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THIRD COMMITTEE
32nd meeting
held on
Wednesday, 28 October 1981
at 10.30 a.m.
New York

SUMMARY RECORD OF THE 32nd MEETING

Chairman: Mr. O'DONOVAN (Ireland)

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

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

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AGENDA ITEM 91: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued) (A/36/3/Add.19 and A/36/3/Add.23)

(a) UNILATERAL DECLARATION BY MEMBER STATES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORT OF THE SECRETARY-GENERAL (continued) (A/36/426 and Add.1)

(b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL (continued) (A/36/140 and Add.1-4)

1. Mr. DÜHRING (German Democratic Republic), speaking on agenda item 75, said that the German Democratic Republic had actively participated in the preparation of the draft Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief and recalled that his country, responding to the request of the Secretary-General, had submitted to the Commission on Human Rights, at its thirtieth session, details on its fundamental position on human rights matters, based on the provisions of articles 20 and 39 of its Constitution, which stipulated that all citizens of the German Democratic Republic had the same rights and duties irrespective of their nationality, race, religious confession and social origin or position.

2. Throughout the preparation of the draft, the German Democratic Republic had always maintained that the Declaration should take into account the widely different situations of States resulting, inter alia from their history. It had welcomed the

(Mr. Dühring, German Democratic Republic)

serious work carried out by the Working Group and the quality of the text of the draft which, up to the thirty-sixth session of the Commission on Human Rights, had been adopted by consensus and could therefore have been helpful in enhancing tolerance and coexistence of peoples of different religious creeds and theistic or atheistic beliefs. It was regrettable, therefore, that at its thirty-seventh session, the Commission on Human Rights, under pressure from certain States, had ignored the principles which until then had been the guidelines for its work and had abandoned the principle of consensus. That had distorted the balance and harmony of the draft Declaration by omitting certain basic notions which had been discussed at previous sessions but for which no final text had emerged. Several States, including the German Democratic Republic, felt that it would have been better, for example, not to have restricted the principle of tolerance to religious creeds but to extend it explicitly to atheistic beliefs. Such exclusions violated the principle of the universality of the United Nations and were incompatible with the provisions of General Assembly resolution 3267 (XXIX). That limitation to the principle of tolerance was contrary to the principle of freedom of conscience as contained in article 1 of the draft Declaration.

3. His delegation believed that in order to promote the principle of tolerance and non-discrimination and to ensure that the Declaration was the appropriate instrument for encouraging and promoting understanding and co-operation, firstly, religion and religious belief must in no way be used to jeopardize the strengthening of international peace and security or to instigate hatred between peoples and ethnic groups or to achieve political objectives and, secondly, they should not be used to prevent citizens from carrying out their civic obligations.

4. In conclusion, his delegation wished to recall that previous drafts and proposals had attempted to lay down principles governing the relationship between the State and the Church in a manner compatible with the situation prevailing in each State. If that objective had been achieved, the draft Declaration would have been better balanced and more effective. In view of the aforementioned imperfections, his delegation believed that discussions should be continued with a view to improving the text of the draft.

5. Mr. WALKATE (Netherlands), speaking on agenda item 87, regretted that the report of the Human Rights Committee had not been published on time, because such delays made the work of the Third Committee increasingly difficult, if not impossible.

6. With respect to the International Covenant on Civil and Political Rights, his delegation wished to compliment the members of the Human Rights Committee on the work they had accomplished at the Committee's eleventh, twelfth and thirteenth sessions, which was memorable because of some remarkable achievements, such as the elaboration by the Committee of a statement on its duties under article 40 of the Covenant (annex IV of the report of the Human Rights Committee) and its decision on the periodicity of its reports (annex V). In connexion with the latter point, his delegation believed that the interval of five years set for the submission of reports was well chosen because it allowed for serious evaluation and for improvement of legislation and the manner in which it would be enforced. The

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(Mr. Walkate, Netherlands)

preparation of guidelines regarding the form and the content of reports submitted by States Parties under article 40, paragraph 1 (b), of the Covenant (annex VI) was another important element. Finally, mention should be made of the general comments addressed to States Parties (annex VII), which dealt mainly with the manner in which articles 2, 3, 4 and 40 of the Covenant were being complied with by the States Parties and which, in addition to stipulations on procedural matters, also contained interpretations or explanations of the provisions of the Covenant and consequently reflected the collective views of the Committee on various articles of the Covenant. In that connexion, his delegation wished to draw attention to the following points. In general comment 3/13 (annex VII) the Committee interpreted the obligation of States Parties to ensure the enjoyment of human rights of all persons under their jurisdiction (article 2 of the Covenant) to include the obligation to undertake specific activities for that purpose. In addition, the Committee, arguing that all individuals should know what their rights were and what obligations were undertaken by the State, felt that the Covenant should be published in all official languages of the State. Finally, in general comment 4/13 concerning article 3 of the Covenant, the Committee stated that in order to guarantee equal rights to men and women, the States must take "not only measures of protection but also affirmative action designed to ensure the positive enjoyment of rights". By adopting those general comments, the Committee had, in the opinion of his delegation, made a big step forward. It should, however, be borne in mind that article 40 authorized the Committee to make general remarks not only to States Parties collectively but also to each State individually. It was only when the Committee had reached the latter stage that it would be exercising its functions to the fullest extent possible.

7. Among the developments which had marked the most recent sessions of the Committee, one thing should be mentioned, although it did not appear in the report, which was that the Committee was interested in all cases in which human rights were deteriorating in the territories of States Parties to the Covenant, regardless of whether or not the reports of the said States were on the Committee's agenda. All those elements demonstrated that the Committee was striving to play an active rather than a passive role in the protection of human rights, and his delegation welcomed that development.

8. With regard to the Optional Protocol to the International Covenant on Civil and Political Rights, his delegation noted that, since 1977, the Committee had dealt with 102 individual communications under the Optional Protocol, of which only 18 had received the final views of the Committee, 15 of which concerned Uruguay. The number of decisions on Uruguay was a matter of concern to the Government of the Netherlands because the violations dealt with therein were serious and had not been refuted in detail by the Government of Uruguay. His delegation, citing the example of the Governments of Senegal and Sweden, which had agreed to amend their legislation as a result of criticisms addressed to them by members of the Committee, and drawing attention to the fact that the Netherlands was a party to the Covenant and the Protocol, appealed to the Government of Uruguay to put an end to the violations in question and, in particular, to guarantee the right of habeas corpus and to review the prompt security measures.

(Mr. Walkate, Netherlands)

9. His delegation believed that the International Covenant on Economic, Social and Cultural Rights was equally important as the other Covenant and, in that connexion, felt that the Sessional Working Group of governmental experts on the implementation of the International Covenant on Economic, Social and Cultural Rights should intensify its efforts, which nevertheless had made an encouraging start in past years, by fully utilizing the means at its disposal. He welcomed the fact that the Economic and Social Council had decided to include in the provisional agenda of its first regular session in 1982 the question of the composition, organization, administrative arrangements and methods of work of the Working Group. When it took up that item, the Council should pay special attention to the composition of the Group because, at present, the five regional groups were not equally represented and the composition of the Group did not reflect the composition of the total group of States Parties. In order to obtain a more balanced representation of States Parties in the Working Group, the Council should perhaps elect the members of the Working Group and set the term of membership at three years. In that way, a higher degree of expertise might be achieved. It could, for example, elect every year one third of the members of the Working Group from among the members of the Council that were parties to the Covenant.

10. His delegation wished to see the documents, summary records and final views of the Committee published each year by the Secretariat in the form of bound volumes and widely distributed. On the other hand, press releases on the decisions of the Human Rights Committee should continue to be published and a list of the summary records should be included in the annual report of the Human Rights Committee.

11. Mr. VOICU (Romania), speaking on agenda item 85, said that there was an organic relationship between scientific and technological developments and the promotion of human rights and fundamental freedoms. It was undeniable that the development of science and technology had a great impact on all aspects of human existence. It was therefore regrettable that considerable material resources and the great potential of scientific research were swallowed up by the arms race when they could be used to ensure that science and technology was used to promote and protect human rights. In view of the extremely disturbing intensification of the arms race and the danger which threatened the very existence of mankind, it was necessary to implement the United Nations Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind and, to that end, to mobilize scientists and world public opinion in the struggle for disarmament, détente, peace and co-operation. Scientists throughout the world should wage an unremitting struggle to ensure that the fruits of their labour contributed to building a better and more just world and not to war and discord between peoples. Those ideas had been given concrete form by the convening in Bucharest in September 1981 of the International Symposium "Scientists and Peace".

12. The President of the Socialist Republic of Romania, Mr. Ceausescu, in his message to the participants had stated that "the noblest task of scientists and researchers, in all fields and throughout the world, is to see to it that the entire potential of modern science and technology is devoted to the progress, welfare, freedom and independence of peoples and to the preservation of the supreme human

(Mr. Voicu, Romania)

right to life and to peace". That profoundly humanist message (contained in document A/36/528) underscored the deep attachment of Romania to the principles proclaimed in the United Nations Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind. The participants in the International Symposium had emphasized in their appeal that in present circumstances, scientists had the noble duty to participate more in the search for a solution to economic, social and political problems in the interest of collective prosperity. The discoveries of science should be used to close the great gaps between the rich and poor countries and to eradicate the under-development affecting two thirds of the world population. The participants in the Bucharest Symposium had reaffirmed the need to oppose resolutely any obstacle to the movement of the world's scientific and cultural assets so that all peoples could derive extensive benefit from the awesome accomplishments of science and technology. They had called on scientists and national and international scientific associations to co-operate, transcending ideological or political differences, and had established an International Action Committee to expose the dangers of the arms race and to inform public opinion. The participants in the Symposium had also agreed on the preparation of a world congress of scientists in the service of peace.

13. His delegation believed that the ideas contained in the appeal of the participants in the Bucharest International Symposium (also reproduced in document A/36/528) could enrich the discussions in the Committee on agenda item 85 and it was for that reason that it had drawn attention to it. The Symposium had insisted on the fact that science should become a weapon for living and enable peace to triumph on earth, ideas which were echoed in draft resolution A/C.3/36/L.31. His delegation hoped that the documents which would be prepared for the consideration in 1982 of the item "Human rights and scientific and technological developments" would follow up the ideas and proposals made during the discussions in the Committee.

14. Mrs. EJEZIE (Sierra Leone), speaking on agenda items 75, 85, 86, 87 and 91, quoted the Preamble of the Charter of the United Nations and said that fundamental human rights, the dignity, worth and well-being of the human person should be at the base of any activity of the international community, especially in ensuring global security and international economic and social justice. In that connexion, she was gratified that the countries members of the Organization of African Unity had given form to those principles at the regional level by adopting the African Charter on Human and Peoples' Rights.

15. She welcomed the draft resolution contained in document A/C.3/36/L.4 and said that the principles on which the draft was based had already been enshrined in the Constitution and legislation of her country, where Moslems, Christians and atheists lived on good terms with each other, where intermarriages were very common and where all religions were respected.

16. Her Government had submitted the text of the international covenants on human rights to its legal experts for study before signing them and incorporating them in its national legislation. Her country had been the first to sign the Charter of the OAU. Her delegation would carefully study the report of the Secretary-General on the drafting of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty, and would make its views known at a later stage.

(Mrs. Ejezie, Sierra Leone)

17. With regard to human rights and scientific and technological developments, she said that scientists throughout the world had a solemn duty to ensure that the products of their intellect were not devoted to war and hatred between peoples and that they were used in the cause of building a better and more just world.

18. In connexion with torture and other cruel, inhuman or degrading treatment or punishment, she pointed out that the provisions of articles 3 and 5 of the OAU Charter prohibited such practices and guaranteed each individual equal protection before the law. Her country firmly believed in those provisions and applied them.

19. She wholeheartedly endorsed the principles underlying the draft code of medical ethics: in the developing countries, however, the code should apply to all health personnel and not only to doctors.

20. On the question of a convention on the rights of the child, she said that her Government was doing everything in its power to guarantee that children enjoyed social rights, and particularly the right to education, believing that a balanced childhood would produce better young people and an aged population rich in experience and usefulness. Moreover, a disabled child well looked after could become a good citizen. She welcomed the draft convention submitted by Poland (A/C.3/36/6) and supported the relevant draft resolution (A/C.3/36/L.14).

21. Mr. ALBORNOZ (Ecuador), speaking on item 87, said that human rights, which were a key element of his country's national and international policy, were of cardinal importance to the contemporary world: as the cornerstone of international law, they must establish increasingly close links between countries and must be the principal source of inspiration for any democratic State. They were accordingly absolutely universal in character, whatever might be said to the contrary, and the United Nations must, if it hoped to maintain its objectivity, recognize that fact and abandon the selective criteria which it currently applied. He proposed that the General Assembly should commission an annual report on the situation in every single country, including those which were not members of the Organization. Each State should also be required, as a matter of principle, to give an account of what was happening at home before expressing its views on the situation prevailing in other countries.

22. Observing that precept, he reported that his country was a parliamentary democracy, with free elections open to all political parties; men and women had equal rights; there were no political prisoners and no state of siege; foreigners could enter and leave the country freely and enjoyed the same rights as Ecuadorian nationals; finally, his country recognized the right of asylum and extended facilities to political refugees from the region.

23. The press in Ecuador was entirely free: journalists had free access to sources of information, could enter and leave the country unimpeded, and could disseminate their views at home and abroad. In that context, he considered that the world information media should give greater coverage to the efforts made by third world countries - which represented two thirds of the earth's population - to overcome their economic, social and cultural backwardness.

(Mr. Albornoz, Ecuador)

24. His country had acceded to a number of international human rights instruments (the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights and Optional Protocol, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the Elimination of All forms of Discrimination against Women); it was fulfilling its obligations under those instruments and submitting periodic reports to the bodies responsible for monitoring their implementation.

25. In connexion with item 75, he said that his country had proclaimed the separation of Church and State in 1895. Its Constitution guaranteed freedom of conscience and religion, subject only to the requirements of State security and public morality.

26. Mr. EWORO-MONG (Equatorial Guinea) conveyed his sympathies to the Egyptian delegation on the death of President Anwar El-Sadat. He thanked the Director of the Division of Human Rights for the very detailed report he had submitted to the Committee.

27. The Supreme Military Council of Equatorial Guinea had come to power on 3 August 1979 in order to end a régime of oppression and to guarantee that country's people freedom and respect for fundamental human rights, peace and social well-being. Recognizing that the freedom of all its people was the precondition for genuine reconstruction of the country, on 5 March 1979 the new Government had issued Decree-Law no. 1/79, which ordered the release of all political prisoners. In the desire to guarantee freedom of conscience and religion, it had subsequently issued Decree-Law no. 2/79, which stipulated that all places of worship, without exception, should be reopened. To ensure protection of property, it had issued Decree-Law no. 3/79, which provided for the restitution of all immovable property expropriated by the previous régime. The new Government was thus pursuing a policy of peace, order and justice based on the restoration of fundamental freedoms and respect for human rights. It had always co-operated actively with United Nations bodies concerned with the status of human rights in Equatorial Guinea. It was endeavouring to bring about long-term improvements in the material and spiritual welfare of the nation and, although it had already made tangible progress in that field, it would continue to make improvements to the system. Certain circles had, however, launched a campaign of defamation against the new Government with a view to preventing national reconciliation by reviving partisan, tribal and regional ideals and again plunging the country into political tragedy. As a country which had only just emerged from civil war, Equatorial Guinea had to make tremendous efforts in all fields. The country must be reconstructed on the basis of social integration, and the economy revived through radical transformation, particularly by diversifying agriculture and expanding livestock production, fishing and other productive sectors with a view to making the population self-sufficient. No sector would be unaffected by the new Government's comprehensive political, economic and social programme. The Supreme Military Council wished to show that it had taken office with the intention of responding to the appeal of the people and redressing the desperate situation of the country. It had taken upon itself the task of involving the nation in a process of genuine democratization in which traditional social values went hand in hand with modern political values.

28. The Right Reverend Monsignor CHELI (Observer for the Holy See), speaking on item 75, welcomed the fact that the Commission on Human Rights and the Economic and Social Council had finally succeeded in submitting a draft declaration on the elimination of all forms of religious intolerance. It was essential that the United Nations, which had devoted so much effort to promoting human rights in general and the struggle against all forms of discrimination and racism, should condemn religious intolerance once and for all. The draft declaration before the Third Committee (A/C.3/36/L.4) symbolized the spirit of negotiation on the part of States in that, despite differing views and concepts, they had tried to arrive at a compromise. While the text might reveal shortcomings or omissions, the fact remained that it affirmed that the right to express one's religious faith was a dimension of human existence.

29. Mr. GIUSTETTI (France), speaking on agenda item 85, said that the 1968 Proclamation of Teheran had emphasized two major elements: on the one hand, it had pointed out the dangers to which scientific and technological advances could expose human rights and consequently stressed the need for continued vigilance, and, on the other hand, it had recognized the unquestionable advantages that those advances offered for development. Those two rather divergent but potentially complementary trends determined the work which the United Nations was currently performing in the field of human rights and scientific and technological developments.

30. With regard to the first trend, he observed that the General Assembly in resolution 2450 (XXIII) had entrusted the Secretary-General with the task of drawing up a comprehensive study on the question. The Secretary-General had submitted several valuable reports which had not yet received the attention they deserved in the United Nations. His delegation thought that they should be more widely disseminated. For example, the Department of Public Information could publish a summary of them; his delegation was willing to submit a draft resolution to that effect.

31. Still on the same theme, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had been instructed to prepare two studies, one on guidelines designed to ensure that confinement in a psychiatric hospital had no motive other than mental disorders, the other on the guiding principles which should govern the use of computerized files on individuals, on both of which the Sub-Commission was to make a final report at a later date.

32. Other United Nations work dealt with the favourable aspects of scientific and technological progress from the point of view of economic, social and cultural development. In that respect, he thought it was not the value of progress that was in doubt, but the use made of it. Used with bad intent, scientific and technological advances could constitute a potential threat for both the developing and the industrialized countries, and they were in no way connected with the inadequate development of those sectors in any given country: electronics, for example, could be used for the illicit processing of data on individuals instead of for the management of co-operatives. Nevertheless, inadequate scientific and technological development did limit the effective enjoyment of human rights in some respects. Consequently, the activities of the international community must deal with two aspects simultaneously: if science and technology was to be used only for purposes compatible with human rights, uses which were contrary to those rights must be defined. On the

(Mr. Giustetti, France)

other hand, it was necessary to determine what measures were conducive to accelerating scientific and technological progress in all countries, so as to ensure a better division of the gains and to enable all countries to contribute to maximizing those gains.

33. His delegation had therefore had to express reservations on a number of resolutions which had been adopted in that field, since they did not fully take account of both those aspects. For example, resolution 38 (XXXVII), recently adopted by the Commission on Human Rights, described the problem of the exchange and transfer of scientific and technological knowledge well, but posed the solution of the problem badly. The relationship between human rights and scientific and technological development concerned all mankind and therefore had to be dealt with in the context of a new international economic order and of generalized co-development. His delegation was prepared to give its support to any action in that direction.

34. With regard to agenda item 86, he stated that his delegation, as one of the sponsors of draft resolution A/C.3/36/L.14, attached great importance to the question of a convention on the rights of the child. It could only deplore the tragic situations and outrageous exploitation to which children were still too often subjected and which States owed it to themselves to remedy.

35. Miss ABU-LUGHOD (Observer for the Palestine Liberation Organization) said that the principles embodied in the Universal Declaration of Human Rights formed the basis of the Palestine Liberation Organization's concept of an independent, democratic State, which exemplified its commitment to justice and freedom.

36. The PLO was particularly interested in the draft resolution concerning the elimination of all forms of religious intolerance. Because both Christian and Muslim Palestinians had not been tolerated in Israel and other occupied territories, they had come to value the principle of religious freedom. She cited cases of vandalism against Christian and Muslim sites, institutions or emblems in Israel, in the occupied territories and in Jerusalem itself; moreover, religious people had been insulted and insulting graffiti on the walls of the Old City urged the missionaries to leave the holy places. She thanked the representative of Jordan for having drawn attention to those serious matters.

37. She was glad to note the growing number of signatories to the two International Covenants on Human Rights, but it was not enough to go into raptures over the merits of those Covenants: measures had to be taken to implement them. The rights guaranteed in them were still being violated, as the occupation of Palestine, the occupation of Namibia and the imperialist acts of aggression against other sovereign States demonstrated. Israel was violating the Palestinians' right to self-determination as defined in article 1 of the Covenant; it was violating article 6 by refusing them building permits and confiscating their property and lands; it was violating article 7 by authorizing child labour and paying Palestinians less than other workers. The Israeli occupation prevented Palestinians from earning an adequate livelihood, from benefiting from medical care, from enjoying their right to education; the settlement policy, the military ordinances, the detention of thousands of Palestinians, the destruction of their property, the exploitation of their labour,

(Miss Abu-Lughod, Observer, PLO)

the prohibition of the sale of their produce, the censorship of their publications, the denial to them of bank loans and the denial of water access were all violations of their rights.

38. Turning to agenda item 91, she welcomed the moral pressure which some countries were exerting on their neighbours and the example which they were setting the world by showing that violence against detainees was unnecessary and abhorrent. However, she feared that unilateral declarations condemning torture would be powerless to abolish the barbarous practices of the Israeli military authorities. All the evidence showed that Palestinian detainees were systematically ill-treated, even though the Israeli authorities maintained the opposite. Israel could not be expected to show the same admirable courage and honesty as certain Member States, because if it acknowledged that it was guilty of violations, it would then have to put an end to those activities. She cited examples and reports to back up her statement that torture was the rule in Israeli prisons. The draft code of medical ethics prepared by WHO, which asserted that the moral rules governing medical personnel were higher than any nation's laws, was all the more important for that reason.

39. Miss BROSNAKOVA (Czechoslovakia), speaking on agenda item 87, said that the two International Covenants, whose adoption in 1966 had marked a decisive advance in the defence of human rights, continued to inspire many States. Her country had been among the first States to sign and ratify the Covenants. It scrupulously respected and implemented all the rights contained in them, as its political, economic and social system obliged it to do.

40. Moreover, her country co-operated fully with the competent United Nations organs; in 1978, for example, it had submitted a report on its implementation of the Covenant on Civil and Political Rights and, in 1981, two reports on its implementation of the International Covenant on Economic, Social and Cultural Rights (articles 6-9 and 10-12); those reports had been very much appreciated by the bodies concerned. Such co-operation was worth pursuing because it contributed to promoting human rights.

41. For several years many delegations had been disturbed by the fact that a large number of States, among them several developed Western States, had still not acceded to the Covenants. Some of them, claiming to be defenders of human rights, concerned themselves with "victims of human rights violations" in other countries, while exploitation, unemployment and racial discrimination continued to exist in their own. It was they which declared in international bodies that monitoring machinery must be established to ensure respect for human rights, that monitoring to be exercised anywhere except in their own countries, of course.

42. Since peaceful coexistence of States was essential for the exercise of fundamental human rights and freedoms, the United Nations and all Member States had to act in conformity with the principles laid down in Article 2 of the Charter. In practice, that meant that States should promptly ratify or accede to the international instruments already adopted and ensure their implementation. Only then could those legal instruments truly govern all international relations, and the reporting and monitoring systems which they provided be widely utilized.

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43. Mrs. AKAMATSU (Japan), speaking on agenda item 87, paid tribute to the Human Rights Committee, which had submitted a very encouraging report. The report of the Economic and Social Council, however, raised some slight dissatisfaction because of the monitoring system proposed for the International Covenant on Economic, Social and Cultural Rights. Her delegation did not believe that the same system should be applied to two international covenants which dealt with very different rights. Article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights contained phrases, such as "to the maximum of its available resources" and "progressively", which were open to different interpretations. It was for that reason that the present reporting system had been adopted. Her delegation believed that the body entrusted with studying the implementation of the Covenant should remain intergovernmental, with members appointing persons who were experts in their respective fields. In view of the diversity of subjects, it would be impractical to have each expert consider all parts of the report. Furthermore, to ensure the continuity of the Working Group, Member States should be appointed for five years. As for the sessions of the Working Group, her delegation welcomed Economic and Social Council decision 1981/158 as a step forward but believed that the time allotted for each session was still too short, since there were currently 70 States Parties to the Covenant and it would become increasingly difficult to examine all the reports in detail. Her delegation therefore hoped that ways for effectively monitoring the Covenant would continue to be explored, for it was clearly understood that the Covenant should not be applied less strictly than the International Covenant on Civil and Political Rights. It was neither a declaration nor a resolution but a legal instrument whose incomplete implementation would call into question the credibility of the United Nations.

44. With regard to the elaboration of a second optional protocol aiming at the abolition of the death penalty, her delegation fully understood the concern of delegations which feared that the death penalty might lead to arbitrary executions and could therefore be a violation of basic human rights. The Government of Japan believed, however, that it was inappropriate to create an international instrument which would not be applied uniformly throughout the world and that the majority public opinion in each country should be fully taken into account. In Japan the death penalty existed for a very limited number of particularly heinous offences and was regarded as a deterrent. The Japanese judicial process left no room for arbitrariness in that field. Furthermore, life imprisonment or imprisonment with or without labour for a term of years were used in preference to the death penalty for most crimes. The Legislative Council had submitted a revised penal code which, while reducing the number of capital offences and providing for other penalties, retained the death penalty, which the majority of Japanese citizens regarded as necessary.

45. Mr. FERGUSON (Australia) said, with respect to agenda item 75, that the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief would be one of the landmarks in the history of the United United Nations. Since the adoption of the Universal Declaration of Human Rights, progress had been made in setting universal legal standards for social, cultural, civil and political rights. For historical and political reasons, the United Nations had given priority to the elimination of discrimination based on race, and more recently of discrimination based on sex, and it was not until the early 1960s that it had become concerned with the need to elaborate an instrument guaranteeing freedom

(Mr. Ferguson, Australia)

of thought, conscience and religion and prohibiting any discrimination in that field. The draft Declaration, which was the fruit of 20 years of discussions, was a document that was both subtle and inspired. It reflected the truth that religion was of fundamental importance to people throughout the world, that the ideals and ethical principles found in major religions had a formative influence on the ideals of the Charter of the ited Nations and that freedom of conscience was essential for the development of the human person and the establishment of a just and compassionate society. While the draft Declaration made no distinction between different religions, sects or beliefs, it did not touch on the question of the validity of religion itself, so that it was compatible with a perception of society that did not recognize religion or that recognized belief only in a non-religious sense. Lastly, the provisions of the draft did not give individuals or religious groups the right to participate in political activity against the interests of the State in which they resided or against other States. His Government therefore hoped that the General Assembly would adopt the draft Declaration by consensus at the current session.

46. With respect to agenda item 91, he said Australia hoped that the draft resolution on the code of medical ethics would be adopted at the current session. Australia was participating in the elaboration of a convention against the use of torture and had already spoken out against that practice in a unilateral declaration reproduced in document A/36/426/Add.1.

47. It also hoped that the final report of Mrs. Daes on the protection of persons detained on the grounds of mental ill-health would be taken up under agenda item 85, together with issues relating to abuse of medical practice.

48. Australia was a party to the two International Covenants on Human Rights, and the Australian Parliament had just enacted legislation for the establishment of a human rights commission with functions of inquiry into complaints of that sort and for the promotion of human rights, including their promotion by means of educational programmes aimed at informing citizens of their rights under the International Covenants. His delegation hoped that the documents of the Human Rights Committee would be published and that the text of the Covenants would receive the widest possible public distribution. With regard to the elaboration of a second optional protocol aiming at the abolition of the death penalty, he believed that it was necessary to reduce the incidence of capital punishment and to eliminate summary executions, to reduce progressively the number of capital offences and to guarantee the accused, wherever appropriate, the right of due process and appeal.

49. With regard to agenda item 86, he welcomed the elaboration of a convention on the rights of the child and affirmed that his delegation was prepared, in that field as in the field of the protection of human rights in general, to co-operate with the Human Rights Committee.

50. Mrs. UMAÑA (Colombia), speaking on agenda item 85, said that despite the considerable national resources devoted to higher education, particularly to scientific education, Colombia encountered many difficulties in effectively guaranteeing to all citizens the rights set forth in article 27 of the Universal

(Mrs. Umaña, Colombia)

Declaration of Human Rights. Those difficulties were due to three features of the current international scientific and technological order. Science, like culture, was the result of a very long historical evolution, and not only of financial effort or effective planning. The developing countries were overwhelmed with problems which required immediate solutions, and they had not yet had the time to establish the necessary infrastructures for their scientific development. They were therefore obliged to acquire foreign technologies, which amounted virtually to "buying" the experience acquired by countries whose national reality differed radically from the Colombian reality. The countries with scientific and technological know-how should take account, in their co-operation plans, of the historical aspect of science and should not be preoccupied with opportunism and a concern for short-term commercial gain. Secondly, if science was to contribute to raising the standard of living of peoples and mankind's level of civilization, it must become the common heritage of all mankind. In that connexion, one could cite the example of communications by satellite and note that possible geostationary orbits around the earth were relatively rare and that therefore efforts should be made to ensure that they were not monopolized by a few States, using and increasing their technological superiority. It was therefore necessary to regulate the use of that orbit, which was particularly useful for communications, in order to place it at the service of all mankind. Lastly, science, in order to contribute to the establishment of a new international economic order and the protection of human rights and fundamental freedoms, must be total science. The countries of the third world must have access to all of scientific knowledge and not only to the portion which others judged good for them, for that amounted to offering them only partial and truncated knowledge which could not help them to liberate themselves. If the transfer of technology was not to bring harm to the culture or economy of a country, it must be the result of political decisions inspired by a global vision of the human being.

51. Miss KHAPARDE (India), speaking on agenda item 75, said that many religions, such as Hinduism, Islam, Sikhism, Buddhism, Jainism, Christianity, Judaism and Zoroastrianism had coexisted in India for centuries; that diversity had enriched the country's culture and traditions and had led the people of India to respect them all and to learn from them.

52. The right to freedom of religion was one of the fundamental rights guaranteed by the Constitution and, as such, was an enforceable right. The entire development of the legal, judicial and administrative system of India showed clearly that Indian citizens fully enjoyed the rights and freedoms guaranteed by the Constitution.

53. Her delegation was happy to note that the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had, after a checkered history, finally been transmitted to the General Assembly by the Commission on Human Rights. India had good reason for satisfaction, since the origin of the draft could be traced back to a study prepared by an Indian. It might be possible to consider reprinting that study, which was currently out of print. Her delegation hoped that the General Assembly would adopt the draft Declaration, as recommended by the Economic and Social Council, and that it could do so by consensus, which would give proof of the international community's desire to eliminate intolerance and discrimination based on religion or belief. In order to achieve that

(Miss Khaparde, India)

consensus, which had not been possible in either the Commission on Human Rights or the Economic and Social Council, further consultations would probably have to take place.

54. Turning to agenda item 87 (c), she said that her delegation had set out its views on capital punishment in a statement made at the thirty-fifth session of the General Assembly. While appreciating the humanitarian concerns behind the proposal to draw up a second optional protocol aiming at the abolition of the death penalty, it felt that it would be premature to take any substantive decision at the current stage. The fact was that the great majority of countries had so far not abolished capital punishment. Furthermore, only 21 countries had submitted comments in response to the request addressed to them by the Secretary-General in accordance with General Assembly decision 35/437, and those replies were far from unanimous in support of the proposal. Therefore, countries should begin by holding consultations to decide whether the question should be considered. During informal meetings with other interested delegations, including the delegation of the Federal Republic of Germany, the initiator of the proposal, her delegation had noted that everyone appreciated the need for such consultations. The Committee should therefore ensure that those consultations took place without in any way prejudging the positions that might subsequently emerge. Further action could be considered at a later stage.

55. Mr. KOMISSAROV (Byelorussian Soviet Socialist Republic), speaking on agenda item 87, said that the establishment of an international legal foundation was an essential aspect of United Nations action to promote the observance of human rights and fundamental freedoms. Besides the Charter, the United Nations had drawn up various instruments, including the International Covenants on Human Rights. The Byelorussian SSR believed that by acceding to those Covenants and by strictly applying the obligations deriving therefrom, States showed their willingness to co-operate in activities undertaken to promote human rights. It noted with satisfaction the continuing increase in the number of States which had ratified or had acceded to the Covenants.

56. The fact that the Byelorussian SSR had ratified the Covenants in 1973 was a clear demonstration of its concern for the observance of freedom and human rights, social justice and democracy, and the establishment of conditions which could ensure the free and harmonious development of the individual. Aware of the historically proven relationship of social and economic rights to civil and political rights, the Byelorussian SSR guaranteed a wide range of rights and freedoms in its constitution. He stressed that Soviet legislation went beyond the provisions of the Covenants on Human Rights. It was self-evident in those circumstances that the Byelorussian SSR strictly complied with the obligations deriving from the Covenants.

57. The Byelorussian SSR co-operated with international bodies responsible for reviewing the implementation of those Covenants on the basis of reports transmitted by the States Parties. It had itself submitted reports, which, on the whole, had been well received by the members of the Human Rights Committee and the Sessional Working Group of the Economic and Social Council. There was no doubt that those bodies were doing a good job, which was why the Byelorussian delegation felt concern at seeing a number of States, which belonged almost entirely to the same region,

(Mr. Komissarov, Byelorussian SSR)

continue to pay more attention to organizational aspects than the actual activities of the Sessional Working Group, thereby undermining its authority and its competence. Instead of devoting their attention to the effectiveness of its work, they were concerned only with making changes, sometimes in violation of the provisions of the International Covenant on Economic, Social and Cultural Rights and of the relevant decisions of the Economic and Social Council.

58. It could be seen from the work of both the Human Rights Committee and the Sessional Working Group that a number of developed capitalist States Parties to the Covenants were not taking the measures necessary to fulfil their obligations, which included laying down in the Constitution and other legislative texts the main political, social and economic rights contained in the Covenants and ensuring that they were implemented. In practice, those rights were being interpreted to serve the interests of the ruling classes.

59. His delegation therefore believed that the General Assembly should spare no effort to increase the number of States Parties to the International Covenants, so that the Covenants might become universal.

60. Turning to agenda item 75, he said that the question of eliminating all forms of religious intolerance was very complex, a fact which was perfectly understandable when one considered the diversity of religions and the different ways in which States viewed freedom of conscience and religion. His delegation, which had taken an active part in drawing up the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, noted with satisfaction that the text contained a number of positive elements which were in keeping with the spirit and principles of the Charter and the main international instruments on human rights and that, to a large extent, it took account of the concerns of different countries. However, his delegation regretted that the work had been compromised at the final stage by the waiving of the principle of consensus as a result of pressure from a group of countries, and it hoped that an unfortunate precedent had not thus been set. The Commission on Human Rights had been in such a hurry to put the incomplete text to a vote that it had not been possible to take due account of the positions of various countries. Thus, the draft Declaration could not be considered satisfactory. In particular, the principle of freedom of conscience was one-dimensional and did not take sufficient account of atheistic beliefs. Furthermore, article 6, for example, did not contain a complete and systematic list of freedoms; in particular, it omitted freedom of thought and freedom of conscience, which were mentioned at the beginning of the article.

61. For all those reasons, his delegation felt that the draft Declaration had serious deficiencies and that the drafting work should therefore continue, taking into account the positions of all States, so that the draft Declaration could win general acceptance. That could be done either by asking for the views and comments of all States Members of the United Nations or by asking the Commission on Human Rights once again to continue its work on the draft. In order to reach an agreement on the draft Declaration, his delegation was fully prepared to take part in consultations within the Third Committee, as proposed by the Indian delegation. All that was needed to make the document universal was a little goodwill on the part of delegations and a real desire for its adoption.

The meeting rose at 1.15 p.m.