

ICRC itself, that that body had been able to rely on the complete co-operation of the Turkish authorities.

35. Mr. MAVROMMATIS (Cyprus) expressed surprise that the representative of Pakistan had spoken of political connotations with regard to the draft resolution. The sponsors of that draft resolution had made efforts, in drafting the document, to avoid any terms which could lead the Committee into that sphere. The political aspect of the question of Cyprus was being considered by the Special Political Committee, and it was a purely humanitarian feeling which had led the sponsors of the draft resolution under consideration to submit it to the Third Committee. That should be evident, as the draft resolution mentioned only Cypriots, not Greek Cypriots, and that term clearly applied to all inhabitants of the island, whether of Turkish or Greek origin.

36. Mr. MITCHELL (United States of America) emphasized that if his delegation, during a previous statement (2156th meeting), had mentioned a particular country, namely Cuba, it was because the Cuban delegation had at that time been the only one to have expressed its opinion on the question. If other delegations had spoken, his delegation would not have failed to mention them in the

same way. Moreover, although he thought he had clarified the matter at the 2157th meeting, he wished to point out to the representative of Mauritius, who had raised certain questions concerning statistics, that the figure of 20,000 prisoners which he had mentioned involved only Cuba and no other country. In reply to the representative of Saudi Arabia who, at the same meeting, had said that certain writings or even statements by parliamentarians could have harmful consequences for States, he wished to observe that in the twentieth century it was difficult not to view with fear and apprehension any attempt to repress creative activity, particularly the work of a writer. It was even more disturbing to think that an individual could be arrested and imprisoned for having engaged in such activity. In that regard, he thanked the Chairman of the Committee, who had permitted him, despite difficulties caused by the very rigid rules of procedure, to express a point of view which his delegation believed might clarify the debate. It was to be regretted that representatives, in order to be heard, had available to them only the system of points of order, which they used frequently as a subterfuge for discussing substantive questions. His delegation was reluctant to resort to such hypocritical manoeuvres.

The meeting rose at 5.50 p.m.

2159th meeting

Friday, 14 November 1975, at 10.30 a.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/SR.2159

AGENDA ITEM 12

Report of the Economic and Social Council [chapters III (sections F, G, I, L and M), IV (sections A and C) and V] (continued) (A/10003, A/10284, A/10285, A/10295, A/10303, A/C.3/637, A/C.3/639, A/C.3/640, A/C.3/642, A/C.3/L.2173, 2174/Rev.1, 2175-2178)

HUMAN RIGHTS QUESTIONS (continued)
(A/10003, chap. V, sect. B)

Consideration of draft resolutions (continued)
(A/C.3/L.2173, 2174/Rev.1, 2175)

1. Mr. SCHREIBER (Director, Division of Human Rights), referring to certain statements made at the previous meeting concerning the role of the United Nations Peace-keeping Force in Cyprus (UNFICYP) in the tracing of missing persons in Cyprus, said that he had been requested to provide the following factual information.

2. In paragraph 54 of his report to the Security Council of 6 December 1974 on the United Nations operation in Cyprus,¹ the Secretary-General had reported that one of the major current issues being discussed by Mr. Clerides and

Mr. Denktaş was that of missing persons, who were said to number about 3,000. The UNFICYP civilian police (UNCIVPOL), through its Missing Persons Bureau, was co-operating with the Central Tracing Agency of the International Committee of the Red Cross (ICRC) in intensified search operations to locate them. An *ad hoc* committee to deal with that matter had been set up in Cyprus in February 1975, consisting of representatives of UNFICYP, ICRC, and the Greek and Turkish Cypriot communities. That committee had held nine meetings, and ICRC files on individual cases had been submitted to it. The question of missing persons had been discussed further during the negotiations held at Vienna in April and May 1975 in pursuance of the new mission of good offices which the Security Council had entrusted to the Secretary-General by its resolutions 367 (1975) and 370 (1975). The agreed final communiqué of 3 May 1975, contained in a report of the Secretary-General to the Security Council,² had stated in that connexion that the question of missing persons had also been discussed. Although both sides had again affirmed that they were not holding undeclared prisoners-of-war or other detainees, it had been agreed that whenever substantial information reached Mr. Clerides or Mr. Denktaş, a search would be conducted through joint teams for which the assistance of ICRC would be requested. The final communiqué issued at Vienna on 2 August 1975,

¹ See *Official Records of the Security Council, Twenty-ninth Year, Supplement for October, November and December 1974*, document S/11568.

² *Ibid.*, *Thirtieth Year, Supplement for April, May and June 1975*, document S/11684.

the text of which was contained in a report of the Secretary-General to the Security Council,³ had stated that, although both sides had again affirmed that they were not knowingly holding undeclared prisoners-of-war or other detainees, it had been agreed mutually to extend full facilities for searches in response to information given by either side. The ICRC Tracing Agency had closed its office in Cyprus on 31 August 1975 and transferred its basic documents to the Central Tracing Agency in Geneva. The UNFICYP civilian police was continuing to exert every possible effort in that matter.

3. Mr. MAVROMMATIS (Cyprus) said that the information just provided by the Director of the Division of Human Rights had made it abundantly clear that the Secretary-General had, throughout the recent events in Cyprus, played a considerable humanitarian role, especially in matters relating to missing persons. He noted in particular that UNCIVPOL, which represented the Secretary-General, was the only body in Cyprus which was continuing to exert efforts in the matter, and that was entirely consistent with operative paragraph 1 of draft resolution A/C.3/L.2173, of which his delegation was a sponsor.

4. Referring to the amendments submitted by Turkey (A/C.3/L.2178), he observed that the purpose of the first amendment, calling for the deletion of the first preambular paragraph, was to remove any reference to General Assembly resolution 3212 (XXIX), which was gospel where the Cyprus question was concerned. That resolution had dealt with humanitarian matters and with the mandate under which the Secretary-General had been acting in matters relating to missing persons. He drew special attention to paragraphs 7 and 8 of that resolution, with reference to which the report quoted by the Director of Human Rights had been submitted. It was therefore impossible to delete the first preambular paragraph.

5. With regard to the second amendment submitted by Turkey, he recalled that his delegation had submitted an oral amendment to the third preambular paragraph of the draft resolution, and he insisted that that paragraph should be retained as orally amended by him. It was not at all necessary to refer to violence, as proposed by the representative of Turkey in his second amendment, since the idea of violence was included in that of armed conflict.

6. Referring to the third amendment by Turkey, he said that if, after all the efforts which had been and were still being made by UNCIVPOL, that amendment was adopted, it would amount to a vote of no confidence in the Secretary-General, who had performed his tasks admirably.

7. With reference to the fourth of those amendments, he said that it was necessary to have reporting on the implementation of the resolution, since ICRC had no constitutional power to perform that function and the Committee therefore could not rely exclusively on that body. However, in a spirit of compromise, he was prepared to accept the insertion of the words "in close co-operation with ICRC" following "to exert every effort" in paragraph 1 of the draft resolution. That should meet the concern of the Turkish delegation, the amendments of which were unacceptable to Cyprus.

³ *Ibid.*, Supplement for July, August and September 1975, document S/11789.

8. Mr. SÖYLEMEZ (Turkey) regretted that the amendments proposed by his delegation were unacceptable to the Greek Cypriot delegation. Those amendments had been proposed with a view to strengthening the course of action which the Committee might take if it was necessary to adopt the draft resolution on the so-called missing persons in Cyprus. His delegation had found no contradiction between its previous statements on the subject and the information which had just been given by the Director of the Division of Human Rights. In that connexion, he drew particular attention to paragraph 54 of the Secretary-General's report on the United Nations operations in Cyprus,¹ which the Director had referred to in his statement. His delegation's earlier statements were also entirely consistent with the details given by the Director concerning the *ad hoc* committee which had been set up in Cyprus, the closing of the ICRC Central Tracing Agency in Cyprus, and the discussions held at Vienna. It had been made abundantly clear that the Turkish side had no so-called missing persons in its hands, that the files had been completed and the search finished, and that there was little further to be done. If UNFICYP came across additional information, it would of course be provided to the interested persons, but that was not UNFICYP's direct concern or responsibility.

9. His delegation considered that the subject of draft resolution A/C.3/L.2173 was not an issue for the United Nations, but since the Greek Cypriot delegation had insisted on submitting that draft resolution, Turkey had wanted it to be as factual and close to reality as possible. It had therefore submitted a series of amendments, the first of which, calling for the deletion of the first preambular paragraph, was essential. The Greek Cypriot representative had stated that it was gospel where the Cyprus question was concerned. His delegation had not been aware of any contemporary gospels, but it seemed that there would soon be a proliferation of them, since the plenary General Assembly was also in the process of preparing a gospel on the matter. In such circumstances, he did not know which gospel to believe. The Greek Cypriot representative had referred to paragraph 7 of what he had called the gospel, but that paragraph did not mention missing persons—it spoke of humanitarian assistance, which was a general abstract formulation. There was therefore no justification whatever for the first preambular paragraph, the inclusion of which showed the draft to be a purely political one.

10. Referring to the third preambular paragraph, he noted that the Secretary-General had the previous year spoken of a rumoured figure of 20,000 missing persons. That figure was now estimated at "over 2,000 Cypriots", and it was impossible to tell what it would be reduced to next. His delegation's second amendment was therefore aimed at deleting the reference to the number of so-called missing persons. With regard to operative paragraph 1 of the draft resolution, he recalled that the main emphasis had been on ICRC and its Central Tracing Agency, whose Nicosia office had been closed. However, there was always the possibility that it might be requested to resume activity in Cyprus and see if any persons might be traced. His delegation accordingly sought to relieve the Secretary-General of a task he could not perform. As to operative paragraph 2, the Secretary-General did not need a mandate from the Third Committee or the General Assembly, since he already reported periodically to the Security Council on all aspects

of the question of Cyprus, and nothing prevented him from reporting on missing persons, if there were any. His delegation, to show that it was not opposed to such reporting, had agreed to the amendment proposed by the representative of Pakistan at the preceding meeting and had included in its third amendment a reference to international organizations, which would not preclude other agencies or bodies that might be interested from tracing missing persons in Cyprus. Furthermore, the Commission on Human Rights could investigate the question of the so-called missing persons in Cyprus whenever it felt there was a need to do so. Operative paragraph 2 was therefore entirely unnecessary.

11. His delegation hoped that the Committee would find it possible to endorse the Turkish amendments, and that they would be voted on before the vote was taken on the draft resolution. If those amendments were not accepted, his delegation would oppose the draft resolution, which exploited the political aspect of the question of Cyprus under a humanitarian guise. In conclusion, he requested a roll-call vote on each of his delegation's amendments.

12. Mr. MAVROMMATIS (Cyprus), reiterating his delegation's position with regard to the Turkish amendments (A/C.3/L.2178), said that the first of those amendments, calling for the deletion of the reference to General Assembly resolution 3212 (XXIX), was unacceptable because that resolution gave a mandate to the Secretary-General on humanitarian matters, including the question of missing persons. The Secretary-General had been exercising, and continued to exercise, his function under that mandate, as had been pointed out by the Director of the Division of Human Rights. Moreover, his delegation rejected the second amendment for the reasons which it had already explained, and also opposed the third amendment, but, in a spirit of compromise, it could accept the insertion of a reference to ICRC in paragraph 1 of the draft resolution. With regard to the fourth amendment, he insisted on the retention of operative paragraph 2 of the draft resolution, and stressed that the Committee would have no means of obtaining information on progress in the implementation of the resolution unless the Secretary-General made reports. In that connexion, he pointed out that the Secretary-General would submit a report on missing persons at the forthcoming session of the Commission on Human Rights.

13. Mr. SMIRNOV (Union of Soviet Socialist Republics), supported by Mrs. DE BARISH (Costa Rica), Mr. DE FARIA (Portugal) and Miss GUERRA (Madagascar), proposed that, since delegations had had very little time to give the amendments submitted by the delegation of Turkey the careful attention they deserved, the votes both on the amendments and on draft resolution A/C.3/L.2173 should be postponed to enable delegations to study them thoroughly.

14. The CHAIRMAN said that if he heard no objections, he would take it that the Committee agreed to the proposal just made.

It was so decided.

15. Mr. SANCHEZ GAVITO (Mexico) introduced draft resolution A/C.3/L.2174/Rev.1, concerning measures to

ensure human rights and dignity of all migrant workers, and expressed the hope that it would receive the Committee's overwhelming support.

16. Mr. NOTHOMB (Belgium) said that his delegation would whole-heartedly support the revised draft resolution, and considered that United Nations documents should, where appropriate, use the terms "non-documented" or "irregular". In the case of Belgium, the term "irregular" should be used. The use of the expression "non-documented or irregular migrant workers" would also be quite appropriate in studies relating to the general problem of migrant workers who were not in compliance with the law. His delegation was confident that the ILO would use the appropriate term in each case.

17. Mr. BARONA (Colombia) announced that agreement had been reached with the ILO to delete the fifth preambular paragraph of the revised draft resolution, in order to meet the reservations expressed by some delegations concerning that paragraph.

18. Miss DUBRA (Uruguay) proposed that the draft resolution should be adopted by consensus.

19. The CHAIRMAN asked the Committee whether it wished to adopt the draft resolution without a vote, as proposed by the representative of Uruguay.

20. Miss GUERRA (Madagascar) said that her delegation could not endorse the draft resolution, taking into account legislation currently in force in her country.

21. The CHAIRMAN said that in view of the remarks just made by the representative of Madagascar, he would have to put the draft resolution to the vote.

22. Mr. VON KYAW (Federal Republic of Germany) said that his delegation would vote for the draft resolution, but had reservations about the term "non-documented or irregular migrant workers" in operative paragraph 2. His delegation was in full agreement with the ideas set forth in paragraphs 3 and 4 to the effect that respect for the human rights of migrant workers should also extend to those who were not authorized to stay and to take up work in a receiving country. It also agreed that those workers had the right to diplomatic and consular protection. It did not agree, however, with the formula "non-documented" in paragraph 2, which, according to the representative of the ILO, reflected a regional problem existing in the United States. In the interest in particular of the more than 2 million migrant workers who worked in his country legally, the Federal Republic of Germany would continue to consider those migrant workers who had entered illegally or in an irregular fashion as what they really were, namely persons unauthorized to stay and take up work in the receiving country. It would also continue to do its utmost to ensure the human rights of all migrant workers in its territory.

23. Mr. OULD SIDI AHMED VELL (Mauritania) said that his delegation would vote for the draft resolution because it was designed to ensure the welfare of migrant workers who had already arrived in a country, and not to encourage workers to emigrate without documents.

24. The CHAIRMAN put the draft resolution to the vote.

Draft resolution A/C.3/L.2174/Rev.1 was adopted by 111 votes to none, with 3 abstentions.

25. Mr. GROS (France), speaking in explanation of his vote, said that his delegation had had no difficulty in voting in favour of the draft resolution: the liberalism of his country's legislation on the matter was too well known for it to be necessary for him to specify how the principles behind the draft were reflected in French law. However, he had reservations on the French text of operative paragraph 2: the use of the term "non-documented or irregular migrant workers" created legal problems for his delegation, because it was contrary to the principles of French law to single out a particular category of persons for special treatment. The term "irregular" would in no way be prejudicial to the dignity of migrant workers since it referred to a situation and not to a person. Had a separate vote been taken on operative paragraph 2, his delegation would have abstained in the vote on that paragraph.

26. Mr. SANCHEZ (Venezuela) said that his delegation had voted in favour of the draft because of its humanitarian nature. However, its support did not mean that it could agree to any encouragement of the illegal entry of workers into other countries, and it reiterated its position that the parties directly involved must solve the problem of the migration of non-documented or irregular workers. Venezuela would apply its own laws to solve that type of problem.

27. Mr. NDOM (United Republic of Cameroon) said that his delegation had voted in favour of the draft for humanitarian reasons. However, it had reservations about operative paragraph 2, and it considered that the term "non-documented or irregular migrant workers" should apply to workers who had already left their own countries. Taking into account labour legislation in his country, his delegation would have voted against operative paragraph 2 if it had been put to a separate vote.

28. The CHAIRMAN suggested that if there were no more explanations of vote, the Committee should proceed to consider draft resolution A/C.3/L.2175 and the amendment contained in document A/C.3/L.2177.

29. Mr. ALFONSO (Cuba) said that consultations were still being held on the draft resolution; since the Committee was behind in its work, he suggested that a time-limit should be set for the submission of amendments to that text.

30. Mr. CATO (Ghana) said that he had just received instructions from his Government and wished to present three oral amendments⁴ to draft resolution A/C.3/L.2175. The second preambular paragraph should be replaced by the following text:

"Convinced that the lessening of international tensions contributes to the promotion of respect for and observance of human rights and fundamental freedoms and makes it imperative that efforts be renewed to achieve the

⁴ Subsequently circulated as document A/C.3/L.2179.

total elimination of colonialism, foreign occupation and alien domination,".

In the fourth preambular paragraph, the words "relating to such reports" should be replaced by "relevant to gross violations of human rights and fundamental freedoms as exemplified by the policy of *apartheid* as practised in the Republic of South Africa and in Namibia and to racial discrimination as practised in Southern Rhodesia and other territories." Operative paragraph 1 should be replaced by the following text:

"Appeals to Member States to release all persons who have been detained or imprisoned as a result of their beliefs and opinions and their struggle for self-determination and independence against colonialism, foreign occupation, alien domination, racism and racial discrimination;"

31. Mrs. MARICO (Mali) said that her delegation was waiting for instructions from its Government on draft resolution A/C.3/L.2175; she suggested that the time-limit for submission of amendments should be Monday, 17 November, at 3 p.m.

32. Miss GUERRA (Madagascar) said that her delegation supported the proposal of the representatives of Cuba and Mali to set a time-limit for the submission of amendments.

33. Mr. KAMARAKE (Sierra Leone) said that since the Committee was behind in its work, delegations which had amendments to draft resolution A/C.3/L.2175 should submit them without delay.

34. The CHAIRMAN said that it was understood that delegations could put forward amendments to the draft resolution straightaway; if he heard no objection, he would take it that the Committee agreed that the time-limit for the submission of amendments to the draft resolution should be 3 p.m. on Monday, 17 November.

*It was so decided.*⁵

AGENDA ITEM 74

Torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment (A/10260, A/10158 and Corr.1 and Add.1, A/C.3/641)

35. Mr. SCHREIBER (Director, Division of Human Rights) said that in considering the question of torture and other cruel, inhuman or degrading treatment or punishment, reference should first be made to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex), to which no exception could be made even in times of national emergency. Over the previous two years, moved by reports from various quarters, the United Nations had been particularly concerned with the application of those provisions, and many United Nations bodies had combined their efforts in work on the subject.

⁵ At its 2161st meeting, the Committee decided, on the proposal of the representative of the United Republic of Tanzania, to extend the time-limit by one day.

36. He recalled that in 1973, at its twenty-sixth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had informed the Commission on Human Rights that it wished to include on its agenda an item entitled "The question of the human rights of persons subjected to any form of detention or imprisonment"; it was authorized to do so by the Commission at its thirtieth session. In its resolution 3059 (XXVIII), the General Assembly had reaffirmed its rejection of any form of torture and other cruel, inhuman or degrading treatment or punishment, urged all Governments to become parties to the relevant international instruments, and requested the Secretary-General to inform the General Assembly of the consideration which might have been given to the question by the Sub-Commission on Prevention of Discrimination and Protection of Minorities or by the Commission on Human Rights and other bodies concerned. The Sub-Commission had therefore continued its work and at its twenty-seventh session had adopted resolution 7 (XXVII)⁶ which listed the special rights to which persons subjected to any form of detention or imprisonment were entitled. By the terms of that resolution, the Sub-Commission had decided to review annually the situation concerning the human rights of persons subjected to any form of detention or imprisonment, taking into account any reliably attested and not politically motivated information from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations. Several Governments had provided information on the legislative and administrative measures which they were taking, and a number of non-governmental organizations had provided information on specific situations. At its twenty-eighth session, the Sub-Commission had, in its resolution 4 (XXVIII),⁷ indicated the specific subjects in the area concerned which should be of concern to United Nations bodies.

37. At the preceding session, the General Assembly had adopted resolution 3218 (XXIX), which had been followed by activities which were very encouraging for future international action in the field. The resolution referred to the work which had been carried out by other United Nations bodies in devising Standard Minimum Rules for the Treatment of Prisoners,⁸ an international code of police ethics, and draft principles on freedom from arbitrary arrest and detention. In the resolution, the General Assembly requested Member States to furnish the Secretary-General with information and observations on particular aspects of the subject. Indeed, reports of torture and cruel, inhuman or degrading treatment carried out by public authorities or official agencies acting under the cover of public authorities or by private organizations or groups had been received from many areas of the world. Sixty States had responded to the request to provide information, thus indicating the importance they attached to the problem of torture. In

⁶ See E/CN.4/1160, chap. XIX.

⁷ See E/CN.4/1180, chap. XXI.

⁸ *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders: report by the Secretariat* (United Nations publication, Sales No. 1956.IV.4), annex I.A.

accordance with the resolution, the Secretary-General had prepared an analytical summary of information received (A/10158 and Corr.1 and Add.1).

38. In the resolution, the General Assembly requested the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to give urgent attention to the question of the development of an international code of ethics for police and related law enforcement agencies and further requested it to complete the Standard Minimum Rules for the Treatment of Prisoners by including rules for the protection of all persons subjected to any form of detention or imprisonment against torture and other cruel, inhuman or degrading treatment or punishment. It invited WHO, in close co-operation with other competent organizations, including UNESCO, to prepare a draft on the principles of medical ethics relevant to the subject. He had been invited to present General Assembly resolution 3218 (XXIX) to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva from 1 to 12 September 1975; he had drawn attention to the General Assembly's repeated condemnations of torture and other cruel, inhuman or degrading treatment or punishment and had pointed to the need for more specific efforts in elaborating new provisions of international scope and measures which would enable the international community to ensure the application of such provisions. The Congress had been attended by 101 States members, most of which had been represented at a high level by ministers of justice, senior officials, judges and most of the best known experts in the field. The final report of the Congress would be issued at the beginning of 1976.

39. The Committee had before it document A/10260, a report on the specific subjects which the General Assembly had asked the Congress to consider. He recalled that the question of the development of an international code of ethics for police and related law enforcement agencies had been followed with interest by senior police officials from many countries, and some of them had participated in the work of the Congress. The Congress had considered draft codes prepared by the Secretariat and by the Netherlands, and at the conclusion of its discussion had made a proposal which appeared in paragraph 6 of document A/10260. The Committee could consider that proposal and, if it did, the Secretariat would present its financial implications. The Congress had also adopted a declaration concerning the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment, which it had recommended for adoption by the General Assembly.

40. Work on the question of torture and other cruel, inhuman or degrading treatment or punishment was thus continuing in various United Nations bodies, but it was for the General Assembly to provide a definite orientation and make the final decisions on behalf of the United Nations.

The meeting rose at 12.50 p.m.