



**SUMMARY RECORD OF THE 41st MEETING**

**Chairman:** Mr. JATIVA (Ecuador)

**later:** Mr. ABULHASAN (Kuwait)

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The meeting was called to order at 3.05 p.m.

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1. Ms. LAFORTUNE (Canada), speaking on agenda items 100 and 101, said that although the Universal Declaration of Human Rights clearly enunciated the fundamental rights of each individual, subsequent instruments had further elaborated and defined the elements of those rights with a view to ensuring their exercise and protection. Hence the importance of the International Covenants on Human Rights to which the United Nations General Assembly every year urged States which had not yet done so, to accede.
2. In large measure, continued scrutiny by the United Nations had resulted in the ratification of those instruments by an ever-increasing number of States. That scrutiny must continue. All States parties should also use their influence with other States in order to urge them to adopt those important texts. Her delegation welcomed ratification of the Optional Protocol by Togo and Hungary.
3. Neither could the problems currently facing the United Nations human rights system be ignored. It was well known that some States neglected their obligations and others were ill-equipped to meet them; that treaty monitoring bodies were overburdened with work and the United Nations Secretariat did not have sufficient resources to support those bodies, and that the financial crisis threatened the entire system. Her delegation welcomed the meeting of chairpersons of international human rights treaty bodies. The proposals and recommendations adopted at the meeting, and the suggestions made by influential private groups represented concrete means of resolving the problems. Both of those suggestions, which would involve little or no additional cost, were intended to reinforce the work of the treaty monitoring bodies and, at the same time, lighten the reporting burden of States.
4. If treaty monitoring bodies were to function properly and at regular intervals, the problem of financing them would have to be resolved first and

(Ms. Lafortune, Canada)

foremost, particularly with respect to those bodies funded partially or solely by contributions from States parties. Canada strongly supported the proposal to establish a separate agenda item on the implementation of the United Nations human rights instruments. Moreover, her delegation had co-sponsored a resolution whose purpose was to ensure recognition of the role and responsibility of the United Nations, its organs and Member States in drafting, adopting and implementing human rights instruments, and in addressing the problems to be dealt with. It was incumbent on Member States to ensure that the human rights system they had established functioned effectively.

5. Mrs. SYAHRUDDIN (Indonesia) referred to the circumstances in which the Universal Declaration of Human Rights had been proclaimed and said that its principles had served as the framework for subsequent human rights initiatives. Forty years later, the international community should rediscover the spirit of the Declaration and make a renewed commitment to its principles.

6. Referring to agenda item 97, she noted the adoption, in 1981, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. Throughout history, such discrimination had led to divisiveness and to the loss of human life, whereas respect for the beliefs of others should be a unifying force in society.

7. In Indonesia, the world's major religions were practised freely. That was a right guaranteed by the Constitution and the Government did its utmost to maintain peaceful coexistence among many denominations, thereby strengthening social bonds. After independence, Indonesia had established the Department of Religious Affairs to promote religious liberty and, in 1980, the Interreligious Consultative Board.

8. Referring to agenda item 98, she said that the dramatic advances made in science and technology had revolutionized the social and economic climate. However, nations had the obligation to use those achievements for peaceful purposes, and not to the detriment of human rights and fundamental freedoms.

9. Referring to agenda item 99, she said that her delegation was encouraged that the open-ended working group of the Commission on Human Rights would be meeting shortly for the second reading of the draft convention on the rights of the child. She hoped that the draft convention could be submitted to the General Assembly at its forty-fourth session.

10. With regard to agenda item 106, she said that, as a democratic State founded on the principles of the rule of law, Indonesia had signed in October 1985 the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Furthermore, it had ratified the 1949 Geneva Conventions. The importance that Indonesia attached to the protection of human rights, which was written into its Constitution and was a fundamental part of its State philosophy (Pancasila), was also reflected in its legal system. The system was based essentially on the following principles: the presumption of innocence, the guarantee of legal counsel, and the right of appeal to a higher court. Her

(Mrs. Syahrudin, Indonesia)

Government, which sought to maintain social order on the basis of independence, peace and justice, and which had outlawed the use of torture and all other forms of maltreatment, hoped that the aforementioned Convention would soon be universally adopted and observed.

11. Mr. PALACIOS (Spain), referring to the fortieth anniversary of the Universal Declaration of Human Rights, soon to be commemorated, said that, as far as his country was concerned, recognition of human rights was not enough; genuine respect by all countries was also required. The rights recognized in the two international Covenants were indivisible and represented the best guarantee of international peace, justice and security. Any violation of any one of those rights, wherever it occurred, was a matter of concern to the international community as a whole, and beyond the exclusive, national competence of the individual State.

12. With regard to agenda item 99, his delegation attached considerable importance to the draft convention on the rights of the child. It hoped that drafting would soon be complete and that the adoption of that instrument would coincide with the commemoration in 1989 of the thirtieth anniversary of the Declaration on the Rights of the Child. Drafting of certain articles was becoming bogged down in detail, however, and some delegations sought to incorporate into the draft text elements of their own national legislation, which was likely to conflict with the desired objective. Drafting of multilateral rules was a complex task since it meant establishing by consensus a minimal common denominator and, clearly, no delegation wished to compromise its own national interests. His delegation considered, however, that the number of proposals put forward should be restricted at the present stage. Spain would not support initiatives seeking to extend the scope of the definition of the word "child" or to amend the age limit, already established by consensus, to be applied in the draft convention.

13. With regard to agenda item 97, there could be no discrimination concerning the right to freedom of thought, conscience, religion and belief. The principle of religious tolerance and freedom embodied in article 18 of the Universal Declaration of Human Rights could only be limited in accordance with the terms of article 4, paragraph 3 of the International Covenant on Civil and Political Rights. Efforts should be made to ensure the widest possible dissemination of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. That Declaration, together with the Universal Declaration of Human Rights and the international covenants concerning human rights, provided the international community with adequate instruments to combat that type of violation. As far as his delegation was concerned, it was pointless to draft new texts. The proliferation of such instruments would do nothing to reduce the prevalence of violations based on religious intolerance. It considered that the Special Rapporteur had done a remarkable job and supported the renewal of his mandate.

14. Referring to agenda item 106, he regretted that torture was still being practised systematically in many parts of the world. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provided the international community with a new instrument which he hoped would be accepted by

(Mr. Palacios, Spain)

all States without reservation. Moreover, by recognizing the competence of the Committee against Torture, in accordance with articles 21 and 22 of the Convention, countries would demonstrate that they genuinely wished to bring an end to such a deplorable practice. Spain attached great importance to that recently created body, but regretted that inadequate funding had prevented it from fulfilling all of its mandate at its first session. The fight against torture must be universal and all-embracing. Accordingly, Spain regretted the reservation entered by one Member State upon ratification of the Convention, and asked that country to reconsider its position.

15. His delegation stressed the importance of the work of the Special Rapporteur on torture, which it fully supported, hoping that his mandate would be extended. Moreover, Spain would continue to contribute to the United Nations Voluntary Fund for Victims of Torture.

16. The financial problems experienced by human rights monitoring bodies were likely to impede the international community's regulatory activities. He emphasized that each State party to a convention was obliged to contribute to the costs arising therefrom.

17. Mr. OSNATCH (Ukrainian Soviet Socialist Republic), speaking on agenda item 97, said that the numerous violations of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, observed throughout the world, seriously threatened to undermine human rights and freedoms in general. While it was difficult to find just one means of eliminating a phenomenon that had multiple causes, it would certainly be less widespread if all States observed the provisions of the Declaration in practice.

18. As far as his country was concerned, those provisions should become rules of international law. Accordingly, it supported the recommendation by the Special Rapporteur of the Human Rights Commission that the Commission should prepare a draft international convention on the elimination of all forms of intolerance and discrimination based on religion or belief. For that purpose, it could set up an open-ended working group that could meet immediately before or during Commission sessions.

19. Freedom of conscience presupposed the freedom to express both religious and atheistic beliefs and to enjoy that freedom without discrimination. In a democratic society, everyone should be entitled to define freely his or her position in that respect without repercussions with regard to the enjoyment of other rights and freedoms.

20. In his country, the separation of Church and State did not mean that the State would take no interest in citizens practising any one of the religions. Believers and members of the clergy must enjoy equal rights and all the benefits offered by society. Incitement to hatred on religious grounds must be prohibited and the rights of believers and non-believers protected equally by law. Belief or non-belief could be no basis for precedence or privilege.

(Mr. Osnatch, Ukrainian SSR)

21. Unfortunately, protection of the rights of believers was inadequate from the legislative point of view, and violations of their constitutional rights did occur in practice. Restructuring (perestroika), democratization and openness (glasnost) should ensure that such cases did not happen again. Religious leaders had also acknowledged that the transformation of Soviet society was having favourable consequences for the Orthodox Church and for other denominations. There were many encouraging signs: open discussions on improving relations between Church and State, greater application of the principle of the freedom of conscience and wider participation of the Church in the life of society, which was reflected in a growing number of religious publications and by the opening and construction of new places of worship and the use by the Church of the mass media. Thus, a part of the famous Monastery of the Catacombs in Kiev had been returned recently to the Orthodox Church, which was in the process of reopening a monastery there. New legislation on freedom of worship and freedom of conscience was in preparation.
22. The celebration in 1988 of the millenary of the introduction of Christianity in the Ukraine was not only a religious event, but also a major cultural occasion. The Government had supported the patriotic, peaceful and humanist activity of the Orthodox Church and the religious organizations of other denominations. The Ukrainian public had learned with great satisfaction that a number of eminent ecclesiastics (in particular, Filaret, exarch of the Ukraine and metropolitan of Kiev and Galich, Sergei, metropolitan of Odessa and Kherson, and Nikodem, metropolitan of Lvov and Ternopol) had recently been awarded high honours by the State.
23. The public events, primarily religious, which had marked the celebration of the millenary in Kiev had been held with the participation not only of believers but also of representatives of the non-governmental organizations of the Republic. The celebrations had been widely reported in the media, and particularly television.
24. The modern age could not fail to influence the content of religious ideas. A growing social awareness was evident among believers, who were becoming increasingly concerned at the current problems of mankind. Many religious leaders were speaking out more and more on behalf of peace and the halting of the senseless arms race. Philosophical differences should not prevent believers and atheists from understanding each other when universal values were at stake. It was precisely such co-operation which would make it possible to eliminate religious intolerance and to establish genuine freedom of conscience.
25. Mr. Abulhasan (Kuwait) took the Chair.
26. Mr. STUART (Australia) said that the adoption over the previous 40 years of various human rights instruments, including the two International Covenants, represented one of the most remarkable achievements of the United Nations. However, in order for those instruments to be truly effective, it was essential that all countries should accede to them. His country was therefore appealing to States which had not yet done so to accede to or ratify those Covenants without delay.

(Mr. Stuart, Australia)

27. Countries were feeling increasingly accountable for protecting the rights of their nationals. The monitoring of the performance of Governments in that respect, through the examination of periodic reports, had been a major factor in strengthening the sense of accountability. The constructive dialogue which had been established between Governments and the Human Rights Committee seemed to have enhanced - it was impossible to measure to what extent - the protection of human rights at the national level. In that connection, the problems currently confronting the bodies responsible for considering those reports seemed all the more disturbing. The situation had been discussed by the chairpersons of the human rights treaty bodies, and his delegation hoped that implementation of the recommendations adopted by those bodies at their most recent meeting would enhance their effectiveness. Similarly, it welcomed the measures taken by the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of All Forms of Racial Discrimination to extend the time-limit for submission of States Parties' reports subsequent to their initial reports. The efforts made to simplify the guidelines on the preparation of those reports should also be supported.

28. Referring to the proposed second optional protocol to the International Covenant on Civil and Political Rights, which aimed at the abolition of capital punishment, he pointed out that an increasing number of States had, either in law or in practice, abolished the death penalty. Furthermore, the question of abolition was currently being discussed in a large number of countries. For its part, Australia had abolished capital punishment in 1985.

29. His Government was fully aware of the fact that countries had differing views on the issue. That fact should not be an obstacle to the drafting of the optional protocol, since the protocol would be binding only on countries that were prepared to abolish capital punishment in their territory. His delegation therefore welcomed the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to refer the Special Rapporteur's report on the elaboration of the protocol to the Commission on Human Rights at its forty-fifth session. His Government fully supported the text of the draft optional protocol as it appeared in document E/CN.4/SUB.2/1987/20 and its submission to the Commission on Human Rights at its next session.

30. Australia had long held the view that promotion of economic, social and cultural rights was as important as the promotion of civil and political rights. In that connection, it supported the views of the Chief Justice of the Supreme Court of India, Mr. Bhagwati, who had recommended that the Committee on Economic, Social and Cultural Rights should encourage States Parties to establish targets by which they could measure their progress towards the implementation of those rights. That did not mean that civil and political rights should be regarded as a luxury. On the contrary, experience had shown that denial of civil liberties prevented people from participating in the process of development. Generally speaking, his delegation welcomed the positive approach adopted by the Committee on Economic, Social and Cultural Rights in carrying out its task, and it strongly encouraged all efforts aimed at strengthening the co-ordination between the Committee and United Nations bodies.

(Mr. Stuart, Australia)

31. His delegation welcomed the objectivity and independence of mind shown by the Special Rapporteurs on such topics as torture and religious intolerance. Rather than seeking confrontation, they had tried to establish the facts, to focus attention on remedial measures and, with regard to torture, to put the emphasis on the protection of victims and on prevention. As a multicultural nation, Australia was particularly sensitive to the question of freedom of religion and of belief and it supported the activities of the United Nations aimed at promoting public awareness of that question.

32. Australia had participated actively in drafting the International Convention on the Rights of the Child, which was nearing completion. However, it regretted the fact that the "technical review" of the first draft of the Convention, which it had recommended, had not been carried out as thoroughly as might have been desirable. Nevertheless, it endorsed the efforts made by the Working Group to finalize the drafting of that important instrument expeditiously.

33. His delegation regretted that the item on human rights and scientific and technological developments had been unduly politicized. However, it was pleased that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had, at its last session, adopted draft principles and guarantees for the protection of mentally ill persons. It hoped that the Commission on Human Rights would give detailed consideration to that set of principles and to the guidelines concerning the use of computerized files elaborated by the Special Rapporteur on the subject, Mr. Joinet.

34. With regard to the prevention of torture, one of the most important goals of the United Nations in the field of human rights, his country was pleased that a new instrument was now available - the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - which his Government planned to ratify in the near future. However, it was concerned about the financial situation of the Committee against Torture, which had been compelled to shorten its first session owing to a lack of funds.

35. Lastly, his delegation reiterated its strong support for the United Nations Voluntary Fund for Victims of Torture, to which his country had made a further contribution during 1988.

36. Mr. ROKOTUIVUNA (Fiji), speaking on agenda item 97, said that his was a multiracial, multicultural and multireligious country. Since the introduction of Christianity into his country 150 years earlier, other religions and beliefs had been established and had flourished in total freedom. Over the years, houses of worship had become the focal point for community activities. In his country, religious organizations played a significant role in primary and secondary education, technical and professional training and rural development. The diverse religions practiced in Fiji had all contributed substantially to its economic and social development and to the spiritual uplifting of the population.

37. Unfortunately, his country was saddened to note that persecution and intolerance were still practised in the modern world in the name of religion. Much



(Mr. Rokotuivuna, Fiji)

remained to be done in that regard, and his country would do its utmost in the struggle for religious freedom and the elimination of all forms of religious intolerance.

38. Mr. GRODIG (Federal Republic of Germany) said that his Government's position regarding agenda item 106 had already been stated at an earlier meeting by the representative of Greece, speaking on behalf of the European Community.

39. With respect to agenda item 100, he said that, next to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were the most important instruments elaborated by the United Nations in the field of human rights, since they established standards to which all States were expected to adhere. It was therefore regrettable that only 87 Member States were parties to the first of those Covenants and only 90, to the second, and he urged those States which had not yet done so to ratify both instruments so that they would become universally applicable as soon as possible.

40. Important though it was, the adoption of international instruments was, however, only a first step, and it must be followed by full and effective implementation of the human rights standards thus adopted. That was why the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, set up to monitor the implementation by States Parties of the rights enunciated in those instruments were of crucial importance. In that regard, he commended the members of the Human Rights Committee for the integrity, independence and skill which they had shown in discharging their task, identifying deficiencies in the protection of human rights and, in particular, inducing States Parties to comply fully with the provisions of the Covenants. He also thanked the Committee on Economic, Social and Cultural Rights, which had identified appropriate working methods in order to verify whether the rights enshrined in the relevant Covenant were being fully respected.

41. In that connection, he said that the recent meeting of the chairpersons of human rights treaty bodies had led to recommendations and conclusions that deserved careful consideration. For example, the suggestion to provide technical assistance and advisory services to assist States Parties in drafting their reports to the respective Committees could help States resolve problems in complying with their reporting obligations, which had resulted in regrettable delays in the submission of those reports. To follow up on that proposal, it would be necessary to increase the financial and human resources of the Centre for Human Rights. His delegation had suggested on several occasions that that should be done, since the share of the United Nations budget allocated to human rights was clearly insufficient. Another recommendation deserving support concerned the meetings of chairpersons of the United Nations human rights treaty bodies. It was essential to acknowledge the importance of those bodies and ensure that they received wide publicity.

42. The wide gap between the letter and spirit of the human rights Covenants and reality had often been deplored. It was essential to remedy that situation, but that did not mean that it would be sufficient to draft new texts, new resolutions

(Mr. Grolig, Federal Republic of Germany)

or new treaties. New instruments would be truly meaningful only if they increased the effectiveness of the protection provided by the principles contained in the human rights Covenants. In that connection, his country welcomed the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which it had recently signed. It also welcomed the efforts that were under way to elaborate a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

43. Mr. TOTI (Hungary) said that the fortieth anniversary of the Universal Declaration of Human Rights was a good opportunity to recall that the most urgent task facing the international community was to build a universal culture of human rights. Bearing in mind the interdependence of economic and social development, the reaffirmation of faith in human rights and fundamental freedoms and in the principle of the dignity of the human person constituted the foundation for any strategy of integrated development.

44. Although scientific and technological progress made it possible to improve the peoples' living conditions they also could give rise to social problems; that was why it was necessary, for example, to ensure a balance between rural development and urban development, to prevent adverse effects on society from urban development and industrialization, and to ensure a balance between scientific, technological and material progress and the intellectual, spiritual, cultural and moral advancement of humanity, while at the same time safeguarding the environment. His delegation attached special importance to increasing international co-operation in that regard.

45. Turning to agenda item 99, he said that it was extremely important that children should live and grow up in a peaceful environment and that their physical and mental development requirements should always be satisfied. That explained the need for an international legal instrument guaranteeing the protection of children and respect for their rights. Children should also be brought up in a spirit of understanding, tolerance and friendship among nations.

46. Education was crucial in that regard. The principles of equal opportunity and non-discrimination clearly provided for the establishment or maintenance, for religious or linguistic reasons, of educational systems or institutions which were in keeping with parents' wishes. According to the same principles, minorities should be able to carry on their own educational activities, which included having their own schools and instruction in their own language.

47. His delegation regarded the work of the Commission on Human Rights on the draft convention on the rights of the child as very important. It was to be hoped that 1989, which marked the thirtieth anniversary of the adoption of the Declaration of the Rights of the Child, would see the adoption of that new convention.

48. The international community, while continuing its standard-setting activity, must give greater attention to the implementation of human rights principles. The

(Mr. Toth, Hungary)

effectiveness of human rights instruments depended essentially on universal adherence to, and strict compliance with, those instruments by States parties. In that connection, his delegation supported any proposal aimed at reinforcing the role and effectiveness of the supervisory mechanisms of the United Nations system. The competence of monitoring bodies to receive and consider complaints from both States parties and individuals concerning human rights violations must be recognized, and the corresponding branches of the Secretariat strengthened accordingly. Hungary had established fruitful dialogue and co-operation with the various supervisory bodies. In September 1988, it had acceded to the Optional Protocol to the International Covenant on Civil and Political Rights. It considered that respect for human rights could not be regarded as an exclusively internal matter coming within the sole responsibility of individual States, because non-respect for voluntarily assumed treaty obligations had a negative effect on relations among States. Hungary would always stand ready to co-operate in promoting human rights and fundamental freedoms in all ways.

49. Mr. PETERS (Netherlands), referring to the International Covenants on human rights quoted the single words of truth spoken by a tribal elder: "Modern law is weak, it is only in the books, but traditional law is strong, it is in the minds of the people". In other words, human rights provisions could be strong only if they carried conviction not only among those who drafted them but also among the people in general. That was the two-tiered approach that had been followed in the human rights field, not only at the drafting stage of the various human rights instruments since the Universal Declaration of Human Rights but also when it came to supervising their implementation.

50. His delegation was gratified to see that the members of the Human Rights Committee took their own experience as a starting-point for discussion, whether in dealing with general comments, individual communications or periodic reports. His Government had always favoured that approach, which had been adopted recently when the second periodic report of the Netherlands had been considered. The open-mindedness characteristic of the members of the Human Rights Committee had been demonstrated recently in the definition of the word "family" adopted by the Committee, in which the term was given a broad interpretation. He suggested that the Committee on Economic, Social and Cultural Rights might devote one of its first general comments to the word "family" contained in article 10 of the relevant Covenant. His delegation also looked forward to the publication at the beginning of the following year of the second collection of selected views adopted by the Human Rights Committee on individual communications. The views would be a valuable source of case law for lawyers seeking to protect the human rights of their clients.

51. His delegation also welcomed the fact that in the period covered by the Human Rights Committee's report, another four States (Austria, Equatorial Guinea, Gambia and Togo) had become parties to the Optional Protocol and that Hungary was the first member of the Group of Eastern European States to have recognized the competence of the Committee to consider communications from individuals.

52. Referring to agenda item 106, he observed that the Committee against Torture had already asked to be allowed to two sessions in 1989. On that subject, he drew

(Mr. Peters, Netherlands)

attention to the need for all States parties to pay their contributions fully and on time, failing which the Committee could not function effectively. The Netherlands, which would shortly be ratifying the Convention, appealed to all countries which had or were about to become States parties to comply with their obligations. The position of the German Democratic Republic, which had stated that it would bear its share only of those of the Committee's expenses which concerned activities recognized by the German Democratic Republic as legitimate, was contrary to the provisions of the Convention against Torture and to those of the Vienna Convention on the Law of Treaties.

53. His delegation also hoped that the Committee against Torture and the Human Rights Committee would consult with each other with a view to adopting a consistent interpretation of the provisions relating to torture whose implementation they were responsible for monitoring, namely the Convention against Torture and the Covenant on Civil and Political Rights.

54. Lastly, his delegation drew attention to the fact that cases involving torture seemed to occur more frequently when detained persons were held incommunicado. For that reason, it would be appropriate for the draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, now being finalized by the Sixth Committee, to be adopted during the current year, which coincided with the fortieth anniversary of the Universal Declaration of Human Rights. Most important, however, was that the Principles should be widely disseminated and also implemented by the relevant authorities so that they did not exist only on paper. In that connection, his delegation attached much value to the United Nations programme of advisory services in the field of human rights and to the United Nations Voluntary Fund for Victims of Torture.

55. His country's view was that human rights education began at school, which was why the Netherlands Government had published a guide for teachers that encompassed all categories of human rights and was based on the teaching booklet which had been prepared by the Secretary-General in 1985 at the request of the Commission on Human Rights.

56. Mr. BYKOV (Union of Soviet Socialist Republics) said that the scientific and technological revolution had opened up vast prospects for the triumph of reason and for the development of all peoples and all individuals. If mankind strayed from that course, it would be heading straight for nuclear and ecological disaster. That was why it was particularly important for all States and all individuals to be fully aware of their duty to guarantee the right to life. It would be appropriate to establish, under the auspices of the United Nations, a committee of eminent scientists who would systematically evaluate achievements in science and technology and could make timely recommendations for the elimination of new technologies that might send man to his doom.

57. The Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights were the expression of the collective will of mankind. All States, without exception, should be parties to

(Mr. Bykov, USSR)

the International Covenants, which defined civil, political, social, economic and cultural rights as an indivisible whole. The fact that it was difficult, for various reasons, to ensure the genuine exercise of human rights in some areas of the world, should not absolve States from recognizing and respecting the rights embodied in those instruments.

58. Only recently, in the Third Committee for example, the question of human rights had frequently been used as a pretext for propaganda tirades and acrimonious exchanges. While his delegation was admittedly not blameless in that regard, it hoped that it would not be the only one to engage in self-criticism. Nowhere in the world was there an ideal country which could stand as a model with regard to respect for human rights and fundamental freedoms. The only truly universal model were the texts of the Universal Declaration and the International Covenants. Only through an exchange of experience and constructive dialogue could the United Nations potential with regard to human rights be developed.

59. In the Soviet Union, a critical examination of the situation was being conducted and ways were being sought of pressing forward with socio-economic development and the democratization of society. The first concern was reform of the political system. Many functions traditionally performed by organs of the Communist Party were being transferred to the Soviets of people's deputies, which were State bodies. The very nature of the activities of the organs of power - the Soviets - was undergoing far-reaching changes. Those bodies now had much broader authority in economic, as well as political, matters. A system of genuine popular power was taking shape and developing, enabling each individual and workers' collective to exert real influence on the membership and activities of elected bodies. Two new pieces of draft legislation, one amending the Constitution and the other concerning the procedure for the election of people's deputies, had recently been published and submitted to the public. They were arousing immense interest throughout the country and the Standing Committees on legislative proposals of the Supreme Soviet of the USSR had been deluged with letters from citizens' associations (currently more than 80,000) proposing amendments and corrections, and in some cases, even rejecting provisions outright. All those proposals and comments would be studied and taken into account when the final text was prepared.

60. Democratization was enabling citizens to participate more widely in political activities and strengthen the legal guarantees of individual rights. Far-reaching measures were being taken to increase the effectiveness of bodies responsible for enforcing the law and a reform of the Criminal Code was being prepared.

61. Unfortunately, in some areas of the country, the mistakes made during the period of stagnation had given rise to problems which were reflected in anti-social acts. Some persons were attempting to use democratic rights for anti-democratic ends. In strict observance of its undertakings under article 4 of the International Covenant on Civil and Political Rights, the Soviet Union had informed other States Parties to the Covenant, through the United Nations Secretary-General, of the imposition of emergency measures in the autonomous region of Nagorno-Karabakh and the district of Agdam in Azerbaijan SSR, where disturbances had resulted in casualties and material damage. Those measures had been introduced

(Mr. Bykov, USSR)

temporarily, in order to restore public order, protect the rights of citizens and ensure respect for the law, under the powers vested in the Presidium of the Supreme Soviet of the USSR. When the situation had returned to normal, the state of emergency would be lifted and the Soviet Union could again discharge the obligations which it had assumed under the International Covenants on Human Rights.

62. Mr. VRAALSEN (Norway), speaking on agenda item 99 on behalf of the five Nordic countries, said that the progress made in drafting a convention on the rights of the child gave reason to hope that it would be adopted in 1989, in line with the target set by the General Assembly.

63. The situation of children in many parts of the world still gave rise to serious concern. The international community was united in wishing to use every means to protect children. One way was to define clearly the rights of the child in a legally binding international instrument. The adoption of a convention would enable the international community to put into effect the declarations already adopted on the rights of the child and to have a legal basis for action.

64. The child must be regarded as an independent human being with his or her own specific rights and duties. The objective was to create a convention which addressed the specific needs of children and offered them better protection than already provided for in existing human rights instruments. It was important that the convention should afford special protection to children living under exceptionally difficult conditions. Sweden, supported by the other Nordic countries, had put forward a proposal to improve the protection of children in armed conflicts, a proposal which was currently before the working group. The sexual exploitation of children rightly gave rise to strong public indignation, and the Nordic countries noted with satisfaction that the draft convention provided for measures to prevent such abuses. It was to be hoped that the implementation machinery which formed part of the draft convention would serve to make it a particularly useful tool.

65. During the negotiations, it had been recognized that legislation needed to be supplemented by the provision of assistance to improve conditions for children. That provision, which appeared for the first time in a human rights convention, had been included in the articles on implementation of the convention adopted by the working group at its preceding session. The Nordic countries attached great importance to the role given to UNICEF and other United Nations organs to ensure the effective implementation of the convention and international co-operation in that regard. Technical advice and assistance by such organs were essential to States parties which were willing to act, but lacked resources to protect the rights of the child.

66. The following meeting of the working group would be a crucial one. It would be required to proceed with the second reading of the text of the draft convention in the light of the technical review undertaken by the Centre for Human Rights and the observations of Member States. The final draft was expected to be submitted to the Commission on Human Rights at its forty-fifth session.

(Mr. Vraalsen, Norway)

67. The working group should be given the resources and technical support necessary to enable it to complete its work in due time. It was of the utmost importance that Member States should adopt a constructive approach and exercise discipline in the final phases of the drafting process. What was wanted was not a convention that represented the lowest common denominator of national legislations, since such a convention would merely reflect the status quo. What was wanted was a convention which would permit genuine progress towards improving the situation of children.

68. In the Nordic countries, the work on the draft convention had received considerable public attention. The Nordic delegations were pleased to note that the draft was gaining increasing support from Governments and welcomed the Organisation of African Unity's appeal to the General Assembly to adopt the convention by 1989. The Nordic delegations saw that as a signal that the States members of the OAU realized the importance and usefulness of such an instrument and believed that the improvement of the lot of the world's children could not wait. He expressed the hope that everything would be done to ensure that the draft convention was adopted in 1989.

69. Mr. KABASHA (Rwanda), speaking on agenda item 100, recalled that, in its earliest years, the United Nations had given practical form to its devotion to human dignity by drawing up an International Bill of Human Rights. This Bill, composed of the two International Covenants on Human Rights, the Optional Protocol and the Universal Declaration of Human Rights, had later been supplemented by various other international instruments which set forth the rights of specific groups of individuals. Human rights was an area in which much had been accomplished, but much remained to be done. Indeed, it was not enough to draw up legal instruments; their provisions must be fully respected. Similarly, it was important to give the same attention to all categories of rights. His delegation noted that economic, social and cultural rights and civil and political rights were interdependent and mutually reinforcing. In that context, his delegation wondered why there was, on the one hand, a Human Rights Committee for civil and political rights and, on the other hand, a Committee on Economic, Social and Cultural Rights for the other rights. To avoid any misunderstanding, and to place the two Committees on an equal footing, there should be a "Committee on Civil and Political Rights" and a "Committee on Economic, Social and Cultural Rights". In his delegation's view, the Special Commission of the Economic and Social Council on the In-depth Study of the United Nations Intergovernmental Structure and Functions in the Economic and Social Fields should consider that question.

70. Rwanda, which had acceded to or ratified most of the international human rights instruments, was making tireless efforts to meet its financial obligations in that regard and to fulfil its reporting obligations under those instruments in a timely manner. Moreover, the international conventions to which Rwanda was a party were being systematically incorporated into its domestic legislation and, where there was a conflict between the texts, the provisions of the relevant conventions would prevail until the national law in question had been amended. All the rights set forth in the Covenants were guaranteed, either by the Constitution or by laws adopted especially to enforce them. Lastly, efforts were being pursued to bring

(Mr. Kabasha, Rwanda)

national laws into line with international human rights instruments. An example of such legislation was the draft code of the individual and the family, whose purpose, inter alia, was to enhance the protection of children and improve the status of women in Rwanda. Rwanda's desire to do its best to ensure protection for human rights could be seen in the express commitment of the head of State to make the country a true State of law. Similarly, respect for the individual was the focus of concern of the National Revolutionary Movement for Development (MRND), which sought to ensure that the great traditional freedoms of opinion, the press, conscience and religion were respected.

71. Like all developing countries, however, Rwanda was facing many difficulties, especially owing to a shortage of material resources. In such a situation, it was not surprising that a country should place more emphasis on education, housing, employment and medical care than on setting up trade unions or unemployment insurance schemes.

72. It was not only in respect of economic, social and cultural rights that a country might be forced to make a choice in the face of multiple needs. It should be borne in mind that there could be no rights without duties. That rule of conduct should be uniformly respected. Such was unfortunately not always the case, and at the national level many States were forced to intervene, as the Rwandese Government had done, to protect the interests of the public at large.

73. Referring to the reporting obligations incumbent on States parties to international human rights instruments, his delegation supported the recommendation of the Committee on Economic, Social and Cultural Rights that States should submit a single, comprehensive report within two years from the date of entry into force of the Covenant for the State concerned, and thereafter every five years. In his delegation's view, that practice should be extended to all the treaty bodies.

74. In conclusion, his delegation warmly welcomed the adoption by the General Assembly on 4 December 1986 of the Declaration on the Right to Development. Indeed, equal and universal access to basic services, education, medical care, food, housing, employment and an equitable distribution of income created a favourable climate for respect for all human rights.

75. Mr. KRENKEL (Austria), speaking on agenda item 100, noted with regret that only slightly more than one half of the States Members of the United Nations had so far acceded to the Covenants on Human Rights, and that an even smaller number had acceded to the Optional Protocol. Whereas the Convention of the Elimination of Racial Discrimination had reached a high level of ratifications, the Convention on the Elimination of All Forms of Discrimination against Women and the new Convention against Torture still had far to go in order to gain universal acceptance. Not only should the international community strive for universal ratification of those instruments, but care should be taken that the reservations to some of the articles did not undermine the goals being pursued. Certain States parties might even consider withdrawing reservations which could no longer be justified.



(Mr. Krenkel, Austria)

76. However, only the implementation of those instruments domestically and in everyday life could make them effective. In that regard, the possibility of individual complaints concerning human rights violations played an essential role. The same was true for reporting obligations of States under the various human rights instruments. Unfortunately, international procedures for monitoring compliance were being threatened by stagnation, thereby endangering the effectiveness of the whole system of supervision. The causes were to be found in the enormous backlog of periodic reports which the States parties to the conventions were obliged to produce in a short time span, the excessive burden placed on the various supervisory committees and, lastly, financial problems. Finally, the report of the meeting of chairpersons of human rights treaty bodies contained important recommendations which, if followed, should make it possible to solve the current difficulties. The report of the Netherlands Human Rights and Foreign Policy Advisory Committee gave additional interesting food for thought on the subject.

77. The financial crisis of the committees in question seemed largely to be due to the fact that Member States were not honouring their financial obligations. It might be necessary to consider, in that regard, financing the activities of the committees through the regular United Nations budget or by creating a special fund supported by obligatory contributions from Member States.

78. His delegation favoured the adoption of a reporting system that would cover all human rights instruments. Every country might submit a basic report containing information about its legal system which could be used by all monitoring bodies. States could then simply update the information contained in the basic report. The development of a manual containing clear guidelines for the preparation of reports would facilitate the work of Member States. States whose reports were overdue could also be invited to submit a combined report. It was to be hoped that the chairpersons of human rights treaty bodies would consider the question of reporting cycles at their next meeting, which should be held no later than 1990.

79. In order to improve procedures for the consideration of reports, it might be helpful to centralize the work of the various committees, either by appointing a special rapporteur or by establishing a working group to deal with individual country reports. In addition, advisory services should be provided to Member States on a regular basis to help them fulfil their reporting obligations. The newly established Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights played an important role in that regard. His delegation believed that all human rights bodies should have a qualified and experienced legal staff.

80. While the work-load of the Centre for Human Rights was increasing, the fact that only 1 per cent of the United Nations budget was allocated for human rights activities was disturbing. All States Members of the United Nations must make an effort to solve the financial and administrative problems facing human rights bodies.

81. Ms. GAO Yanping (China), speaking on agenda items 99 and 106, welcomed the progress made by the United Nations in prohibiting torture and other cruel, inhuman or degrading treatment or punishment and in promoting and protecting the rights of the child.

82. Torture and other cruel, inhuman or degrading treatment or punishment were barbarous acts that could not be tolerated in modern civilization. The Chinese Government had signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment two years previously. The Standing Committee of the National People's Congress, the supreme organ of the State, had ratified the Convention on 5 September 1988. The Chinese Government prohibited torture, corporal punishment, forced confessions and ill treatment. The Chinese Constitution and criminal law contained provisions to protect citizens, particularly those in prison, from any abuses by law-enforcement bodies. The Chinese Government had used every possible means - administrative measures, education and training - to prevent the occurrence of torture and ill treatment. However, China was a vast country with a large population, and much remained to be done to ensure that those measures were uniformly implemented. Her country would nevertheless discharge its obligations under the Convention in good faith and would join with other countries of the world in the effort to abolish torture and other inhuman and degrading punishments.

83. The Chinese Government was encouraged by the progress made by the United Nations and the Governments of various countries with regard to the protection of children's rights. She took note of the fact that the General Assembly had consistently requested the Commission on Human Rights to give priority to the drafting and completion of the convention on the rights of the child. She commended the work of the Commission's Working Group, which had completed its first reading of the draft convention. It was extremely important that a legal framework and the principles governing all aspects of the protection of children's rights throughout the world should be established. Her delegation therefore hoped that the second reading of the draft convention would take place in the near future. Her delegation was prepared to co-operate with the Governments of other countries so that the convention could be adopted and that the children of the world might lead better and healthier lives.

84. Mr. DE LIPKOWSKI (France), speaking on agenda item 106, expressed concern at the alarming resurgence of torture in many countries where war, oppression and terrorism reigned. It was unfortunate, moreover, that torture was growing more sophisticated through the misuse of certain technologies. The international community must therefore make its campaign against those practices a top priority.

85. He recalled the milestones which had been reached by the United Nations over the years: the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in 1975; the Convention on the same subject, adopted in 1984; the appointment in 1985 of a special rapporteur; and, lastly, the establishment of the Committee against Torture, which had met for the first time at Geneva in April 1988.

(Mr. de Lipkowski, France)

86. The normative framework established by the Convention addressed the dual concern of defining acts of torture and determining how perpetrators should be punished. It was the monitoring system, i.e. the Committee, that made the system operational.

87. France, which had been one of the first countries to ratify the Convention, welcomed the growing number of States acceding to it. His delegation noted with satisfaction that the Special Rapporteur's mandate was extended each year and commended the Special Rapporteur for having consistently discharged his duties with the skill and impartiality for which he was known. France would spare no effort to ensure that his recommendations were systematically followed up. France was also pleased that the Committee against Torture had begun its work promptly and that a Frenchwoman had been elected to serve as one of the 10 independent experts on the Committee.

88. In addition to its monitoring function, the Committee could hear petitions from individuals claiming to be victims of torture in the territory of a State party; what constituted a major innovation was the fact that it could also receive reliable information regarding alleged instances of torture in the territory of a State party and make confidential inquiries which might include visits to the territory in question, with the agreement of the State party concerned. His delegation believed that the Committee must be provided with the resources it required to perform its functions effectively.

89. His delegation attached particular significance to consideration of the first report of the Committee against Torture and that Committee's draft rules of procedure. It took note of the fact that the Committee had postponed the drafting of the rules relating to article 20 of the Convention to its second session and wished to assure the Committee that it would help to ensure that that priority task was completed in due course.

90. He reiterated his country's support for the United Nations Voluntary Fund for Victims of Torture, which had developed therapy and rehabilitation projects for victims. France had continuously increased its contribution to the Fund and believed that that humanitarian aspect of the Organization's work must be encouraged.

91. United Nations efforts would be in vain if they were not supported by genuine international solidarity generated by the work of the ad hoc national committees in many countries, the non-governmental organizations and the private individuals involved in the fight against torture. That battle was a universal and ongoing one, and France was more determined than ever to be at its forefront.

The meeting rose at 5.50 p.m.