



SUMMARY RECORD OF THE 42nd MEETING

Chairman: Mrs. MAIR (Jamaica)

CONTENTS

AGENDA ITEM 80: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(continued)

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS
SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS:
REPORTS OF THE SECRETARY-GENERAL

OTHER MATTERS

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The meeting was called to order at 3.30 p.m.

AGENDA ITEM 60: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued) (A/32/130; A/C.3/32/L.13, L.14, L.15 and L.23)

1. The CHAIRMAN suggested that in order to meet the wishes expressed by a number of delegations in consultations with her the General Assembly should request the Secretary-General to transmit the draft code of conduct in document A/32/130 to all Governments for their comments, which should be considered by the Assembly at its thirty-third session.

2. It was so decided.

3. The CHAIRMAN invited the Committee to take up the draft resolutions under agenda item 60 and announced that Colombia, Costa Rica, Lesotho and Mozambique had become sponsors of draft resolution A/C.3/32/L.13 and that Costa Rica and Cyprus had become sponsors of draft resolution A/C.3/32/L.23. She then invited those delegations that wished to do so to speak in explanation of vote before the vote, and suggested that all four draft resolutions should be dealt with in the same statement.

4. Mr. LI Wen-chuan (China) noted that many representatives had sternly condemned the atrocities of the South African racist régime whose persecution of the South African black nationalist fighter, Stephen Biko, had resulted in his death. His delegation firmly supported draft resolution A/C.3/32/L.23 concerning that question and wished to express its deepest sympathy in connexion with Stephen Biko's untimely death.

5. Stephen Biko had been the Honorary Chairman of the Black People's Convention of South Africa and the founder of the South African Students' organization, as well as a leader of long standing in the struggle against the South African régime. His death, which resulted from cruel treatment received in prison, had touched off new developments in the intensifying anti-racist struggle of the peoples of southern Africa. The Vorster régime had reacted with panic by arbitrarily banning 13 anti-apartheid organizations, closing down two newspapers sponsored by black Africans and arresting well-known black leaders. The use of even crueller measures in the future was threatened. Those atrocities showed not only how brutal and reactionary but also how weak, isolated and desperate the Vorster régime was. The Azanian masses would remain undaunted, however, in their heroic struggle against the beleaguered reactionaries of the South African régime.

6. Biko and the recently arrested leaders had previously engaged in an open struggle against apartheid and brutal racist rule, and although many of them had favoured non-violent struggle, the reactionary authorities continued to arrest and persecute them by violent means. From such experiences the Azanian people had come to realize that they could harbour no illusions about the extremely reactionary racist régime and must use revolutionary violence against reactionary violence. Only through armed struggle on the part of the broad masses could they overthrow the bloody reign of the South African racist régime.

7. His delegation resolutely supported the people of South Africa in their just struggle for national liberation. It called upon the South African authorities to

(itr. Li Wen-chuan, China)

put an immediate end to the persecution of the nationalist fighters, to release all those arrested and to punish severely all those responsible for their deaths.

8. Mrs. SPAHANI (Philippines) was glad that the item on torture had been prominent on the Committee's agenda. Her own country protected human rights, especially those of persons held in custody for subversion, and took measures to ensure that they would not be subjected to torture or other cruel treatment. In the Philippines no one was ever detained for his political beliefs, only for actual crimes of violence committed against the public order. Her Government had, in fact, requested competent non-governmental organizations concerned with the human rights of detained persons to investigate the situation in the Philippines, for it was confident that they would find that those rights were being respected. Her delegation would vote in favour of the draft resolutions under consideration.

9. Mr. LOPATKA (Poland) said that his delegation would co-sponsor draft resolution A/C.3/32/L.13 because it agreed that the world situation was ripe for the preparation of an international convention on torture and other cruel treatment and that the Commission on Human Rights was competent to prepare one. It would also vote for draft resolution A/C.3/32/L.14 calling upon States to indicate how they had implemented the Declaration on torture contained in General Assembly resolution 3452 (XXX). His delegation felt that the provisions of draft resolution A/C.3/32/L.15 were already covered in draft resolution A/C.3/32/L.14, but it had no objection in principle to it since Poland had taken even stronger measures than those called for in that draft. It also strongly supported draft resolution A/C.3/32/L.23 in the hope of encouraging those who were fighting for equality and freedom in South Africa.

10. Mr. RIOS (Panama) said the fact that Panama had had no opportunity to participate in the debate on torture did not mean that it was indifferent to it. On the contrary, Panama was interested in co-operating in every possible way to eliminate that abhorrent practice and would strongly support the draft resolutions relating to it. It was essential that the international community should take measures to end that practice. Modern technology had armed irresponsible régimes with sophisticated tools for inflicting increasingly refined cruelty on innocent people. Torture was immoral, cowardly and repulsive because it was practised against defenceless persons and against political prisoners of conscience. Panama itself had taken appropriate measures to prevent its use. His delegation would join in sponsoring draft resolution A/C.3/32/L.13.

11. Mr. RUMBOS (Venezuela) said that the fact that he had not spoken in the general debate did not mean that Venezuela was unaware of the importance of the question of torture. His delegation would support all of the draft resolutions under consideration, but regretted that there was no draft resolution proclaiming unanimous rejection of torture.

12. Mr. NORDEFELT (Sweden) thanked the representative of Peru for his conciliatory spirit in refraining from submitting an amendment to the fourth preambular paragraph of draft resolution A/C.3/32/L.13, which reflected the work done by the Committee on Crime Prevention and Control on the draft code of conduct (A/32/138), and said that he hoped that draft resolution would be adopted by consensus.

13. Mr. VELA (Guatemala) said that his own country's Constitution contained provisions aimed at the prevention of torture and other cruel treatment which were based upon the particular conditions and traditions of Latin America. His delegation therefore joined many jurists in having reservations with respect to the draft code of conduct for law enforcement officials (A/32/130) in so far as it might be inconsistent with national laws. However, it would support all four draft resolutions.

14. Draft resolution A/C.3/32/L.13 was adopted.

15. Miss RICHTER (Argentina) suggested that paragraph 3 of draft resolution A/C.3/32/L.14 should be deleted because it was a repetition of article 3 of draft resolution A/C.3/32/L.13, which had just been adopted.

16. Mr. SIBLESZ (Netherlands) said that although he had not consulted the other sponsors of draft resolution A/C.3/32/L.14, he felt that Argentina's suggestion was logical and would not object to it.

17. Draft resolution A/C.3/32/L.14, as amended, was adopted.

18. Mr. SMIRNOV (Union of Soviet Socialist Republics), referring to draft resolution A/C.3/32/L.15, suggested the deletion of paragraph 4 because it too repeated the content of paragraph 3 of draft resolution A/C.3/32/L.13.

19. Draft resolution A/C.3/32/L.15, as amended, was adopted.

20. Draft resolution A/C.3/32/L.23 was adopted.

21. Mr. FAURIS (France), speaking in explanation of vote, said that his delegation would have abstained on draft resolution A/C.3/32/L.15 if there had been a vote because although French legislation strongly condemned and prohibited the use of torture, the French Government could not undertake, through a unilateral declaration, obligations which, if incorporated into a convention, would require parliamentary action under French law.

22. Miss RICHTER (Argentina) said that her delegation had supported draft resolution A/C.3/32/L.14 because that text quite properly recognized that no progress in dealing with torture and other cruel punishment was possible without the co-operation of States. It had reservations, however, with respect to the fifth preambular paragraph, whose reference to other entities exercising effective power was cryptic, to say the least. She also had reservations regarding the sixth preambular paragraph because it had been drafted with dangerous ambiguity, except in the more broadly worded French version.

23. Mrs. HEATCHI (Togo) said that her delegation would have abstained had there been a vote on draft resolution A/C.3/32/L.15 because the General Assembly could not impose the adoption of a declaration of that kind on Member States. Togo had always supported human rights, but each State must decide for itself how it would implement them.

24. Mr. GRAEFRATH (German Democratic Republic) said that his delegation had welcomed and supported draft resolution A/C.3/32/L.15 in the hope that it would encourage other States to assume the same international legal obligations with

(Mr. Graefrath, German Democratic Republic)

respect to torture and other cruel punishment that his own country had undertaken in becoming a party to the International Covenant on Civil and Political Rights.

25. Mrs. KING (United States of America) said that her delegation was pleased to support draft resolution A/C.3/32/L.23 because it was a reminder that many persons were dying under unknown circumstances in South Africa as part of a pattern of intimidation against freedom fighters.

26. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that his delegation had not objected to the adoption without a vote of draft resolutions A/C.3/32/L.13, L.14, L.15 and L.23 because torture and other cruel treatment were incompatible with the very concept of human rights. His delegation staunchly supported draft resolution A/C.3/32/L.23 because it recognized the fact that those practices continued in South Africa. It also regretted that Israel and Chile continued such practices, as part of a deliberate policy of stifling aspirations to freedom. The international community must renew its condemnation of those practices and his delegation felt that the draft resolutions under consideration could be very helpful. The practice of torture was already prohibited in the International Covenant on Civil and Political Rights, which was binding on its signatories. The time had come to ensure that its provisions were scrupulously observed.

27. Mr. RAKOTONAIVO (Madagascar), supported by Mrs. MARICO (Haiti), Mr. SADY (United Republic of Cameroon), Mrs. HOUNGAVON (Benin) and Mr. RUMBOS (Venezuela), said that he would have abstained if there had been a vote on draft resolution A/C.3/32/L.15. The draft resolution called upon Governments to undertake a specific obligation to make a unilateral declaration. He had been obliged to seek instructions on the point and must therefore reserve the position of his Government.

28. Mr. MCGREGOR (Canada) said that his delegation had been pleased to support all four of the draft resolutions just adopted by the Committee. With regard to draft resolution A/C.3/32/L.23, he said that the Canadian Government regarded the Government of South Africa as responsible for the death of Stephen Biko. He urged that Government to destroy the whole practice and philosophy of apartheid so that a climate conducive to meaningful and peaceful change could be created in South Africa.

29. Miss RVABAZAIRE (Uganda) said that, while her delegation welcomed the adoption of draft resolution A/C.3/32/L.14, she must nevertheless reserve her Government's position on its fifth and sixth preambular paragraphs.

30. Mr. SIBLESZ (Netherlands) said that the death of Stephen Biko had deeply shocked the people of the Netherlands. His delegation supported in particular the demand contained in draft resolution A/C.3/32/L.23 that all political prisoners in South Africa should be released without pre-conditions.

31. Miss BEAGLE (New Zealand), supported by Mr. O'DONOVAN (Ireland), said that her delegation would like it to be confirmed that regardless of the decision taken by the Committee to delete paragraph 3 of draft resolution A/C.3/32/L.14 and paragraph 4 of draft resolution A/C.3/32/L.15 the item on torture would be considered at the thirty-third session of the General Assembly in all its aspects and not solely for the purpose of reviewing the progress achieved in accordance with draft resolution A/C.3/32/L.13.

32. Mr. EDIS (United Kingdom) said that, in joining in the adoption of draft resolution A/C.3/32/L.15, he had wished to place on record that the United Kingdom Government interpreted article 10 of the Declaration adopted by the General Assembly in resolution 3452 (XXX), as being in conformity with common practice in the United Kingdom, whereby the competent authorities retained their discretion to bring proceedings in any particular case.

33. Mr. SAIGNAVONGS (Lao People's Democratic Republic) said that his delegation would have abstained if there had been a vote on draft resolution A/C.3/32/L.14; the sixth preambular paragraph was unacceptable, as it left the door open to outside interference. Furthermore, the procedure stipulated in paragraph 1 of that draft resolution was too complicated for implementation by developing countries.

34. Miss SHAHKAR (Iran) said that her delegation had reservations on the sixth preambular paragraph of draft resolution A/C.3/32/L.14, as it was not sufficiently precise in its wording. Her delegation would not have agreed to the elimination of paragraph 4 of draft resolution A/C.3/32/L.15 if there had been any question that discussion of the item on torture at the thirty-third session of the General Assembly would be limited in any way.

35. Mr. DOUKOURÉ (Guinea) said that his delegation had reservations on the sixth preambular paragraph of draft resolution A/C.3/32/L.14, as well as on draft resolution A/C.3/32/L.15; if there had been a vote on the latter draft resolution, his delegation would have abstained.

36. Mr. SANON (Deputy Director, Division of Human Rights), replying to the representative of New Zealand, said that it was his understanding that the item would be inscribed in the agenda of the thirty-third session of the General Assembly as "Torture and other cruel, inhuman or degrading treatment or punishment". The views expressed by delegations would be reflected in the annotated agenda of the thirty-third session.

37. Mrs. KULKARNI (India) said that it should be made clear that the item on torture would be included in the agenda of the thirty-third session of the General Assembly for discussion in detail rather than be kept limited to a mere review of work in connexion with the proposed convention.

38. The CHAIRMAN said it was her understanding that the annotated agenda of the thirty-third session of the General Assembly would make it quite clear that the reports under the item took fully into account the requests of the Committee and of the General Assembly in relation to all the resolutions adopted under the item. She hoped that that explanation would satisfy the Committee that the next discussion of the item, at the thirty-third session, would deal with the specific aspects of the subject raised in relation to each of the resolutions which had been adopted.

39. Mrs. KULKARNI (India) said she was satisfied with the Chairman's statement and requested that it should be fully reflected in the record.

40. Mrs. COLLINS (Liberia) proposed that the word "apparent" should be inserted before the word "murder" in draft resolution A/C.3/32/L.23.
41. The CHAIRMAN said that, if the representative of Liberia wished to propose a further amendment to a draft resolution already adopted by the Committee, she should do so when the item was raised in the plenary General Assembly.
42. Mr. WINTER (Chile) said that his delegation must protest at the fact that the representative of the USSR had taken advantage of the discussion of the item to persist in a political attack on his country.
43. The CHAIRMAN said that the Committee had concluded its consideration of item 80.

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (A/10235; A/32/61, 178, 179; A/C.3/32/L.17).

44. Mr. SANON (Deputy Director, Division of Human Rights), introducing the item, said that it was an essential aspect of the process whereby the United Nations had been reassessing its role and organizational structure. In such an important field as human rights, it was important to examine regularly existing needs and policies in the search for effective ways and means of taking action.
45. The item had a long history. The General Assembly had considered the question of the creation of the post of High Commissioner for Human Rights from its twentieth to its twenty-eighth sessions. In resolution 3136 (XXVIII), the Assembly had reaffirmed its conviction that further measures should be considered to ensure universal realization of human rights and fundamental freedoms and had decided to keep under review the consideration of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. In resolution 3221 (XXIX), the Assembly had requested the Secretary-General to solicit the views of Member States, the specialized agencies and regional intergovernmental organizations on the subject, and had also invited non-governmental organizations to submit material. The Secretary-General's report based on those views and material was contained in document A/10235. An updated version of that report, submitted in accordance with Assembly resolution 3451 (XXX), was contained in document A/32/176. Document A/32/179 also submitted in accordance with that resolution, contained a report by the Secretary-General on the status of the international conventions in the field of human rights for which he acted as depositary.
46. He briefly outlined the structure of documents A/10235 and A/32/176, both of which followed the same pattern. The various proposals for new instruments and studies (A/10235, paras. 98-108, 132-133 and 182-185; A/32/176, paras. 52-62 and 114-117) might serve as a basis for future standard-setting activities. It had also been suggested (A/10235, para. 113) that work be undertaken to determine, on the basis of all United Nations human rights instruments, the fundamental norms which could be regarded as peremptory norms of international human rights law. That would make it possible for States to know where they stood and what

(Mr. Sanon)

obligations were incumbent upon them. The proposals for intersessional activity by the Commission on Human Rights (A/10235, paras. 109-122; A/32/178, paras. 20-44) also deserved careful consideration.

47. There appeared to be much merit in the suggestion (A/32/178, para. 65) concerning the consideration of periodic reports on human rights. The proposals for a more careful evaluation of periodic reports received by the Commission on Human Rights (A/10235, paras. 134-139; A/32/178, paras. 63-67) also merited serious study.

48. The proposals for the establishment, in regions where it did not already exist, of regional machinery for the promotion of human rights (A/10235, paras. 93-97; A/32/178, paras. 107-111) might be especially important at the present time. Regional machinery could complement the work of the United Nations, providing homogeneous settings for the consideration of local and regional human rights questions. Such machinery, which already existed in Latin America, Europe and Arab countries, could also enhance co-operation between the United Nations and regional organizations.

49. The advisory services component was one of the most important parts of the human rights programme; education, training and dissemination of information were vital in eliminating the root causes of human rights violations. The Assembly might therefore wish to give particular attention to that aspect of the programme (A/10235, paras. 186-188 and 191-193; A/32/178, paras. 118-123 and 130).

50. The Division faced a particular difficulty in implementing its programme of advisory services, which had been drastically cut back to the point where the very existence of the programme was endangered. That question was particularly deserving of attention by the General Assembly.

51. The Assembly might also wish to bear in mind the parallel consideration being given in the Commission on Human Rights to the question of "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission", a question which had been before the Commission for several years. The views of Member States on that question had been submitted to the Commission in document E/CN.4/1168 and Add.1-3. The Secretary-General had also submitted to the Commission, at its request, five reports (E/CN.4/1189-1193) concerning various human rights matters. One of those reports (E/CN.4/1189) summarized the deliberations and decisions of the General Assembly concerning alternative approaches and ways and means of improving the enjoyment of human rights.

52. He drew attention to the provisions of Economic and Social Council resolution 1992 (LX), concerning the methods of work of the Commission on Human Rights, and to document E/CN.4/1243, containing the report of the Bureau of the Commission. He also drew attention to decision 4 (XXXIII), in which the Commission had requested the Secretary-General to submit a report analysing the proposals put forward in connexion with the further promotion of human rights; it had also decided to establish at its thirty-fourth session a working group to study that report and to submit recommendations.

(Mr. Sanon)

53. The entry into force of the International Covenants on Human Rights and the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the coming into operation of the Human Rights Committee, had been major steps forward. He did not think, however, that any existing procedures could be said to have become obsolete; they all had their distinct roles and the need for them would continue in the foreseeable future.

OTHER MATTERS

54. Mr. VOICU (Romania) pointed out that the Fifth Committee, in its consideration of the proposed programme budget for the biennium 1978-1979, had before it document A/C.5/32/26, relating to the implications of the recommendations of the Committee for Programme and Co-ordination (CPC). Paragraph 9 (a) of that document contained the Secretary-General's proposals for implementing the recommendations of CPC on the social development and humanitarian affairs programmes. The proposals in subparagraph 9 (a) (i), if adopted, would curtail a number of activities related to youth.

55. The reason why he was drawing the Committee's attention to those proposals was that, since the Third Committee would shortly be discussing the question of youth under agenda item 84, his delegation wished to appeal to all interested members to contact the Fifth Committee in order to request it to refrain from taking a decision until the Third Committee had concluded its consideration of the question. That procedure would accord with established practice.

56. Mr. SHAHANI (Philippines), Mrs. de BARISH (Costa Rica) and Mrs. BERTRAND de BROMLEY (Honduras) supported the proposal by the representative of Romania.

57. Miss CAO-PINNA (Italy) also supported that proposal. At the same time, she wished to point out that other programmes were also in danger of being downgraded. For example, the proposals in document A/C.5/32/26, paragraph 9, would also affect the European Social Development Programme.

58. She felt that the matter might be taken up under item 12, on the report of the Economic and Social Council. In her view, the recommendations adopted by CPC were premature, since the question had not been fully explored by the competent body, which was the Third Committee.

The meeting rose at 5.25 p.m.