



SUMMARY RECORD OF THE 40th MEETING

Chairman: Mr. RITTER (Panama)

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The meeting was called to order at 10.20 a.m.

AGENDA ITEM 98: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued)

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AGENDA ITEM 107: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR  
PUNISHMENT: REPORT OF THE SECRETARY-GENERAL (continued) (A/42/451 and 701)

1. Mr. FRAMBACH (German Democratic Republic) deplored the fact that even some influential States had yet to accede to the International Covenants on Human Rights and stressed the importance of co-operation between States parties to the Covenants and the bodies that monitored compliance with them. That was particularly important in the case of reporting procedures, which were intended to promote exchanges of information and experience relating to compliance rather than to denounce non-compliance and provide an opportunity for one-sided condemnation. Those procedures were geared specifically to the Covenants and in order to be effective must be implemented with the consent and co-operation of States parties.

2. In that connection, he regretted that the procedure followed by the Human Rights Committee in considering second periodic reports was unduly formalized and time-consuming and thus neither appropriate nor effective. The Committee had nevertheless been working constructively on the basis of consensus and compromise and he regretted that the 1987 session of the Committee on Economic, Social and Cultural Rights, which had demonstrated the need to observe proper general procedures, had at times been marked by confrontation and premature calls for a far-reaching revision of procedures, instead of drawing on the positive experience of the Human Rights Committee and other supervisory bodies.

3. Technical assistance, direct contacts between States parties and simplification of reporting guidelines would all help solve the problem of overdue national reports and assist States in complying with their reporting obligations. Overgeneralization and overcentralization of reporting must be avoided, and the principle that States parties alone were responsible for enforcing the Covenants must also apply to non-governmental organizations. The Committees that monitored observance of the Covenants must not become an extension of non-governmental organizations, whose purposes and working methods had not been ratified by States parties.

(Mr. Frambach, German Democratic Republic)

4. His country had recently abolished the death penalty, which had hitherto been used to punish war crimes, crimes against humanity and crimes against the country's sovereignty. The obligation to punish such crimes would continue to be met, but without using the death penalty.

5. Mr. LECOURT (France), referring to agenda item 107, said that torture was not only a particularly brutal form of physical violence but was also designed to break its victims psychologically. Today, thousands of men and women were victims of torture, generally because they lived under political régimes which used violence to stifle all opposition. Contemporary history showed how easily standards of civilization and individual morality could be broken. Vigilance was therefore essential.

6. Major efforts had been made in recent years to combat torture, including the adoption in 1975 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1984 and the appointment of a Special Rapporteur on the question of torture. The Convention provided for the punishment of torture under national legislation and its implementation was to be monitored by the Committee against Torture, which would receive reports from States parties and was also competent to receive communications from or on behalf of individuals claiming to be victims of torture by a State party. One important innovation was that the Committee could receive and act upon reliable information which appeared to indicate that torture was being practised systematically in the territory of a State party to the Convention.

7. To date, 26 States had ratified or acceded to the Convention. France had been one of the first to ratify the Convention and hoped that it would soon receive the support of the entire international community. It also hoped that States parties would adhere without reservation to all the provisions for monitoring compliance with the Convention and would accept systematically the competence of the Committee against Torture. As an indication of the importance it attached to the Committee, France had decided to nominate a French expert to it; the Committee would be established at the first meeting of States parties to the Convention to be held at Geneva on 26 November.

8. The United Nations Voluntary Fund for Victims of Torture, established by General Assembly resolution 36/151, had supported many valuable projects providing therapy and rehabilitation to victims of torture so that they and their families could resume a normal life. It had also financed the training of medical specialists in techniques for treating torture victims. France would be increasing its contribution to the Fund from 250,000 to 350,000 francs in 1988.

9. National committees had been set up in many countries to join in the campaign against torture. He commended the courage of those bodies and of the people who, despite the risks they faced, had not been afraid to affirm their faith in human dignity. In that connection, he welcomed the first international meeting of

(Mr. Lecourt, France)

centres for the treatment of victims of organized violence, held in Paris from 1 to 5 September 1987, which had been attended by doctors, psychiatrists and psychotherapists from 18 countries.

10. There had been an alarming resurgence of torture in the current century and the United Nations had a particularly important role to play in heightening international awareness of that appalling phenomenon and in preventing torture and protecting people from it. France would continue to support all efforts to that end by all possible means.

11. Mr. SALAH (Jordan), referring to agenda item 106, recalled that, at Jordan's initiative, an independent commission composed of eminent persons from all parts of the world had been established outside the United Nations to consider serious humanitarian problems that required greater attention. The resulting Independent Commission on International Humanitarian Issues had focused on specific issues that had been inadequately addressed or required new solutions, on the identification of opportunities for more effective action by the international community and the formulation of practical proposals to that end, and on enhancing public awareness so as to mobilize support for changes that would alleviate human suffering. Its final report was a synthesis of sectoral reports already issued in different languages. One such report dealt with refugees, a problem that was especially serious for his own country and of immediate relevance to the work of the Third Committee.

12. The Independent Commission had concentrated its efforts on humanitarian law in armed conflicts, man-made disasters and vulnerable groups in need of special protection. Its work was particularly important to his own country which was situated in an area of armed conflict and was host to many refugees. The increasing number of victims of man-made disasters and of deteriorating economic and social conditions reflected only some of the diversity and range of humanitarian problems addressed by the Independent Commission. He urged governments and organizations to examine the Independent Commission's findings and bear them in mind in formulating policies. Particular attention should be paid to the Independent Commission's conclusions, because follow-up was more important than the report itself.

13. Progress in the humanitarian field required determination and commitment, and the Independent Commission's report noted rightly that concepts such as economic growth and national security had meaning only if they were linked directly to the promotion of human well-being, an area in which ideological differences and rivalries could be transcended.

14. Mr. NENEMAN (Poland), referring to agenda items 101 and 102, expressed satisfaction that 90 countries had acceded to the International Covenant on Economic, Social and Cultural Rights and appealed to other States to follow suit. Since economic, social and cultural rights formed the basis of all other rights, adherence to the Covenant was a necessary pre-condition for developing international co-operation in the human rights field.

(Mr. Neneman, Poland)

15. Although some States parties were not fulfilling their reporting obligations under the Covenant and should be invited to explain their difficulties, they had at least shown a desire to co-operate by adhering to the Covenant. It was the countries that evaded treaty obligations in the area of human rights by not becoming parties that should be criticized.

16. It was understandable that developing countries, which often lacked facilities for proper reporting under the Covenant were sometimes late with their reports and it was particularly praiseworthy therefore that a sizeable number of them were fulfilling their reporting obligations satisfactorily and on time. What was less understandable was the failure of a sizeable number of developed countries to fulfil their reporting obligations.

17. It was unfortunate that some countries fulfilled their time-consuming and burdensome reporting obligations only to find that their reports were not considered owing to lack of time. The Committee on Economic, Social and Cultural Rights should perhaps be a little less zealous in order not to discourage countries from preparing reports. At its first session, the Committee had considered 11 reports and postponed consideration of 11. Its request that future sessions be extended by one week had been rejected. It would obviously be unable to cope with its workload unless additional time was allocated. He nevertheless commended the Committee on its first session, which had shown it to be capable of conducting a constructive dialogue with the Governments of States parties and of becoming an important element in the international human rights machinery.

18. He also commended the Human Rights Committee but reiterated that States parties to the International Covenant on Civil and Political Rights, like States parties to the International Covenant on Economic, Social and Cultural Rights, had to not only prepare lengthy periodic reports but also answer numerous specific questions on them. He therefore questioned the propriety of criticism by States which had not acceded to the Covenants. The only way to make international co-operation in the field of human rights more equitable and fruitful was for all States to accede to the Covenants and thus assume equal reporting obligations.

19. Mr. BUZO (Byelorussian Soviet Socialist Republic) said that international co-operation in the humanitarian field must take into account the great diversity among countries and be based upon mutual respect and understanding for the problems they encountered in implementing standards and norms. Any one-sided interpretation of standards rooted in some particular legal or social system would only impede the universal application of norms and undermine co-operation.

20. The Byelorussian SSR was a signatory to the International Covenants on Human Rights, scrupulously honoured its reporting obligations and shared the majority view that civil, political, economic and social rights were indivisible. His own country was implementing a comprehensive programme to improve the material and cultural well-being that would further strengthen its socialist democracy.

21. The Committees that monitored implementation of the International Covenants were the appropriate forum for exchanging experience and co-ordinating approaches

(Mr. Buzo, Byelorussian SSR)

to the protection of human rights, which could be enjoyed only under conditions of world peace since the right to life was basic to all other human rights.

22. He noted the negative impact of the world economic crisis and the absence of an equitable economic order on the enjoyment of human rights, particularly in the developing countries, and endorsed the comments made by the representatives of the German Democratic Republic and Poland concerning the procedures of the Human Rights Committee. The Third Committee and all other bodies dealing with human rights should help lay the foundations for the comprehensive system of international peace and security proposed by his country and the other socialist States, and national legislative and administrative rules in the area of human rights must be brought into line with international obligations and norms.

23. He particularly welcomed the progress in drafting a convention on the rights of the child and supported fully Economic and Social Council resolution 1981/58, which would expedite that work. His own country's views on the subject of children were reflected in a press release that had been issued at the United Nations in October 1987.

24. Mr. MEZZALAMA (Italy), referring to agenda item 98, said it was disturbing to observe that, despite centuries of preaching brotherhood and tolerance, the world was still being torn apart by religious prejudice leading to hatred, violence and bloodshed. The study by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the report by the Special Rapporteur of the Commission on Human Rights showed that the number of countries which maintained the standards set by the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religious Belief was appallingly low.

25. Little change could be hoped for unless the United Nations and its Member States assumed their collective and individual responsibilities. In recent years, the struggle against religious intolerance had made little progress and there were even signs of a weakening of rules and their application. Vigorous action must be taken to combat such trends, since any infringement of the principle of freedom of religion and belief was detrimental to the entire system established by the United Nations in defence of fundamental human rights. Efforts must be intensified to eliminate any form of religious intolerance and guarantee the effective application of international standards.

26. His delegation considered that a Convention would offer Member States a useful point of reference for setting up or improving domestic legislation but that, before the complex task of drafting could be undertaken, further careful consideration should be given to it by the Commission on Human Rights. The Commission's consensus adoption of a resolution on religious intolerance had been a positive development, but its Special Rapporteur must be given the necessary support to carry out his vital mandate.

(Mr. Mezzalama, Italy)

27. Italy had undertaken extensive reforms in recent years, laying the foundations for assuring full enjoyment of freedom of religion and belief. Following the incorporation of the relevant international instruments into domestic law, the Government was revising and updating the system of relations between the State and the different religious faiths, in line with the increasing demand for secularization. Such measures included new agreements with the Vatican concerning the legal status of organs of the Catholic Church and the clergy. Catholic religious instruction was no longer compulsory in State schools and pupils over 14 years of age were free to choose whether or not to attend courses on religion. The Ministry of Education was considering measures for alternative instruction which would give priority to human rights issues.

28. In order to ensure a balanced system of religious faiths agreements had also been reached on non-discrimination against Italy's other religious communities.

#### ORGANIZATION OF WORK (A/C.3/42/L.26)

29. The CHAIRMAN drew attention to the letter from the President of the General Assembly contained in document A/C.3/42/L.26. He had been requested to communicate the Committee's views no later than the first week of November, so as to permit the Fifth Committee to take full account of them.

30. Mr. ANDRADE (Guatemala), speaking in his capacity as Chairman of the Group of 77, said that the Group of 77 believed that the international community should give careful consideration to the work of the United Nations in the 1990s in order to implement effectively the purposes and principles set forth in the Charter. The Group of 77 viewed document A/42/512 as a basis for discussing the preparation of the medium-term plan but not as a full and final document. It was limited in scope and did not contain the elements necessary for formulating a medium-term plan. In particular, it did not take into account the social and humanitarian priorities which would permit the social development of the developing countries in a context of social justice, equity, equality and peace. Article 1 of the Charter enunciated clearly the social purposes of the United Nations but those purposes had been ignored in the document, even though they were the reason for the Third Committee's existence. The Secretary-General must reformulate the document, taking due account of the views expressed at the current session and the opinions of Governments.

31. Document A/42/512 did not take adequate account of United Nations efforts to eliminate racial discrimination, in particular, the apartheid system in South Africa. The reference it made to apartheid was offensive and completely devalued the work done by the United Nations over the past two decades. The apartheid system endangered international peace and security; moreover, it could surely not be imagined that racial discrimination would be finally eliminated from the face of the earth by 1990. Nor had the Secretary-General taken proper account of the right of peoples to self-determination or of the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, to which the United Nations had devoted four decades of work - that work would not be complete until Namibia had achieved independence. Appropriate solutions must also be found to the

(Mr. Andrade, Guatemala)

question of Palestine, and the United Nations must intensify its struggle against colonialism, neo-colonialism, foreign intervention, the use of coercive measures, especially against developing countries, and the threat or use of force against the territorial integrity or political independence of any State.

32. The paper "Some perspectives on the work of the United Nations in the 1990s" did not refer adequately to the need for action to assist the most vulnerable groups, particularly young people, the elderly, the disabled and children. The medium-term plan should make due reference to the need to promote the active participation of those groups in the development process, particularly in developing countries. It was equally strange that nothing was said about the implementation of the Forward-looking Strategies for the Advancement of Women and the great efforts that were being made to integrate women in economic, social and political development and in the promotion of international peace and co-operation. The medium-term plan should allocate the necessary resources to meet the goals and objectives of the United Nations Decade for Women.

33. The paragraphs dealing with promotion of respect for human rights and fundamental freedoms did not reflect the minimum aspiration of the Group of 77; although the Group of 77 agreed that the system for monitoring the implementation of existing international instruments needed to be improved, it noted that much standard-setting work remained to be done, for instance, on the right to development, the right to adequate housing, human rights and mass exoduses, human rights in the administration of justice, migrant workers and their families, the enrichment of social life, and the strengthening of international co-operation in the field of human rights. Those activities must be reflected adequately not only in the introduction to the medium-term plan but also in the plan itself.

34. In referring to social progress, the Secretary-General had virtually ignored the work which the United Nations must do to promote international co-operation and find common solutions to problems affecting the international community. The Group reiterated its unshakeable faith in multilateralism and in the United Nations as an appropriate forum for it. The Group agreed that education was fundamental to achieving development and social progress and that the United Nations should help Member States in that area, so as to instil in future generations the ideals of peace, social justice and equality. It was also very important that the medium-term plan consider the adverse effects of the international economic situation on development and social progress.

35. Document A/42/512 made only passing reference to the situation of refugees and displaced persons and migrant workers and their families. The United Nations must find appropriate solutions for improving their living conditions and promoting respect for their human rights and fundamental freedoms. Similarly only passing reference was made to the International Campaign against Traffic in Drugs. The work of the United Nations in that area must continue and international co-operation must be enhanced.

(Mr. Anirade, Guatemala)

36. It was a lamentable error to suggest that the United Nations should concern itself solely with those activities at which it was most successful. The United Nations had been established to find lasting solutions to problems affecting the international community and to preserve international peace and security. The Group of 77 believed that the priority themes that were currently valid must be considered again in the 1990s. It agreed that the common goal must be to forge a global environment of sustained development, social justice and peace. Development could be achieved only in an atmosphere of international peace and co-operation. Multilateral action must be strengthened in order to find lasting solutions to the economic, social and political problems afflicting the modern world. The United Nations must analyse where and why it had failed and how it could remedy its errors. Social and humanitarian development must be promoted within the framework of the United Nations, and that must be reflected in the medium-term plan.

37. The Group of 77 supported the decision taken at the twenty-seventh session of the Committee for Programme and Co-ordination to retain the priorities and activities of the medium-term plan for the period 1984-1989 until 1991, subject to a thorough review of the plan. It believed that the preparation of the new medium-term plan should take into account the conclusions and recommendations emanating from the implementation of General Assembly resolution 41/213. That resolution should be implemented in an integrated and co-ordinated manner, taking into account the interests of developing countries and the United Nations development programmes and activities.

38. The Group of 77 believed that document A/42/512, and its annex in particular, failed to take into account the concerns of the developing world and the agreed mandates. The United Nations, as the only universal international organization, must be strengthened, for in an increasingly interdependent world an integrated approach must be taken to international problems in order for co-operation and solidarity to be effective. The work of the United Nations in the 1990s must be action-oriented and the political commitment of Member States must be reaffirmed in order to find viable solutions to the problems facing the international community.

39. The Group of 77 believed that the discussion of the Organization's work in the 1990s must remain open and that all States must evaluate the concepts proposed and their impact on the future of the Organization.

40. Mr. HYNES (Canada), commenting on the paper entitled "Some perspectives on the work of the United Nations in the 1990s", said that emphasis was appropriately placed on the United Nations Charter, which must remain the central document guiding international co-operation in the Organization. Social justice, human rights and co-operation in international humanitarian affairs were central to the Charter. Since the period of setting standards and establishing frameworks had largely been concluded, efforts in the next decade should concentrate on putting principles into effect, matching ideals to practical realities, and carrying out programmes of work in various fields.

(Mr. Hynes, Canada)

41. In the area of human rights, the punitive and sometimes excessively conflictual approach taken in the past decade was not the only way of dealing with human rights violations. That approach must be balanced with an increasingly positive and co-operative method of addressing human rights questions, in order to win the widest possible support for such endeavours. Ongoing efforts in the field of equality of treatment and opportunity for men and women, and new approaches to advisory services in the field of human rights, were important examples of what could be achieved.

42. International co-operation was central to meeting the challenges posed by disease, drug abuse and other scourges which transcended national borders. Co-operation was also vital in dealing with the disabled, the aging and youth, although the main sources of inspiration and programmes in those areas must be national. The Secretary-General had struck the right balance between multinational co-operation and national responsibilities. His delegation particularly supported the search for acceptable and reasonable criteria for defining priorities, given the strains on the United Nations capacity for programme delivery.

43. His delegation was certain that the 1990s would be a decade of reconfirmed commitment to multilateral co-operation. Although the severe constraints under which all international organizations were currently operating must be borne in mind, a commitment to the central principles of the United Nations must be maintained, including a commitment to human rights and social justice and to international co-operation for the furtherance of social progress. By planning in advance, recognizing the areas in which the United Nations could play a vital role and focusing on concrete action to meet pressing human and humanitarian needs, the United Nations could play a useful role in the 1990s.

44. Mrs. WARZAZI (Morocco) requested that the statement made by the representative of Guatemala on behalf of the Group of 77 should be transmitted in full to the Chairman of the Fifth Committee.

45. Mr. HOPPE (Denmark) said that his delegation agreed that document A/42/512 required in-depth consideration and that time must be given to national authorities to study it fully. His delegation would have preferred to consider it at the next session of the General Assembly. The document was clearly not intended to be an annotated agenda of the General Assembly, as its title indicated but gave a broad outline of various United Nations activities. In general, his delegation was satisfied with both the scope and content of the Secretary-General's paper and with the approach taken to the work of the United Nations in the field of human rights and social progress. His delegation had not expected the Secretary-General to list each and every activity, but to offer a few broad perspectives on the work of the United Nations in that field. It agreed that, over the next decade, the main focus of United Nations human rights activities should be to secure universal respect for what had been agreed upon in principle. The main achievement of the United Nations so far had been the codification of various human rights and the drafting of legally binding instruments. It was now important to ensure full respect for those rights. The goals announced by the Secretary-General accorded fully with the purposes and principles set forth in the Charter.

46. Mr. SCHWANDT (Federal Republic of Germany) said that his delegation had also not had time to study document A/42/512 in detail. As the representative of Denmark had just observed, the document could certainly not be considered an annotated agenda of the General Assembly. Rather, it proposed some directions which the United Nations might follow in the next decade. The document, while thought-provoking, was not perfect and discussion was warranted on certain issues which were within the scope of the Third Committee. For example, further consideration should be given to the comments on page 6 regarding migrant resettlement in the "best-suited countries". His delegation would have great difficulty in defining the criteria for identifying such countries. That was just one example which highlighted the need for further discussion of the issues presented in the document, which would perhaps be best considered in greater detail at the next session of the General Assembly.

47. Mr. TROUVEROY (Belgium) requested the Chairman to transmit to the Fifth Committee the views expressed thus far on the document, with the proviso that his delegation, among others, had not had sufficient time to consider the document in depth and therefore hoped that the discussion would remain open.

48. The CHAIRMAN said that, as a decision on the item was not necessary, he would transmit to the Chairman of the Fifth Committee the opinions expressed by individual delegations at the 40th meeting of the Third Committee, together with the full statement made at that meeting on behalf of the Group of 77, as requested by the Moroccan delegation. He would also convey to the Chairman of the Fifth Committee the general feeling that analysis and discussion of document A/42/512 should remain open.

49. Mrs. MUKHEKJEE (India) said that individual members of the Group of 77 had not spoken on the item under consideration because the Chairman of the Group had spoken on their behalf. Lest there ever be any misunderstanding in the future as to whether the views of the developing countries were being properly taken into account, however, each member of the Group of 77 reserved the right to speak at length on the issue.

50. The CHAIRMAN said that the statement by the representative of India would be reflected in the report to be transmitted to the Chairman of the Fifth Committee.

51. Mr. HOPPE (Denmark) said that he had no quarrel with the manner in which the Chairman intended to transmit the views expressed at the current meeting, including the entire text of the statement on behalf of the Group of 77, to the Fifth Committee. However, he would suggest that the summary record of the meeting be transmitted since that would reflect fairly the views expressed by all speakers.

52. Mr. QUINN (Australia) endorsed the Chairman's proposal for informing the Fifth Committee of the proceedings of the current meeting and also Denmark's suggestion that transmitting the summary record would be the most appropriate method. The suggestions should be followed, on the understanding that the discussion was at a preliminary stage, that a number of complex issues were at stake, and that providing comments to the Fifth Committee was not a matter of urgency. With regard

(Mr. Quinn, Australia)

to the proposals for reform, his delegation believed that the Third Committee should not wait for bodies such as the Committee for Programme and Co-ordination to impose reforms from above. A number of useful reforms had been initiated in the Third Committee, for instance, those adopted by the Commission on the Status of Women and the action taken by the Human Rights Committee to reform its internal agenda. His delegation hoped that the issue of programme planning would be considered in greater depth at the next session of the General Assembly.

53. Mr. LABERGE (Canada) said that, in the view of his delegation, draft resolution A/C.3/42/L.30, if adopted, would form part of the Third Committee's response to the Fifth Committee on the issue of programme planning.

The meeting rose at 12.20 p.m.