



SUMMARY RECORD OF THE 46th MEETING

Chairman: Mr. MADAR (Somalia)

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The meeting was called to order at 10.50 a.m.

AGENDA ITEM 95: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued) (A/39/79 and Corr.1, A/39/180 and Corr.1)

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(c) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY (A/39/535)

AGENDA ITEM 99: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued) (A/39/73, A/39/360, A/39/480 and Add.1 and 2, A/39/499 and Add.1 and 2, A/39/506, A/39/662, A/C.3/36/L.40)

1. Mr. TANASA (Romania) said that it was generally recognized that there was an organic link between the development of science and technology and the implementation of fundamental human rights and freedoms. As was mentioned in the documentation submitted to the Committee, peace was inseparable from scientific and technological progress, which should serve the cause of détente, friendship and peaceful co-operation among peoples. A reading of the replies received from Governments regarding the implementation of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind demonstrated that the development of science and technology exerted its influence on all aspects of human existence and that the development of individual nations was not possible without multilateral progress in science and technology. On the other hand, the current arms race endangered the very existence of life on the planet. The humanistic conscience of the Romanian people had always defended the right to life and peace as supreme values of mankind, and Romanian scientists had always placed their scientific and technological discoveries in the service of civilization. The great Romanian writer George Calinescu had pointed out that the true intellectual did not remain hidden in a laboratory or a library, deaf to the cry of life and day and blind to the clouds that covered the sky. Researchers, humanists, intellectuals and scientists throughout the world had the noble duty to fight so that the product of their efforts should be dedicated not to war but to

(Mr. Tanasa, Romania)

the establishment of a better world, particularly by achieving the well-being, freedom and independence of peoples and the implementation of the right to life and peace.

2. In that context, his delegation again emphasized the importance of resolution 38/113 of 16 December 1983, which, among other things, called upon all States to take necessary measures to ensure that the results of scientific and technological progress were used exclusively in the interests of international peace, for the benefit of mankind and for promoting and encouraging respect for human rights and fundamental freedoms. It was necessary to use the discoveries of science and technology to bridge the gap between rich and poor countries, do away with underdevelopment, eradicate disease and protect the environment.

3. The difficult economic situation of numerous peoples highlighted the need for scientists to intensify their efforts to find new sources of energy and raw materials and to solve problems of food, health, etc., which were most directly related to the promotion and observance of fundamental human rights. Moreover, resolution 38/112 of 16 December 1983 expressly stipulated that the establishment of the new international economic order called, in particular, for an important contribution to be made by science and technology to economic and social progress.

4. It was possible to find adequate ways and means of co-operation so that science was used only within its humanistic spirit and vocation. Science should become an arm of life so that peoples could increase their contribution to the universal treasure of knowledge and the values of peace, understanding, progress and friendship might triumph on the planet.

5. Mr. POLICHTCHOUK (Ukrainian Soviet Socialist Republic) said that economic and social progress made it possible to improve the human rights situation and satisfy the needs and aspirations of man. Thanks to it, mankind was better equipped to fight disease, infant mortality, hunger, poverty, illiteracy and drudgery. It was possible for all human beings to enjoy such basic rights as the right to health, an adequate standard of living, education, work and leisure. With a view to achieving those goals, the General Assembly had guided the efforts of the international community by adopting, in November 1975, the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind.

6. Scientific and technological development by itself did not, however, lead to abundance and justice for all, nor did it necessarily have a humanistic dimension. Indeed, some of the most brilliant achievements of science were being used in certain circles for the production of newer and newer weapons of annihilation and not to satisfy the needs of human beings. In the capitalist countries, most technological and scientific advances were geared to the arms race and the most brilliant minds were dedicated to the search for means of mass destruction. Outer space was a relatively new area of research and one whose study had always nurtured great hopes and aspirations, but it could be transformed into a source of danger for mankind. The senseless expenditure on weapons of mass destruction precluded the establishment of social programmes to eradicate poverty, hunger and disease in particular, and to establish health services, provide for the elderly and create employment.

(Mr. Polichtchouk, Ukrainian SSR)

7. His delegation had always advocated that the achievements of science and technology should be used to promote international peace and security, the freedom and independence of peoples and economic and social development. Scientific and technological progress, as the basis of economic development, was inseparable from social progress and must be used to improve the well-being of peoples. States had an essential function: to channel that progress towards the well-being of individuals.

8. His country was very experienced in that field. Two years previously, it had submitted detailed information on the implementation in the Ukrainian SSR of the provisions of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind (A/37/330/Add.1). It would like to have similar information on other countries. Unfortunately, however, as the report of the Secretary-General (A/39/422 and Add.1) had shown, it was mainly the developing countries and the socialist countries (a total of 33) that had sent information on that matter, while the Western countries, which had achieved the highest level of scientific and technological advancement, had for unknown reasons not submitted any information.

9. Scientific and technological progress had new and serious implications for society. It was indispensable to remove from international society any element of the policy of force being applied in certain aggressive circles in place of the principles of peaceful coexistence of States. The Declaration emphasized that "All States shall refrain from any acts involving the use of scientific and technological achievements for the purposes of violating the sovereignty and territorial integrity of other States, interfering in their internal affairs, waging aggressive wars, suppressing national liberation movements or pursuing a policy of racial discrimination. Such acts are not only a flagrant violation of the Charter of the United Nations and principles of international law, but constitute an inadmissible distortion of the purposes that should guide scientific and technological developments for the benefit of mankind." The achievement of the goals outlined in the Declaration should be the basis for action by the Commission on Human Rights and the Committee.

10. Mr. BORCHARD (Federal Republic of Germany) said that the International Covenants on Human Rights were among the most important instruments for achieving one of the purposes of the United Nations Charter: "respect for human rights and for fundamental freedoms for all". An important landmark in the development of international law, they were the first international treaties on human rights with universal application that imposed a legal obligation on States to protect the human rights of every individual.

11. It was a pleasure to note that the number of States parties to the Covenants had risen, and those States which had not yet done so were urged to ratify them. Effective implementation of the Covenants, however, required not only universal accession but also strict implementation of their provisions and effective monitoring by the Human Rights Committee and by the Economic and Social Council. His Government commended the members of the Human Rights Committee on the integrity, independence and dedication they had shown in trying to detect

(Mr. Borchard, Federal Republic
of Germany)

deficiencies in the procedures for guaranteeing human rights and in inducing States parties to comply fully with the provisions of the International Covenant on Civil and Political Rights. His delegation shared the Human Rights Committee's view that the United Nations was not giving its work the publicity it deserved, so that the fundamental issues involved would not be forgotten in the general routine. The publicity highlighting its programme of work had not been sufficient to attract interested non-governmental organizations and members of the public. More appropriate meeting rooms should be provided to facilitate attendance by the public. It was regrettable that the publication in bound volumes of the official records of the Human Rights Committee was overdue. The early publication of a volume of selected decisions by that Committee would also be of great value to national authorities, non-governmental organizations, teachers, researchers and others concerned with the promotion of human rights throughout the world. The Centre for Human Rights should be encouraged to extend additional support to the Human Rights Committee to make its work more effective.

12. His delegation welcomed the approach adopted by the Human Rights Committee with regard to the second periodic reports of States parties and felt that the exchange of views within the Human Rights Committee had contributed significantly to developing its monitoring procedures within the context of its duties under article 40 of the International Covenant on Civil and Political Rights.

13. Another major development was the inclusion in the Human Rights Committee's report, in accordance with article 5, paragraph 4, of the Optional Protocol, of its views on communications relating to complaints by individuals. His delegation hoped that the States parties under an obligation in that connection had provided effective remedies to such individuals. His delegation also welcomed the comments on articles 1 and 14 contained in general comments 12 (21) and 13 (21) of its report and agreed that it was highly desirable, since States parties often ignored article 1 entirely, that they should describe the constitutional and political processes which in practice allowed the exercise of the right of self-determination stipulated in article 1, paragraph 1.

14. In general comment 14 (23), the Human Rights Committee had clearly deviated from its mandate. His delegation considered that to be an unfortunate attempt to develop aspects of international law which fell within the sphere of competence of other United Nations organs. While it could give its agreement to the previous general comment 6 (16), it wished to point out that the Covenant on Civil and Political Rights did not give an answer to the question how peace could best be protected. That question came within the mandate of other United Nations organs that were more competent in the matter.

15. His delegation believed that the Economic and Social Council had failed to meet its responsibilities with regard to the procedures for monitoring observance of the International Covenant on Economic, Social and Cultural Rights and had not resorted to the action it was empowered to take under articles 19, 21 and 22 of the Covenant, a failure due to the fact that the Working Group of Governmental Experts which had been established to assist the Council in discharging its responsibilities

(Mr. Borchard, Federal Republic
of Germany)

had not been able to provide an appropriate basis for decisions by the Council. Some progress in that direction had been made since the adoption of Council resolution 1982/33 of 6 May 1982, but it was essential to make more headway.

16. His delegation therefore looked forward to the review of the organization, administrative arrangements and especially the composition of the Working Group that was scheduled for the 1985 spring session of the Council. The distribution of the membership of the Working Group should be made more proportionate to the composition of the total group of States parties. The Council should also consider the possibility of improving the election procedure in order to attract more candidates and making new arrangements to schedule the session of the Working Group in such a way as to allow it more time to prepare a substantive report on the observance of the Covenant.

17. At the initiative of the Federal Republic of Germany, the drafting of a second optional protocol to the International Covenant on Civil and Political Rights had been undertaken (A/RES.2200 (XXI)), aiming at the abolition of the death penalty. In 1980, 14 years after the adoption of the Covenant, his Government had considered that the time had come to draw up a binding international instrument that would make it possible to abolish the death penalty or to prevent its reintroduction in countries so minded. Consequently, at the thirty-fifth session of the General Assembly, it had submitted a draft protocol, together with Austria, Costa Rica, the Dominican Republic, Italy, Portugal and Sweden.

18. It was clear that such a protocol would not receive immediate universal acceptance, because the question of capital punishment was a controversial issue involving different historical, philosophical and religious criteria. Hence the protocol should be an optional one. His country's proposal was well balanced and did not run counter to the interests of any Member State, because it conformed with the procedures followed by the United Nations in the development of human rights instruments and with the United Nations approach to capital punishment from the point of view of human rights.

19. In accordance with General Assembly resolution 37/192 on capital punishment, and with the complete approval of his delegation, the complex task of drafting a second optional protocol had been referred to the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. They were certainly the most appropriate bodies to do so.

20. Since more time was needed to complete the examination in question, his delegation agreed that consideration of the item could be resumed at the forty-first session of the General Assembly. His delegation now proposed simply to table a procedural draft resolution.

21. With regard to the draft convention against torture, he referred to the statement made at the 44th meeting by the representative of Ireland on behalf of the members of the European Community. He wished to add that a principal element of the draft convention was the establishment of a universal obligation for States

(Mr. Borchard, Federal Republic
of Germany)

parties either to try the offender or to extradite him, so that no one guilty of torture could feel safe from prosecution.

22. Since torture was one of the most serious of all violations of human rights, it was of decisive importance that international legal instruments against torture should incorporate effective mechanisms for enforcement, and his Government therefore welcomed the mechanisms contained in the Draft Convention, especially those in articles 19 and 20.

23. Mrs. TON NU'THI NINH (Viet Nam), referring to item 96, emphasized the importance of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, contained in General Assembly resolution 3384 (XXX). It was deplorable that imperialism, spearheaded by the United States of America, disregarding its professions of faith and driven by the military-industrial complex, was leading the countries of the world to ruin in an unprecedented armaments race, on which absurd quantities of intellectual and material resources were being squandered. Nor did it hesitate to endanger mankind by nuclear explosions to extend militarization to outer space or to increase the strength of chemical weapons and other means of extermination, such as binary weapons. In other words, the technico-scientific revolution was aggravating the threat to the right to life. Imperialist policy consisted in encouraging tensions and confrontations, especially in third world countries, which it provided with arms in return for the very money it gave them for economic and development assistance.

24. In view of that situation every effort must be made to achieve disarmament, so that the fruits of human ingenuity could be used in the service of peace and mankind. For a country such as Viet Nam, which some wanted to put back in the stone age, the right to development, in which the scientific and technological revolution played a central role, was essential. She therefore stressed the particular importance of operative paragraphs 3, 5 and 6 of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, and also of resolution 1984/29 on human rights and scientific and technological progress, adopted by the Commission on Human Rights at its fortieth session.

25. The benefits of science and technology were being withheld from developing countries by economic and scientific neo-colonialism which monopolized them, through transnational corporations, together with international capital and trade - where direct plunder was not resorted to, as in the case of the appropriation of the uranium and natural resources of Namibia. The brain drain, witnessed helplessly by the developing countries, seemed a bitter irony, and was part of the scientific and technological pressure which imperialism brought to bear on them.

26. The former colonial Powers and the countries which practised neo-colonialism were trying to shirk their historical responsibilities. The United States, in particular, had a very short memory. Means of chemical warfare had been used

(Mrs. Ton Nu'Thi Ninh, Viet Nam)

against the Vietnamese population, resulting in ecocide and biocide. Not content with that, the United States was applying an economic blockade so that, now that the battle for independence had been won, Viet Nam could not succeed in the struggle for development. Nevertheless, concerned United States citizens rejected the cynical policy of their Government and had formed a United States-Viet Nam Committee for scientific and technical co-operation. It should be noted that only two developed capitalist countries had sent the Secretary-General the information on compliance with the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, which revealed the complete indifference of countries that had a fundamental role to play in that area.

27. The developing countries, being aware that basic human rights could not be negotiated and were inherent in the human condition, by contrast attached immense importance to the right to development and, above all, to education and scientific and technical research for peaceful purposes. Priority should be given to the uses of science and technology in demography and family planning, and it was therefore essential to implement the World Population Plan of Action adopted at Bucharest in 1974 and ratified at Mexico City 10 years later by the International Conference on Population. Rationally controlled demographic growth could lead to greater life expectancy, especially in developing countries, where it was much lower.

28. Another matter of strategic priority for developing countries was the training of scientific and technical personnel, an area in which India had provided an example for others to follow. She drew attention to the work performed in that regard by the United Nations, and referred to a draft code for the transfer of technology prepared by UNCTAD and to the relevant programmes of UNIDO, and underlined the importance of efforts by the movement of non-aligned countries and the Group of 77 to establish a new international economic order.

29. In short, individual rights were necessary and important, but they could not replace or relegate to oblivion other fundamental rights: the right to life, to independence, to work, to sustenance and to study, which should be guaranteed to all human beings and to all peoples. The developed countries could afford the luxury of making declarations on the fruits of science and technology at the London Summit Conference, in June 1984, but for the starving multitudes in Ethiopia and other countries, progress could only mean help for survival. Only when the exploitation of man by man had ceased could science and technology serve the interests of peace and benefit all mankind.

30. Mrs. YAMAZAKI (Japan), referring to agenda item 95, said she was proud to state that in her country freedom of religion, as a component of freedom of thought and conscience, was guaranteed in the Constitution and duly respected in practice. Nevertheless, religious intolerance and discrimination still existed in the world, perpetuating hatred between peoples and nations. She recalled the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the importance of which was evident from the wars and suffering caused by disregard for, or infringement of, the right to freedom of thought, conscience, religion and belief.

(Mrs. Yamazaki, Japan)

31. The problem of religion was a very complex one, intertwined with various historical and cultural elements, but that should not be a pretext for inaction. She hoped that, in accordance with General Assembly resolutions 37/187 and 38/110 on the elimination of all forms of religious intolerance the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities would soon conclude their consideration of the measures required to implement the declaration on the subject. She attached great importance to the seminar to be held in December, within the framework of the advisory services programme.

32. With regard to item 96, until only recently emphasis had been placed mainly on the negative effects of scientific and technological developments on human rights. It was therefore very important that in 1968, the International Conference on Human Rights had been held in Teheran, and useful and valuable studies and reports had been produced on such questions as the use of computerized files and the protection of persons detained on grounds of mental ill-health.

33. Although the necessary attention must still be paid to the negative effects of scientific and technological developments, so as to keep them to a minimum, the positive role of those developments in helping to promote and protect human rights and fundamental freedoms must be borne in mind. The international community should review existing studies and, if necessary, update them in the light of recent advances in the field, taking into account both the negative and the positive effects they had had. To that end, Japan had joined with Yugoslavia in sponsoring a draft resolution (E/CN.4/1984/L.37), which had been adopted without a vote by the Commission on Human Rights at its fortieth session (resolution 1984/27). His delegation hoped that, in accordance with that resolution, Member States and the relevant international organizations would co-operate with the Secretary-General with a view to reaching greater understanding of the question.

34. In the matter of the relationship between scientific and technological progress and human rights, Japan had undertaken and promoted research projects in various related fields such as industrial robotics, environmental pollution, the application of new technologies to housing and city planning, and education and vocational training; it hoped that its experience would serve as a basis for extending that progress to mankind as a whole. Japan believed that science and technology were intellectual activities which were intrinsically and ethically neutral. Whether their effects were positive or negative depended on the ends to which they were used. It was essential to prevent conflict between scientific and technological progress and the protection of human rights since the two fields were complementary. The problem, then, was to use scientific and technological progress in such a way as to promote the welfare of mankind. Japan also considered that if scientific and technological developments created conditions favourable to the enjoyment of human rights, the individual should be the ultimate beneficiary of those developments, which should serve to promote not only economic and social rights, but also civil and political rights. Finally, since the promotion of human rights and the advance of science and technology were of great importance to both developed and developing countries, the developing countries should pay the

(Mrs. Yamazaki, Japan)

necessary attention to the question of the human implications of technological developments. Japan considered that the problem under discussion was inherent in progress and that the international community must therefore resolve to refrain from disagreements and to find reasonable ways of addressing it.

35. Mr. PURSLAND (United Kingdom) said that the most important item in the cluster of items under discussion was item 99, on torture, in particular the draft Convention submitted to the General Assembly by the Commission on Human Rights. His delegation was prepared to accept the text submitted by the Commission in the interest of securing the earliest possible adoption of the Convention, and hoped that other delegations which, like his own, had certain reservations about the text, would take a similarly constructive and flexible approach. He also wished to announce that in the past month the United Kingdom had made a contribution for the first time to the United Nations Voluntary Fund for Victims of Torture.

36. Torture could take many forms. The role of the medical profession was critical and sensitive. It was for that reason that, in 1982, the General Assembly had adopted the Principles of Medical Ethics. However, adoption of those Principles would have served no purpose unless Member States succeeded in disseminating and implementing them. His delegation regretted that so far only 12 States had informed the Secretary-General of the measures they had taken in that respect. He hoped that many other Member States would ensure that the Principles were disseminated widely and implemented effectively and report to the Secretary-General in that sense.

37. Turning to item 98, on the International Covenants on Human Rights, he said that effective implementation of human rights instruments was essential if they were to be of any use. That was why the work of monitoring bodies, such as the Human Rights Committee, was so important. The United Kingdom considered that the Human Rights Committee had done a splendid job and set a standard for other monitoring bodies. It had established a constructive dialogue with States, examined national reports critically and impartially, and made an imaginative start to its consideration of the second periodic reports of States parties. However, the Committee's effectiveness was seriously inhibited by three factors: the fact that almost half the States Members of the United Nations had not yet ratified the Covenant on Civil and Political Rights; the failure of a few States parties to live up to their reporting obligations; and, lastly, the inadequacy of current publicity concerning the Committee's work and other administrative arrangements for its meetings. His delegation had raised the last question in the Third Committee in 1983, and resolution 38/116 included a paragraph urging the Secretary-General to take further positive steps to ensure that adequate publicity and other arrangements were made to enable the Human Rights Committee and the Economic and Social Council to carry out effectively their respective functions under the International Covenants on Human Rights. In paragraph 26 of its report (A/39/40), the Committee had emphasized the importance it attached to the need for increasing publicity for the Covenant. Although his delegation welcomed the assurances of co-operation offered by the Secretariat and by Mr. Herndl, Assistant Secretary-General for Human Rights, it was still unsatisfied by the inadequate

(Mr. Fursland, United Kingdom)

importance the Secretariat attached to that question and by the actual level of services and publicity provided. In that connection, he recalled that resolution 38/116 also urged the Secretary-General to expedite arrangements for the publication of the official public records of the Human Rights Committee, that was becoming increasingly urgent since the Committee had started considering second periodic reports. Therefore, in view of the fact that, together with the Universal Declaration of Human Rights, the International Covenants were the foundation of international human rights standards, the United Kingdom hoped that the Secretariat would devote more attention and resources to that issue.

38. The excellence of the Human Rights Committee's work depended essentially on its members, who had always been exceptional people, expert in legal and human rights issues and dedicated to their work. The honoraria of Committee members did not reflect the fact that they did preparatory work in order to be able to attend Committee sessions and discharge their functions satisfactorily. If those honoraria were not increased, the Committee would cease to attract candidates of the highest calibre, and the quality of its work would inevitably decline. For the United Kingdom that would be a tragedy. It hoped that the Secretariat would review the problem as a matter of urgency and take the necessary remedial steps through a redeployment of resources.

39. In the opinion of his delegation, the report of the Secretary-General on the meeting of the chairmen of the bodies entrusted with the consideration of reports on human rights instruments showed that the Economic and Social Council had been much less effective in monitoring the International Covenant on Economic, Social and Cultural Rights. The Sessional Working Group of Governmental Experts on the Implementation of the Covenant continued to be unable to attract sufficient candidates to fill its seats and frequently had difficulty in reaching a quorum. In addition, its consideration of reports submitted by States was perfunctory. In the opinion of his delegation, responsibility for those deficiencies lay not with the members of the Working Group but with the system itself, which required radical reforms. Those reforms should include the proposals made at the meeting of chairmen of human rights bodies to which he had referred, which were set out in document A/39/484, relating to the election of members of the Working Group and the timing of its sessions. All delegations should be prepared to support those proposals; on the other hand, his delegation was less sympathetic to the proposal that alternate members should be elected to the Working Group. The meeting of chairmen of human rights bodies had been useful and should be repeated on a biennial basis. His delegation was generally sympathetic to the proposals made at that meeting, which were set out in paragraph 31 of document A/39/484, particularly those aimed at developing a system of regional advisers on human rights standards and establishing a facility within the Centre for Human Rights to provide advice and assistance to Governments at their request.

40. With reference to item 96, on human rights and scientific and technological developments, it was the view of his delegation that scientific and technological developments had advanced the achievement of human rights, particularly in the economic and social fields. Existing and future scientific and technological

(Mr. Fursland, United Kingdom)

developments must be used for the benefit of the international community as a whole and particularly for the benefit of poorer people in developing countries. The United Kingdom's current aid programme of over 1 billion pounds sterling demonstrated his Government's commitment to that end. Nevertheless, it was equally true that certain scientific and technological developments threatened human rights in every country of the world. The obvious example was the production of increasingly awful weapons of destruction, which absorbed resources that could be deployed for more useful purposes.

41. There were other abuses of scientific and technological developments such as the abuse of psychiatry through the detention and mistreatment of persons in mental institutions on account of their political views or on other non-medical grounds. The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1984/3 and Corr.2) left no doubt about the seriousness of that problem and the urgent need to adopt measures at the international level. Since 1981, the Sub-Commission had been considering a draft body of guidelines, principles and guarantees for the protection of people in that situation. The United Kingdom regretted that the Sub-Commission had still not finished its work and hoped that it would do so at its next session, so as to enable the Commission on Human Rights to study the important draft instrument at its 1986 session.

42. With regard to item 95, his delegation wished to record its satisfaction that the Sub-Commission and its Rapporteur had started work on their study on the problems relating to the elimination of all forms of religious intolerance. Discrimination on religious grounds was as obnoxious as discrimination on racial, ethnic or sexual grounds and was just as widespread. Many Governments, representing both religious and areligious societies, practised or encouraged discrimination or intolerance against minority religious groups, in an intolerable infringement of the right to freedom of religion, set forth in the Universal Declaration of Human Rights. That demonstrated the need for more effective action by Governments and the international community to ensure the effective implementation of the principles laid down in the Declaration on the Elimination of All Forms of Intolerance, adopted by the General Assembly without a vote in 1981.

43. Mr. SCHIFTER (United States of America) said that a critical review of the individual articles of the Universal Declaration of Human Rights from the perspective of experience over the past 36 years, since the date of its adoption by the General Assembly, revealed a fundamental problem in that document: a good many of its articles provided for limitations on the powers of Governments that a great number of Governments were simply unwilling to accept. If challenged on the ground that they had violated the Declaration, those Governments would, if they bothered to respond at all, point to article 29 (2), which subjected individual rights to such limitations as were determined by law for the purpose of meeting the just requirements of morality, public order and the general welfare in a democratic society. Some of the worst violations of human rights had been justified on that ground because universal acceptance of the specific standard that had been violated had been lacking.

(Mr. Schifter, United States)

44. There were, however, a few standards on which there was a truly universal consensus; one of those was the standard contained in article 5 of the Declaration, which provided that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Regrettably, that did not mean that the world had in fact rid itself of that odious practice or indeed that it was approaching that desirable goal. Currently torture continued to be resorted to frequently by government agents to punish or to obtain confessions or information. Revulsion against such practices, however, was so widespread that there was indeed a chance that a strong and concerted international effort could reduce their incidence. To that end, the United States had supported and participated actively in the preparation of the draft Convention against Torture (E/CN.4/1984/72), and hoped that the Third Committee would recommend it for adoption by the General Assembly during the current session. The United States believed strongly that the adoption of the draft Convention against Torture would be a decisive step in combating the evil. Nevertheless, even the addition of a new and more effective legal instrument would not abolish such practices overnight. For that reason the United States had supported the establishment in 1981 of a voluntary fund within the United Nations system to assist the victims of torture.

45. With reference to specific provisions of the draft Convention, he wished to call attention to the fact that articles 5, 6 and 7 provided for a workable, effective system of universal criminal jurisdiction. The United States welcomed the proposal to establish a committee against torture and to equip it with a limited implementation mechanism. His delegation strongly supported the full text of articles 19 and 20, including the sections which appeared in brackets in the report of the Working Group, as those articles were clearly compromise provisions which nevertheless represented concrete and significant steps forward.

46. Mrs. POMETTA (Permanent Observer of Switzerland), speaking on item 99, said that torture was a crime against human dignity but that its practice was spreading despite universal condemnation. The strengthening of the prohibition on torture through the adoption of effective measures at the international level represented, in the opinion of her Government, a priority objective with a view to ensuring better protection for persons who had been deprived of their freedom and providing effective safeguards for human rights in general. Switzerland therefore strongly supported the draft Convention against Torture, which was the result of long and difficult negotiations and would contribute to strengthening current international law in a number of ways: it provided for an international control mechanism to ensure its effectiveness; it respected the régime of the 1949 Geneva Conventions and their Additional Protocols; it did not impinge on the important role performed in that context by the International Committee of the Red Cross.

47. The draft Convention was a compromise text and the result of a consensus reached after seven years of discussion. For its part, Switzerland could accept it although the text was not entirely satisfactory on all points, particularly with regard to the international control mechanism to be established. In the view of her Government, the greater the degree of coercion in the draft Convention, the greater would be the degree of protection against torture which would be afforded

(Mrs. Pometta, Permanent
Observer, Switzerland)

to individuals deprived of their freedom. In that connection, article 17 to 24 of the draft were compromise texts representing a solution which her Government could accept in so far as they reconciled two basic elements albeit in a less than perfect form, namely, the creation of an effective control mechanism to the extent that that was possible and the need to guarantee acceptance of the Convention by as many States as possible.

48. Consensus in the Commission on Human Rights had been lacking only in respect of article 19, paragraphs 3 and 4, and article 20. In that connection, her Government supported the establishment of a committee against torture and considered that such an organ should enjoy as of right, not on an optional basis, the powers set forth in article 19, paragraphs 3 and 4, and article 20. A convention which did not incorporate those provisions would not represent an advance on the current position in international law. Switzerland therefore hoped that the General Assembly would adopt the draft Convention during its current session.

The meeting rose at 12.40 p.m.