, developing and developed, were facing an escalation of criminality which assumed new forms and dimensions challenging traditional means of coping with them. Insufficient attention on the national level to problems of crime and failure to appreciate its intimate relationship to other social, economic and political aspects of national life could bring about an increase in crime which might seriously undermine the achievement of national goals and well-being. All countries, irrespective of ideology or social or economic system, which were successful in fighting crime, had the obligation to make their experience known to the rest of the world. The national reports received called for international action through exchange of information, technical assistance, development of guidelines and all other means.

#### OTHER MATTERS

49. Mr. van BOVEN (Director, Division of Human Rights) said that he was pleased to introduce Mr. Pierre Sanon, Deputy Director of the Division of Human Rights, who would represent the Division for the remainder of the session of the Third Committee.

50. The CHAIRMAN thanked Mr. Van Boven for his constructive contribution to the Committee's work and extended a welcome to Mr. Sanon.

51. Miss IDER (Mongolia) invited interested delegations to participate in the work of the group established to draft certain parts of articles 2 and 4 of the draft Convention on the Elimination of Discrimination against Women. She asked the Secretariat, if possible, to prepare a list of amendments to those articles a day before the group met.

52. Mrs. MATTESON (United States of America) asked whether the General Assembly, at its plenary meeting on Monday afternoon, would discuss agenda item 81.

53. The CHAIRMAN said that items 74 and 79 would be dealt with at that plenary meeting.

The meeting rose at 5 p.m.