

SUMMARY RECORD OF THE 36th MEETING

Chairman: Mrs. MASMOUDI (Tunisia)  
later: Mr. O'DONOVAN (Ireland)

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The meeting was called to order at 10.45 a.m.

AGENDA ITEM 75: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued)  
(A/36/137, 158; A/36/3/Add.23 (part I); A/C.3/36/L.4, L.37)

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- (a) UNILATERAL DECLARATIONS BY MEMBER STATES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORT OF THE SECRETARY-GENERAL (A/36/426 and Add.1)
- (b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL (A/36/140 and Add.1-4; A/C.3/36/L.38)

1. Mr. AL-QAYSI (Iraq), referring to agenda item 87, pointed out that Iraq had been one of the first countries, in February 1969, to sign the International Covenant on Economic, Social and Cultural Rights; that fact showed the importance his Government and the Ba'ath Party attached both to human rights and to economic and social development. The report submitted to the Political Conference of the Ba'ath Party in 1974 had set the objective of eliminating illiteracy and providing free primary education, with emphasis on the idea that the over-all physical and intellectual development of children was the key to their future. To that end, in accordance with articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, his Government had adopted a series of legislative measures, including Decrees Nos. 102 and 439 of the Revolutionary Command Council and Act 118, providing that instruction and all school supplies were to be available free of charge for students from primary school to the end



(Mr. Al-Qaysi, Iraq)

of their studies. Parents were required only to send their children to primary school, starting from the age of six. That effort was clearly reflected in the following statistics: between 1968-1969 and 1980-1981, enrolment in kindergartens (the number of which had increased by 287 per cent) had risen by 527 per cent, and the number of teachers by 587 per cent; during the same period, the number of primary schools and the number of teachers had both increased by 200 per cent; school enrolment had increased by 257 per cent. A similar situation could be observed in secondary schools, the number of which had increased by 226 per cent; the number of teachers had risen by 303 per cent; and enrolment by 333 per cent. The same pattern was reflected in vocational training schools (agricultural, industrial and commercial): the number of such schools had increased by more than 551 per cent, the number of students by 801 per cent and the number of teachers by 768 per cent.

2. Realizing that illiteracy was an obstacle to social and economic progress, and eager to eliminate that vestige of under-development, his Government had in 1978 promulgated Act 92, thus launching a nation-wide literacy campaign for all citizens between the ages of 15 and 45. The Government had mobilized all the vital forces of the nation in that undertaking, and the results obtained clearly proved its success: the illiteracy rate had fallen from 60 per cent in 1968-1969 to 15 per cent in 1979-1980. That exemplary effort had earned Iraq the UNESCO prize in 1979.

3. However, his Government's concerns were not limited to education and human rights; they related also to the economic and social fields (improvements in purchasing power and living conditions, reduction of unemployment, medical and social protection).

4. Referring to agenda item 85, he drew attention to General Assembly resolution 3384 (XXX), which contained the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind. In that connexion, he pointed out that, in June 1981 Israel had bombed and destroyed Iraqi nuclear installations, causing the death of innocent children, solely for the purpose of enlarging its territory at the expense of its neighbours and slowing down the over-all progress of Iraqi society. The argument of self-defence invoked by the Israelis was groundless, since Iraq had signed the Treaty on the Non-Proliferation of Nuclear Weapons and the nuclear reactor that had been bombed had been under IAEA supervision. Moreover, Iraq had complied with all the General Assembly recommendations concerning the establishment of a denuclearized zone in the Indian Ocean. Therefore, the international community must unreservedly condemn that unjustified act of aggression.

5. Referring to resolution 1981/42 of the Economic and Social Council, to the Charter of the United Nations and to the Universal Declaration of Human Rights, he drew the attention of all representatives to the case of Ziad Abu Ein, a Jordanian national who was currently being held in Chicago, pending a decision on his extradition to Israel, a decision that would be taken on the basis of a statement extorted from a prisoner under torture. He pointed out that the United Nations had frequently reaffirmed the legitimacy of the struggle for independence and the

(Mr. Al-Qaysi, Iraq)

struggle against colonialism and foreign domination; and he stressed the humanitarian aspect of the case of the Palestinian in question. Accordingly, he supported the representative of Jordan in asking all delegations to exert pressure on the United States Department of Justice to induce it to release Ziad Abu Ein, to refrain from extraditing him and to allow him to return to the country of his choice.

6. Miss CAO-PINIA (Italy) expressed the hope that the two International Covenants and other conventions that further specified the content of human rights with a view to protecting all the vulnerable groups of society would, in future, provide a basis for the elaboration of a world code of human rights, which would be consistent with the purposes and principles of the Charter and would be applied by all Member States. It must be admitted that ratification of the Covenants was not progressing very fast, that several States parties to both Covenants had not yet complied with their commitment to submit reports on the measure; they had adopted to apply the Covenants, that a number of the reports submitted by States parties under article 40 of the International Covenant on Civil and Political Rights were so brief and so general that they did not satisfy the relevant reporting obligations and that the members of the Human Rights Committee were divided on the question of the general comments which that Committee was due to transmit to States parties under article 40, paragraph 4, of the Covenant. With regard to the implementation of the International Covenant on Economic, Social and Cultural Rights, the only available information related to the status of the ratifications, together with a mere list of the reports already considered by the Sessional Working Group of the Economic and Social Council. Her delegation was disturbed by all those difficulties and welcomed the establishment, under the Sub-Commission on Prevention of Discrimination and Protection of Minorities, of a Working Group of five members to encourage universal acceptance of those two legal instruments. In her delegation's opinion, the General Assembly should be kept regularly informed of the progress of work in that Working Group, instead of waiting for its final conclusions. All that could be learned from the report of the Sub-Commission was that the Working Group had already held a preliminary discussion of the issues involved in the non-ratification of or non-accession to certain human rights instruments. Her delegation was sorry that more information was not available on that subject, and it regretted the fact that the Committee was likely to adopt a resolution containing the almost ritual appeal to States that had not yet ratified the Covenants, without even envisaging the possibility of helping those States to overcome their difficulties. The Human Rights Committee had tried to induce States parties to submit the necessary reports, but its efforts had been in vain. In her delegation's opinion, that matter should be brought before the General Assembly.

7. Referring to the differing interpretations of article 40, paragraph 4, of the Covenant on Civil and Political Rights, i.e. to the question whether the "general comments" should be addressed to individual States, to all States parties, or to both, she expressed her regret that after years of discussion on the issue the members of the Committee had been unable to agree on a common interpretation. After outlining the present status of the debate, she reiterated her country's view that the comments should be addressed individually to each State party. So far



(Miss Cao-Pilna, Italy)

the Committee had adopted five general comments addressed to all States parties, without prejudice, however, to its final decision on the matter. Should the situation remain deadlocked, the General Assembly, after reviewing the debates of the twenty-first session at which the Covenants had been adopted, should provide the Human Rights Committee with a clear interpretation of that article.

8. The consideration of her country's first report was summarized in paragraphs 104 to 107 of the report of the Human Rights Committee. The reporting system established by article 40 (paras. 1 and 2) served two purposes: to monitor the effective implementation of the Covenant and to stimulate comparisons in each country between national legislation and the standards established by United Nations conventions. The second purpose was being achieved in her country, as was evidenced by the establishment by the Ministry of Foreign Affairs in 1978 of an Interministerial Committee on Human Rights responsible for preparing all the reports required of Italy under the terms of conventions. That Interministerial Committee would shortly consider the report by the Human Rights Committee on its study of Italy's report, with a view to deciding whether it should be brought to the attention of a higher authority. Such was the importance that her country attached to the standard-setting activities of the United Nations in the field of human rights.

9. Mr. NOVAK (United States of America), speaking on agenda item 75, said that, although it was undeniable that peoples' cultures, economic and political systems and histories differed from one region of the world to another, it was none the less true that an individual was not solely the product of a system and that he or she retained a share of personal responsibility which was the source of all his or her personal dignity. It was in recognition of the dignity of the human person that the Universal Declaration of Human Rights had been conceived. The provisions of article 18 of that Declaration, which elaborated on Chapter I, Article 1 of the United Nations Charter and article 2 of the same Declaration, bore witness to the value which the authors of those instruments had placed on the inalienable rights of freedom of thought, conscience and religion, in which all human dignity was rooted; any assault upon those rights was a barbaric act branded as such by the Declaration on the Elimination of All Forms of Intolerance and Discrimination based on Religion or Belief. Thus the general enthusiasm with which the document before the Committee had been received, and the support of all nations for the struggle to eliminate every form of religious intolerance, were causes for rejoicing.

10. That universal support was reflected in the additions to the text of the draft of the word "belief", demonstrating the respect of the authors for those, such as materialists, atheists or agnostics, who professed no religion but were worthy of respect because they were responsible for their own choice. Pope John Paul II, at the thirty-fourth session of the General Assembly, had praised that generosity of spirit and asserted that the confrontation between the religious view and the agnostic and even atheistic view of the world could guarantee respect for human values without violating the essential freedom of conscience of every human being.

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(Mr. Novak, United States)

11. That fundamental right to freedom of conscience, part of the foundation of the United Nations, had been discovered by millions of people in dramatic circumstances where freedom of thought and conscience had been outlawed in the name of the collective will. It was precisely that freedom of thought and conscience which lay at the root of human dignity and which made it wrong for human beings to be treated like cattle and imprisoned or sent to work camps in accordance with a doctrine of intolerance. Any failure to respect that dignity was an offence not simply against the whole of humanity but also, for religious persons, against God.

12. The United States of America recognized that all human rights began in freedom of thought, conscience, religion and belief. It knew that not only from its own experience but from that of other nations which, similarly, were pursuing the universal dream. The text before the Committee was therefore not only perfectly in line with the dream of the authors of the Charter and of the Universal Declaration of Human Rights, but was also an act of fidelity to all those who had entrusted the United Nations with the task of realizing that dream. His delegation was proud to be able to adopt such an admirable text, which honoured the principles that lay at the source of the dignity of every one of the members of the Committee and of the 4 billion human beings who inhabited the planet.

13. Mrs. KRAVCHENKO (Union of Soviet Socialist Republics), speaking on agenda item 85, said that scientific and technological progress was a crucial factor in the development of society and should help to strengthen international peace and security and to improve the living standards of peoples. That was why her country had argued so strongly in favour of the adoption of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind; that was why, also, it was implementing its provisions in full. Scientific and technological developments were placed at the service of all members of Soviet society; and that concern for the well-being of the individual was apparent in the fundamental guidelines for the economic and social development of the USSR for 1981-1985 -- and, indeed, up to 1990 -- which had been defined at the twenty-sixth Congress of the Communist Party of the Soviet Union. The objective was to raise the people's material and cultural living standards and to create the best possible conditions for the fulfilment of the individual.

14. Her country's legislation made provision for a whole series of measures to enable the various strata of the population to enjoy the benefits of science and technology. Article 45 of the Constitution, for example, recognized the right to education and provided for free education at all levels. In addition, grants and loans were available to students, text-books were supplied free of charge and school students were able to study in their mother tongue. Furthermore, the USSR had an extensive system of training and retraining courses, in-job refresher courses for workers, teacher training courses and apprenticeships.

15. The provisions of article 26 of the Constitution related to the planned development of science, the training of scientific supervisory staff and the application of scientific discoveries to the economy and other sectors. A set of regulations guaranteed the legal protection of scientific and technological



(Mrs. Kravchenko, USSR)

discoveries and prevented them from being used, particularly by government agencies, to limit or interfere with enjoyment of the human rights and fundamental freedoms set forth in the International Covenants on Human Rights and other documents.

16. The twenty-sixth Congress of the Communist Party of the Soviet Union had taken a number of steps in the context of foreign policy to strengthen international peace and security, in the light of experience which had demonstrated that scientific and technological progress was not used solely for the benefit of mankind, as was clear from the arms race. Although the planet was already saturated with weapons of mass destruction, the manufacture of even more refined and more lethal weapons continued. Certain countries, which claimed to control the whole world, were stepping up the production of the most barbarous weapon of all -- the neutron bomb. Reducing expenditure on social and economic needs, they were at the same time greatly swelling their military budgets. The leaders of the United States even went so far as to claim that there would be nothing inadmissible in a nuclear war in which all the accumulated weapons would be used up in striking the first blow. To rely on victory in a nuclear war was dangerous madness and a violation of the first human right: the right to life. It was the determination to safeguard that right which had led the USSR to make proposals for the prevention of a nuclear catastrophe and for the conclusion of an agreement banning the deployment of weapons of any kind in outer space.

17. In the United States of America, the achievements of science and technology were still being used for the purpose of violating human rights; the Federal Bureau of Investigation (FBI), for example, maintained a whole system of computer files for keeping a check on the political loyalties of citizens.

18. In the desire to help developing countries to develop their scientific and technological capacity, in accordance with article 5 of the Declaration, the USSR had concluded intergovernmental agreements with nearly 70 developing countries on economic and technical co-operation, particularly in the construction of production units and educational establishments and in the training of supervisory staff. The USSR had also acted as host to a number of seminars and international symposia on various problems, in the context of United Nations technical assistance.

19. In that connexion, the Soviet Union welcomed the adoption by the Commission on Human Rights, at its thirty-seventh session, of a resolution inviting the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study of the use of the results of scientific and technological progress for the realization of the rights to work and to development. It considered that the General Assembly should take further action at the current session to ensure the general application of the declaration.

20. Turning to item 75, he said that the question of the elimination of discrimination based on religion had been disposed of, de facto and de jure, upon the establishment of the Soviet State. The Decree of 23 January 1918 on the separation of Church and State prohibited the enactment of local laws restricting freedom of conscience or according certain privileges of a religious nature. The Soviet Constitution recognized the equality of all before the law, irrespective of

(Mrs. Kravchenko, USSR)

the religious or atheistic beliefs of the individual. In the Soviet Union, the Church was separate from the State and the school from the Church. In keeping with that principled policy, the Soviet delegation had participated in the formulation of the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Unfortunately, because the principle of consensus had not been observed in the Working Group of the Commission on Human Rights, the text of the draft Declaration failed to reflect as it should the position of a number of States and gave a one-sided interpretation of freedom of conscience. That text could not, therefore, be considered satisfactory; it must be reformulated to eliminate defects and ensure that it took due account of the views of all States. It would be logical to refer the draft back to the Commission on Human Rights for completion of the task that had been undertaken. On the other hand, the suggestion by a number of delegations that the text of the draft Declaration should be finalized in the Third Committee after thorough consultations seemed very sensible to his delegation, which was ready to participate in such consultations and was sure that the text could be finalized very quickly if delegations showed a little goodwill and were prepared to approach the task in a spirit of constructive co-operation.

21. Mr. ODOCH-JATO (Uganda), speaking on item 87, said the fact that the Republic of Uganda had to date acceded neither to the International Convention on Civil and Political Rights, nor to the Optional Protocol thereto, nor to the International Convention on Economic, Social and Cultural Rights, was largely attributable to the dark period the country had experienced between 1971 and 1979. The régime of that time had not only had no regard whatsoever for the most basic human rights but had in fact abrogated the Constitution embodying a bill of rights. The Parliament of Uganda had adopted in 1981 legislation repealing the decrees suspending the Constitution, and the people of Uganda could once again enjoy the rights enshrined therein. Furthermore, the Government and people of Uganda had committed themselves to the fundamental principles of human rights and to joining the international community in a common embrace of those principles. He was sure that his country, which was currently a member of the Commission on Human Rights, would shortly take appropriate action to become a party to the Covenants and Protocol now under consideration by the Committee.

22. With regard to the other issues under item 87, his delegation appreciated the work of the Commission on Human Rights and the Human Rights Committee in widely exposing the pernicious violation of human rights by the apartheid régime of South Africa and Zionist Israel. His delegation hoped that the international community's awareness of the tragic sufferings of the peoples of South Africa, Namibia and Palestine would lead to the early termination of those outrageous policies of oppression.

23. Although Uganda was not yet a party to the International Covenant on Civil and Political Rights, his delegation would like to proffer some observations on the question of abolishing capital punishment. Despite its appreciation of the basic right to life and the concepts of reform and repentance, Uganda still considered the death penalty an effective deterrent to crime, taking into account the social context in each nation. It was therefore unlikely, if Uganda acceded to the



(Mr. Odoch-Jato, Uganda)

International Covenant on Civil and Political Rights, that it would be able, at least in the near future, to adhere to any associated instrument enjoining the abolition of capital punishment. It should, however, be pointed out that the prerogative of mercy existed under Ugandan law and that President Obote, who had used that prerogative when in office prior to 1971, was determined to restore the rule of law in Uganda and again exercise his prerogative of mercy. Although Uganda was opposed to the abolition of capital punishment, it fully subscribed to the second protocol to the International Covenant on Civil and Political Rights and encouraged all other countries which were in a position to do so to abolish the death penalty, since it did not oppose the adoption of the said protocol.

24. With regard to item 91, his delegation noted with satisfaction the progress made by the Commission on Human Rights in drafting a convention against torture and other cruel, inhuman or degrading treatment or punishment in accordance with General Assembly resolution 32/62. With respect to the unilateral declaration pursuant to General Assembly resolution 32/64, his delegation wished to intimate that the Constitution of the Republic of Uganda was in complete accord with the terms of both the Universal Declaration on 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. After eight years of dictatorial rule, the new Government had applied itself to ensuring the protection of offenders in accordance with the Constitution and the Criminal Code. The Economic and Social Council had recognized the efforts being made by his Government towards the restoration of the rule of law and had recommended to the Secretary-General that United Nations assistance should be accorded to those meritorious efforts. The Government of Uganda would accordingly give due consideration to making the unilateral declaration envisaged in General Assembly resolution 32/64.

25. While the draft Code of Medical Ethics was in accord with his Government's ideals, his delegation believed that it required further study and harmonization. In particular, it thought that the emphasis on physicians rendered it difficult to make the Code applicable to all medical and paramedical cadres. Furthermore, the inclusion of the concept of duress raised some complex issues, since in certain cases the subjective application of that concept could negate some of the basic premises of the draft Code.

26. Turning to item 75, he said that the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, as adopted by the Commission on Human Rights, was entirely acceptable to his delegation, which therefore supported its adoption and proclamation by the General Assembly. As for the draft convention on the rights of the child (item 86), his delegation welcomed the progress achieved by the open-ended working group of the Commission on Human Rights and found the general principles propounded in the draft quite laudable. However, some of the provisions of the draft convention placed upon States responsibilities with vast financial implications, such as that of guaranteeing an education to all children, which developing countries, because of their poverty, would be unable to implement, at least in the near future. That underscored more than ever the need for the speedy establishment of a new international economic order.

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27. Mr. O'Donovan (Ireland) took the Chair.

28. Mrs. FLORES (Cuba), speaking on item 86, said that the proposal for the formulation of a convention on the rights of the child submitted by the Polish delegation in 1978 had received the immediate support of her delegation, which had co-operated actively in the drafting work both in the Third Committee and in the Commission on Human Rights. For various reasons, the Commission had been unable to complete the formulation of the text, but her delegation wished to reiterate the importance it attached to the draft convention and hoped that the Commission would give it priority at its next session in 1982. It was with that in mind that her delegation had joined the many sponsors of draft resolution A/C.3/36/L.14.

29. With regard to item 85, concerning human rights and scientific and technological developments, she said that the adoption by the General Assembly in 1975 of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind was of great importance to the strengthening of international peace and security. For that reason, Cuba had always sought to promote the implementation of the Declaration by joining in the actions taken by the Committee to make its full scope understood. Her delegation supported draft resolution A/C.3/36/L.31, since everyone was aware of the harmful effects that certain misuses of scientific and technological progress could have on human rights and fundamental freedoms. Her delegation shared the concern of the 10 countries of the European Community, as reported to the Committee by the United Kingdom representative, and wished to stress the danger of the accelerated arms race and increased military expenditure following the irresponsible decision to manufacture the neutron bomb, set up the MX missile system and install 572 medium-range missiles in Europe, and other similar measures whose only results were to hamper the economic and social development of peoples and jeopardize international co-operation. Apart from those indirect effects of the misuse of scientific and technological progress, her delegation wished to draw attention to some direct effects of the inadmissible use of certain scientific discoveries, which were well illustrated by CIA activities aimed at destabilizing Governments, eliminating foreign leaders or interfering in the internal affairs of a country that had opted for a type of development not in keeping with the interests of the United States. The CIA had used a variety of methods since the Second World War, and particularly since 1960, when a large number of countries had become independent. It was common knowledge that it had made use of drugs, electric shock, bacteria and poison, among other means. Cuba in particular had been a target for such dirty tricks, which had fortunately failed because they had been discovered and denounced in time. The CIA had for some years been using biological weapons against Cuba and the Cuban people, as mentioned by President Castro in several speeches during 1981, and the United States Government had not denied his assertions. In less than three years, the country had had five serious epidemics affecting livestock, crops and people. They had included an epidemic of haemorrhagic dengue fever and an epidemic of haemorrhagic conjunctivitis. The dengue epidemic, which had caused the death of 150 people, including 99 children, had broken out in Cuba although no case of that disease had ever been reported in the Western world. The illness had been caused by dengue virus No. 2, and careful studies conducted in co-operation with highly qualified experts of other countries pointed to the conclusion that the virus had



(Mrs. Flores, Cuba)

been deliberately introduced into Cuba. All available additional information indicated that, at the time of the outbreak of haemorrhagic dengue fever in Cuba, no epidemic caused by the same virus had been reported in the countries of Africa and South-East Asia with which Cuba maintained relations. It should also be noted that at that time there had been no dengue virus No. 2 anywhere in the Latin American Caribbean area. Research centres in the United States had done a great deal of work on biological weapons, including dengue virus No. 2, and that made it impossible not to conclude that the virus had been deliberately introduced into Cuba by the United States. That was an eloquent example of the kind of misuse of scientific and technological progress that should be condemned by the Committee, as it had already been condemned in other international forums.

30. Cuba's position concerning the draft Code of Medical Ethics (item 91) could be seen from document A/36/140/Add.1. Torture and other cruel, inhuman or degrading treatment or punishment were not condemned in any of the six principles proposed, although it should be the first principle of medical ethics, and the Cuban Government therefore proposed that a first paragraph should be added, reading: "By its very nature and on humanitarian grounds, medical ethics is opposed to any form of torture, or cruel, inhuman or degrading treatment or punishment". In principle II, the word "torture" should be followed by the words "or other cruel, inhuman or degrading treatment or punishment", to complete the text. Lastly, the wording of principle VI was not very clear and referred to a complex situation. It might be interpreted as implying no moral condemnation where a physician was compelled, under duress and in accordance with supposedly humanitarian criteria, to inflict torture. Interpreted in that way, the principle would obviously be extremely immoral.

31. Mrs. SAMPSON (Guyana), referring to item 86, said that Guyana, as a developing country with a population of under one million, appreciated the importance to the country's future of its children, its most precious human resource, and therefore felt concern for the situation in which they would grow up.

32. The Constitution of Guyana emphasized both the political rights of children and their economic and social rights. In 1976 the Government had introduced free education from nursery school to university level, thus affording equal opportunity for every child, and it was now focusing on the pre-school child. The new education system was geared to the promotion of nation-building, national unity, egalitarianism, economic and agricultural development, national resources management and hinterland development. The Government had established secondary and technical schools to fill the gaps inherited from colonialism. Under the Guyana National Service, established in 1974, young people lived together and learnt various skills that would enable them eventually to participate in the development of the hinterland.

33. Article 30 of the Constitution gave children born out of wedlock the same legal rights as other children; the Government had set up a special committee to look into the question "the inheritance of the child", in order to ensure that that article was truly implemented.

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(Mrs. Sampson, Guyana)

34. A permanent National Commission for Children's Welfare had been established as a follow-up to the International Year of the Child, and it was now studying, in the context of the International Year of Disabled Persons, the situation of disabled children; its activities had included special seminars and radio talks for parents of such children.

35. She expressed appreciation to UNICEF for its activities in Guyana, including the implementation, in co-operation with a Guyanese women's organization, of a project under which a group of children had their own agricultural plot and poultry farm, the aim being not only to increase family income but also to improve the children's nutrition.

36. She wondered what meaning a convention on the rights of the child could have for Namibian and Palestinian children, many of whom were refugees. Their most immediate need was to enjoy their inalienable right to life in their own national independent home, free from foreign occupation. She hoped that the international community, considering that aspect of the Namibian and Palestinian questions, would press harder for the speedy implementation of General Assembly and Security Council resolutions on those questions.

37. Effective protection of the rights of the child meant first of all meeting his or her basic needs: sufficient food, adequate medical care, a decent level of living and a proper education. The enjoyment of those rights was therefore inseparable from an improvement in the economic and social conditions of developing countries and also from the establishment of a new and more just international economic order, for which the developing countries were striving.

38. She fully supported draft resolution A/C.3/36/L.14.

39. Mr. POLIVI (Togo), speaking on items 87 and 73, noted with satisfaction that where the protection of human rights was concerned the new nations, which even recently had still been a passive audience for the Western Powers, had become active participants in the search for solutions to human rights problems. He appreciated the generally favourable reception given to proposals by the developing countries.

40. Togo had never ceased fighting for that vast segment of mankind which continued to grapple with hunger, disease and ignorance; for the Government of Togo realized that the enjoyment of human rights began with recognition of the right to life, and to freedom of expression through the elimination of illiteracy, and that it was the responsibility of the wealthy nations to ensure that peoples still living in poverty had a decent existence and enjoyed the wealth which nature had bestowed on the world. He therefore believed that international experts were right in now linking the enjoyment of human rights to social and economic factors. All international bodies recognized that the disadvantaged peoples of the earth must be given the economic means to enjoy their rights to the full. That pragmatic approach to the question of human rights, which the Director of the Division of Human Rights had described so incisively to the Third Committee, was truly responsive to the aspirations of millions of human beings.



(Mr. Folivi, Togo)

41. The material well-being of the people should, however, be conducive to their political and spiritual development. The Togolese authorities were determined to set the country on the path to active democracy. The Government had incorporated the provisions of conventions and the International Covenants on human rights in the national legislation and was preparing to become a party to those instruments. The Constitution provided for the separation of powers and guaranteed freedom of thought, conscience and religion.
42. The enjoyment of human rights was susceptible of improvement everywhere, and Togo, which had recently become a member of the Commission on Human Rights, would strive unceasingly in the Commission to achieve that noble objective.
43. Ms. SLATTERY (Ireland), speaking on agenda item 75, said that the draft Declaration contained in document A/C.3/36/L.4 was the product of a great deal of work. In 1962 the General Assembly had recognized that religious discrimination still existed and had adopted a resolution drawing attention to the need for such a declaration. Since then, the Commission on Human Rights had worked intensively on the preparation of a text, which had finally been submitted to the Economic and Social Council in 1981 so that the Council might adopt it and, in turn, recommend its adoption. It was worth noting that the draft articles had been drawn up by highly qualified experts with a wide variety of religions and beliefs, who had endeavoured to take into account all the comments submitted to them by Governments. The important contribution of the non-governmental organizations should also be remembered.
44. The search for truth was one of the basic urges of the human spirit and the person who found it must respect and observe it. Every person should therefore be able to profess his ideas, convictions and religion in dignity and freedom, without suffering political, economic or other discriminations. The draft Declaration before the Committee defined precisely a right that the United Nations Charter and the Universal Declaration of Human Rights had merely outlined and thus filled a gap in the body of international instruments concerning human rights so far adopted. Its purpose was to eliminate discrimination among human beings based on religion or belief and to ensure equal enjoyment for all human rights and fundamental freedoms. There was no State which could not subscribe to those objectives.
45. For all those reasons, she urged the Committee to adopt draft resolution A/C.3/36/L.4 by consensus, so that the Declaration could be proclaimed by the General Assembly at the current session.
46. Mrs. GUELMAN (Uruguay), speaking on agenda item 87, said that she would not assume the right to discuss the human rights situation in countries other than Uruguay, since it was her Government's policy not to interfere in the internal affairs of other States. Uruguay, which had a long tradition of protecting human rights, had ratified the International Covenant on Civil and Political Rights and its Optional Protocol on 1 April 1970. Her country was now on the way towards full realization of human rights, because the Government had fought for years to defend the sacred right to life and the security of the inhabitants of the country, which was continually threatened by international terrorism. The emergency situation had been duly reported to the Human Rights Committee, in accordance with article 4, paragraph 3, of the Covenant.

(Mrs. Gualman, Uruguay)

47. With regard to the report of the Human Rights Committee (A/36/40), while commending the Committee on the care with which it analysed the reports of States Parties to the Covenant, she drew attention to a number of procedural errors in dealing with the communications in annexes IX, X, XI, XII, XIV, XVI, XIX and XX. According to the provisions of the Optional Protocol, the Committee must meet in closed session to examine communications, forward its views to the State Party concerned and to the individual and submit a summary of its activities to the General Assembly. The Committee therefore had to respect the confidential nature of the communications it received and should not reproduce them in full in its report. Her Government, which was engaged in a dialogue with the Committee and collaborated constructively with it, was confident that they could remedy those errors together.

48. With regard to the preparation of a second optional protocol to the International Covenant on Civil and Political Rights, on the abolition of the death penalty, she welcomed the initiative of the Federal Republic of Germany which her Government fully supported. The death penalty had been abolished in Uruguay and she urged States which had not already abolished it to consider doing so.

49. Mr. NUJEIHEH (Jordan), speaking in exercise of the right of reply, said that the remarks of the representative of Israel at the 35th meeting were an insult to the intelligence of the members of the Committee and a vile calumny on Jordan.

50. He wondered how Israel could claim to have executed only one person since its creation, namely Eichmann, when it had systematically tried to destroy the Palestinian people in 1947 and 1948. The Jordanian authorities had not once imposed the death penalty during the 20 or so years of turbulence in the Middle East which had followed the creation of the State of Israel - the King himself was known for his clemency and had even exercised it in respect of plotters who had attempted a coup d'état. If the Israeli Government had not executed any Palestinian resisters to date, it was because it was trying to hoodwink the international community: on the surface it followed the example of the States which had abolished the death penalty, but inside the Israeli prisons, Palestinian detainees were tortured in order to extort confessions by methods which were no better than those of the Nazis. There was telling evidence from prisoners who had regained their liberty. As far as nazism was concerned, it had been established that Zionists had worked with the German secret service during the Second World War, giving them money and equipment in exchange for Jews from different countries whom they had sent to Israel. And why did the Israeli occupation authorities refuse to grant prisoner-of-war status to imprisoned Palestinian maintainers. Jordan had granted it to the armed bands of Jews taken prisoner in Jerusalem in 1948. The facts about prisons and torture in Israel were even worse than they appeared in the reports of Amnesty International and the Red Cross, since those organizations had not been allowed complete freedom to collect the full data. For more detailed information he referred the members of the Committee to his publication Palestine and the United Nations.

51. The representative of Israel had claimed that the rights of workers and freedom of the press were not guaranteed in Jordan. In fact, the rights of



(Mr. Nujeibeh, Jordan)

Jordanian workers were fully respected and workers' wages were among the highest in the country which, small though it was, attracted a quarter of a million migrant workers. There was no press censorship in Jordan.

52. Lastly, he would like to point out to the representative of Israel that the Palestine Liberation Organization had been founded for the sole purpose of securing respect for the rights of the Palestinians. When the West Bank had been occupied in 1967, thousands of Palestinian and Jordanian volunteers had gone to swell the ranks of the resisters. Their numbers had been so great and their enthusiasm for the cause so strong that it had been difficult to organize them into a disciplined and united front, and there had naturally been a few cases of indiscipline which the Zionists had exploited to the full. There had also been disagreement over strategy and the organization of the fighting. However, as brothers, the Jordanians and the Palestinians had overcome their initial differences and were now working hand in hand: there were Palestinians in the Jordanian army and Jordanian soldiers in the Palestinian resistance. They would continue to fight side by side until there was a comprehensive, just and lasting peace in the Middle East and until the Palestinians had regained the exercise of their inalienable rights.

53. Mr. GERSHMAN (United States of America), speaking in exercise of the right of reply, said he was surprised that the representative of Jordan, a country with which the United States had good relations, had seen fit to go beyond the approaches of his country to the United States Government as well as those made through the good offices of the Secretary-General and had raised the issue in such an inflammatory way before the Third Committee. His delegation believed that those remarks were not relevant to the subject under discussion and that the Chairman had been right to follow the advice of the United Nations Office of Legal Affairs and state that it was inappropriate to raise the case under the specific item under consideration. Nevertheless, Jordan had spoken and drawn the attention of members of the Committee to "important legal points". The United States should therefore respond to those grave charges, not in a spirit of confrontation but rather in order to foster a better understanding of the facts and the points of law raised in the case.

54. Turning first to the nature of the offence for which Mr. Abu Eain's extradition was sought, he recalled that Mr. Eain was charged by an Israeli civilian court with having, on 14 May 1979, in a market-place in the town of Tiberias, planted a bomb containing a delayed fuse which had exploded, killing two young boys and maiming or otherwise injuring some 30 other people.

55. The United States had presented Israel's extradition request to a United States magistrate in accordance with its obligations under the extradition treaty concluded with Israel in 1963, a treaty similar in form and substance to extradition treaties concluded between the United States and numerous other countries; those treaties provided that persons charged with murder, manslaughter or malicious wounding inflicting grievous bodily harm should be delivered up. The United States had therefore a solemn duty to respect the commitments undertaken by virtue of those treaties. It should be made clear that a decision to extradite did not imply, either in United States law or in international practice, any

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(Mr. Gershman, United States)

Judgement as to the guilt or innocence of the person extradited, something which could be decided only during the trial.

56. The conclusions of the magistrate had been reviewed at length by a district court judge, then by the United States Court of Appeals; both had upheld the magistrate's decision. Following the judgement of the Court of Appeals, the defendant had petitioned the United States Supreme Court for review, but it had refused to proceed with the case. He therefore rejected as totally groundless the allegation of the representative of Jordan that the United States courts had mishandled the case and had not accorded Mr. Abu Eain full rights to defence, considering that he had been represented both at the Court of Appeals and at the Supreme Court by a former Attorney-General. The integrity of the courts concerned was not open to question and the case had been the subject of a complete, independent and impartial examination at three levels. He added that Mr. Abu Eain had received an independent and impartial judicial review of the request for his extradition. After hearing all of the evidence presented by the Government and Mr. Abu Eain, the Court had found him extraditable under the terms of the extradition treaty between the United States and Israel.

57. His delegation was surprised that the representative of Jordan had brought up Mr. Abu Eain's nationality, since his lawyers themselves had not raised that issue. The representative of Jordan had asserted that, since the West Bank was in fact occupied Jordanian territory, it followed that Jordanian laws and not Israeli laws should be applied. Mr. Abu Eain was, however, charged with committing a crime in Israel, not in the occupied territories, and if extradited he would be tried at Tel Aviv under Israeli law by a civilian court (and not by a military one, as the representative of Jordan seemed to fear). Furthermore, under the extradition treaty between the two countries, Mr. Abu Eain could be tried in Israel only on the charges for which his extradition had been sought, i.e. for murder and causing bodily harm. The United States was certain that the right of an accused person to a fair hearing by an impartial tribunal and to representation was fully observed in Israel. He recalled that, contrary to some misleading statements, Mr. Abu Eain, if extradited and convicted, would not under Israeli law be sentenced to death.

58. He pointed out to the representative of Jordan, who had claimed that Mr. Abu Eain could not be legally extradited to Israel because of his Jordanian nationality, that in international practice, nationality was rarely a factor in the decision whether or not to grant extradition under a treaty. The only widely accepted exception to the rule was that which allowed a State not to deliver its own nationals for trial in another State. That exception obviously did not apply in the case in question. Turning to the allegation made by the representative of Jordan that the United States had never extradited a person to a country other than his country of nationality, whatever the allegations levelled against him, he said that that statement was quite incorrect. The United States frequently extradited fugitives to stand trial in countries of which they were not nationals. No question of legal propriety had ever been raised with respect to that practice.

59. The representative of Jordan had asserted that the internment of Mr. Abu Eain pending the final decision was a "travesty of justice". He recalled that



(Mr. Gershman, United States)

Mr. Abu Eain had, during the entire proceedings, enjoyed the same rights that any United States citizen would have been accorded in the same circumstances. Moreover, in extradition proceedings, particularly where murder or other serious acts of violence were involved, courts rarely released the accused on bail. Indeed, that was an almost universal practice and not a requirement peculiar to the United States.

60. Under United States law, the record of the case must be transmitted to the Secretary of State who would make the final decision. When the case was officially before the Secretary of State, all relevant information would be carefully examined, including any additional information that Mr. Abu Eain's attorneys might decide to present on his behalf.

61. The United States delegation was no less concerned than the Jordanian delegation that there should be a just settlement of the Arab-Israeli conflict. The longer that conflict continued, the greater the danger of an increase in desperate and criminal acts against civilians. The United States Government considered, however, that the decision whether or not to extradite Mr. Abu Eain should be taken exclusively on the basis of Federal legislation and treaty obligations. It would therefore be quite inappropriate for the General Assembly to call on the United States to free Mr. Abu Eain. For all the reasons he had mentioned, the United States delegation was opposed to draft resolution A/C.3/36/L.39, which had been introduced by Jordan.

The meeting rose at 1.20 p.m.