

Minimum Rules for the Treatment of Prisoners⁷ themselves having already been elaborated. In operative paragraphs 4 and 5 the phrase “with the view to” should be changed to “with a view to”.

49. He had noted that none of the members who had spoken on the question of torture had defined the term, although the representative of the Netherlands had suggested a dual approach to the definition of torture. Although the Committee was not required to define the

concept of torture, it should bear in mind that at some stage the Congress on the Prevention of Crime and the Treatment of Offenders would have to work out a definition, as otherwise it would be unable to work out rules for the prevention of torture, and, moreover, the concept would be subjected to varying interpretations which would undercut the effectiveness of any preventive measures.

50. His delegation supported draft resolution A/C.3/L.2106, but hoped that its comments would be taken into account.

⁷ 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.

The meeting rose at 11.35 a.m.

2066th meeting

Tuesday, 15 October 1974, at 3.15 p.m.

Chairman: Mrs. Aminata MARICO (Mali).

A/C.3/SR.2066

AGENDA ITEM 12

Report of the Economic and Social Council [chapters III (sections D to F), IV (section J), V (sections A to C, D, paragraphs 436 to 478, 487 to 492 and 494 to 506, and E), VI (sections A.1 to 5 and 7, E and G) and VII (sections 1 to 3)] (continued) (A/9603, A/9637, A/9707, A/9733, A/9764, A/9767, A/9785, A/C.3/L.2106-2108, A/C.3/XXIX/CRP.1)

1. Mr. SPEEKENBRINK (Netherlands) said that his delegation was not fully satisfied with the results of the thirtieth session of the Commission on Human Rights. That session had focused largely on questions of procedure, and the Commission had not really come to grips with the substance of many of the questions concerning human rights which had been before it. Procedural decisions were certainly useful, but frequent resort to procedural debates was an indication of a deep divergence of opinions and interests among Member States with regard to human rights; it was the lowest common denominator, a convenient solution to which Member States resorted when their views were too widely divergent and they were unable or unwilling to deal with problems of substance. That was the case with two questions which his delegation would like to see dealt with: the question of human rights and scientific and technological developments, and the draft Declaration on the Elimination of All Forms of Religious Intolerance. His delegation hoped that the Committee, when it came to discuss those questions, in its consideration of agenda items 56 and 54, would not shirk its responsibility and would examine them substantively.

2. However, certain procedural decisions of the Commission on Human Rights—which had been adopted by the Economic and Social Council at its fifty-sixth session—related in fact to substantive questions; that was true, *inter alia*, of decisions concerning the various aspects of the right to self-determination (see resolutions 1865 (LVI) and 1866 (LVI) of the Council), and the activities of the *Ad*

Hoc Working Group of Experts which was currently investigating the human rights situation in southern Africa (see resolutions 1868 (LVI) and 1869 (LVI) of the Council). Decision 16 (LVI) of the Economic and Social Council to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish a working group composed of five of its members to study the question of slavery and the slave trade should also be noted. Mention should also be made of the decision of the Commission on Human Rights, subsequently endorsed by the Council (see decision 15 (LVI)), to establish a working group to examine before the following session of the Commission the information to be submitted to the Commission under Economic and Social Council resolution 1503 (XLVIII).

3. With regard to the delicate issue of violations of human rights, a distinction should be drawn between problems which were brought to the attention of the Committee by Member States or intergovernmental organs and which, as a general rule, were dealt with at public meetings, and cases reported to the Commission by individuals, groups or non-governmental organizations, which were dealt with in accordance with the procedure laid down in Council resolution 1503 (XLVIII). The situation prevailing in Chile posed problems in respect of the protection of human rights, which came within the first category. The Commission on Human Rights, the Economic and Social Council and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had expressed grave concern on the subject. His delegation profoundly regretted that the information reaching the Committee continued to indicate serious violations of human rights and fundamental freedoms in Chile. The International Labour Organisation had decided to undertake an inquiry into the matter. Statements from reliable sources, including the Catholic bishops of Chile, were far from reassuring and referred to practices which flouted human rights, in particular the infliction of torture and innumerable cases of arbitrary detention.

4. His delegation had taken note of the statement by the Chilean Government,¹ in response to the urgent appeal addressed to it by the Commission on Human Rights at its thirtieth session,² that the Government could not put an end to violations which it had not committed. It had also taken note of the statements by the representative of Chile in the Economic and Social Council, who had declared that the information that had been received had no foundation in fact and that the situation in Chile gave no cause for concern.³

5. In the circumstances, his delegation felt bound to endorse the recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 8 (XXVII) (A/9767, annex II) that the Commission on Human Rights at its thirty-first session should study the reported violations of human rights in Chile. An objective and accurate study would make it possible to assess the situation and, whatever its results, could only serve the cause of human rights. Accordingly, his delegation urged the Chilean Government to assist the Commission in that task by, for example, permitting members of the staff of the Division of Human Rights to visit the country in order to obtain first-hand information.

6. In that connexion, it might be useful for the General Assembly to direct an appeal to the Chilean Government to heed the concern expressed in many quarters and to respect the basic rights embodied in the Universal Declaration of Human Rights.

7. That was the purpose of draft resolution A/C.3/L.2107, of which his delegation was a sponsor and which it hoped would be adopted promptly by the Committee.

8. Mrs. MASSON (Canada) said that the Government and people of Canada attached great importance to respect for and protection of human rights and fundamental freedoms, and rejected and condemned violations wherever and for whatever reason they occurred. A society or a civilization which scorned the rights and dignity of the human person was doomed to failure and collapse. Her delegation was deeply concerned at the increasingly frequent use that was being made of torture, a practice which one would have thought really belonged to a bygone age. No reason, however laudable, could justify its use. Recourse to that odious practice could only undermine the ends which were intended or mistakenly believed to be achieved through its use. Torture was an ignoble process which degraded its practitioners even more than its victims. Her delegation therefore welcomed the initiative taken by the Netherlands and the other countries which had submitted a draft resolution on torture and other cruel, inhuman or degrading treatment or punishment (A/C.3/L.2106). The draft resolution, which dealt with the legal and technical aspects of the question—aspects which could not be the subject of futile political wrangling—was well conceived and gave promise of tangible results.

9. It was her delegation's ardent hope that the Fifth United Nations Congress on the Prevention of Crime and

the Treatment of Offenders would be able to complete successfully the tasks entrusted to it in operative paragraphs 3 and 4 of the draft resolution, namely, the development of an international code of ethics for police and the expansion of the scope of the Standard Minimum Rules for the Treatment of Prisoners.⁴ Her delegation whole-heartedly supported the draft resolution, which was a first step towards the elimination of the scourge of torture.

10. Mr. NOWORYTA (Poland) said that his delegation, which was particularly interested in human rights questions, reserved its right to dwell in more detail on certain points at a later stage in the consideration of the report of the Council (A/9603), which was before the Committee. For the time being, it would confine itself to some comments concerning torture and inhuman treatment. It shared the widely expressed concern on that subject and felt that it was the duty of the United Nations to take soundly-conceived measures, the effect of which could be felt immediately. In its resolution 3059 (XXVIII), which was designed to implement article 5 of the Universal Declaration of Human Rights, the General Assembly had rejected any form of torture and other cruel, inhuman or degrading treatment. Draft resolution A/C.3/L.2106 was a step forward in the protection of the interests of mankind. His delegation supported and would continue to support all efforts in that direction. The whole world knew what the Polish people had suffered under the occupation of Hitler's Germany. Fascism was founded on the large-scale practice of torture. During the Second World War, thousands and thousands of Poles, men, women and children, had died at the hands of Hitler's Nazis. Mass deportations and generalized torture were the basic elements of fascism. The memory of those atrocities could not be dispelled and should impel the international community to do everything in its power to inform people which lived under the threat of methods—all of them the same—practised by Fascist Governments. In particular, as many countries as possible should be urged to ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (General Assembly resolution 2391 (XXIII), annex). Indeed, many of those responsible for atrocious crimes committed during the Second World War had not been brought to trial. In Chile, for example, one of those Nazi criminals, Walter Rauch, even held the post of adviser to the military junta. His delegation, which was seriously concerned about the torture and inhuman treatment inflicted on numerous persons in Chile, considered that it was the duty of the international community to condemn the methods of that Government. His delegation would support all draft resolutions condemning torture and any other treatment degrading to the human person, as well as the countries and régimes which used those practices.

11. Mr. BAL (Mauritania) stressed the importance which his delegation attached to two of the draft resolutions which the Commission on Human Rights had recommended to the Economic and Social Council. The first, entitled "The adverse consequences for the enjoyment of human rights of political, military, economic and other

¹ E/CN.4/1153.

² See *Official Records of the Economic and Social Council, Fifty-sixth Session, Supplement No. 5*, chap. XIX, sect. B.

³ See E/AC.7/SR.744 and 746.

⁴ *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.

forms of assistance given to colonial and racist régimes in southern Africa", had been adopted by the Council without objection (resolution 1864 (LVI)) and the second, entitled "The historical and current development of the right of peoples to self-determination, on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms", had been adopted by the Council without a vote (resolution 1865 (LVI)). The human rights situation in some parts of Africa, particularly in southern Africa, was a problem which concerned the international community as a whole. It was the duty of the international community to condemn all violations of human rights committed in those countries, where freedom fighters captured in action were ill-treated, in defiance of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949,⁵ and where the number of summary executions was increasing every day. Despite the adoption of the Standard Minimum Rules for the Treatment of Prisoners by the Economic and Social Council at its twenty-fourth session (resolution 663 C (XXIV)), reports of torture and inhuman treatment inflicted on prisoners still abounded. The United Nations therefore had to bring about the international and regional isolation of racist régimes and to pledge to the international community its total and unconditional support for the oppressed peoples of southern Africa. All countries were faced with a clear choice: it was not possible to talk about respecting human rights and yet help those who flouted them, or to protest against summary executions of freedom fighters at a time when they were dying under fire from those who condemned that state of affairs.

12. His delegation considered that draft resolution A/C.3/L.2106 did not take a sufficiently thorough approach to the real problems associated with torture and other cruel, inhuman or degrading treatment or punishment. No specific regions such as Namibia or South Africa were mentioned in it. His delegation had had consultations with certain other delegations with a view to preparing a draft resolution concerning violations of human rights in colonial territories.

13. His delegation supported draft resolution A/C.3/L.2108 which was of a purely humanitarian character and was aimed at securing respect for human rights.

14. Mr. FØNS BUHL (Denmark) said that his delegation was not satisfied with the results of the work of the Commission on Human Rights at its thirtieth session. It was regrettable that the Commission had been able to take only procedural decisions on many of the items concerning human rights on its agenda, because of the divergent opinions and interests among member States as to the nature, orientation and reality of human rights.

15. As the Secretary-General had mentioned in the introduction (A/9601/Add.1) to his report on the work of the Organization, it was difficult to reconcile the sovereign jurisdiction of Member States with the principles enunciated in the Universal Declaration of Human Rights. The Declaration should be a guideline in the efforts to secure freedom, justice and peace in the world. However, a trend

had recently been discernible to disregard the principle embodied in article 5 of the Declaration and in article 7 of the International Covenant on Civil and Political Rights that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. His delegation therefore welcomed the initiative taken by the sponsors of draft resolution A/C.3/L.2106. Although it was a procedural text, it reflected the concern which many Member States of the United Nations, including Denmark, felt about the current situation with regard to torture and other cruel, inhuman or degrading treatment, which had been the subject of General Assembly resolution 3059 (XXVIII). Many international instruments, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949⁶ and, at the regional level, the Convention for the Protection of Human Rights and Fundamental Freedoms, of 4 November 1950,⁷ also prohibited the practice of torture and other cruel, inhuman or degrading treatment or punishment. His delegation therefore wholeheartedly supported draft resolution A/C.3/L.2106 and considered it very important that Member States should furnish to the Secretary-General, in time for submission to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Toronto in 1975, information relating to the legislative, administrative and judicial measures aimed at safeguarding persons within their jurisdictions from being subjected to torture and other cruel, inhuman or degrading treatment or punishment.

16. He informed the Committee that in its reply to the questionnaire dated 22 May 1974 issued to all Member States by the Secretary-General, the Danish Government had proposed that the question of conscientious objection should be included in the long-term programme of work of the Commission on Human Rights. It had also recommended that the long-term programme should be co-ordinated with current or planned activities in the field of human rights by other international or regional organizations, such as the Council of Europe.

17. Finally, he stated that his delegation supported the decision of the Commission on Human Rights—which had been endorsed by the Economic and Social Council at its fifty-sixth session (decision 15 (LVI))—to establish a working group to examine, before the following session of the Commission, the documents to be submitted to the Commission under Economic and Social Council resolution 1503 (XLVIII).

18. Mr. CHIRILA (Romania) said that his country was very satisfied with the importance and weight which the Economic and Social Council and its subsidiary bodies, particularly the Commission on Human Rights, attached to international co-operation in the sphere of respect for human rights as a means of safeguarding international peace and security, and understanding and co-operation among peoples. Recent activities reflected the general desire to ensure the effective protection of human rights and fundamental freedoms. The struggle against racial discrimi-

⁶ *Ibid.*, No. 973, p. 87.

⁷ *Ibid.*, vol. 213, No. 2889, p. 221.

⁵ United Nations, *Treaty Series*, vol. 75, No. 972, p. 135.

nation and *apartheid*, for example, had constituted the priority theme of the fifty-sixth session of the Economic and Social Council, and the implementation of the programme and goals of the Decade for Action to Combat Racism and Racial Discrimination would no doubt form an important part of the work of the United Nations in the sphere of human rights.

19. His delegation was gratified by the importance attached by the Economic and Social Council to the right of peoples to self-determination and the granting of independence to the colonial countries and peoples. Indeed that right constituted the *sine qua non* of individual freedom and of the effective exercise of the basic human rights. Romania had been one of the first countries to participate in the action of the United Nations in that sphere within both the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities; the latter body had entrusted a Romanian expert, Mr. Cristescu, with the task of preparing the report on that subject, in pursuance of resolution 1865 (LVI) adopted by the Economic and Social Council on 17 May 1974.

20. His delegation shared the concern expressed by many delegations about the gross and systematic violations of human rights and fundamental freedoms which persisted in certain parts of the world. The Economic and Social Council, at its fifty-sixth session, had adopted important decisions in that respect which his delegation had fully supported, particularly resolution 1873 (LVI) on protection of human rights in Chile. On that occasion his delegation had drawn attention to the action taken by its Government to ensure respect for human rights and fundamental freedoms in that country. Measures to promote equality of rights between women and men could also be included among the measures which contributed to universal respect for human rights. Much progress had been recorded in that respect, thus fulfilling one prerequisite for the success of International Women's Year in 1975.

21. He also drew attention to the commendable work done by the United Nations Secretariat in facilitating co-operation among Member States in connexion with the promotion of human rights. Reference should be made in particular to the work done in reporting on and summarizing the international human rights situation, the special support given to developing countries and the organization of international seminars which Romanian government agencies, non-governmental organizations, specialists and experts had followed with particular interest. In that regard, he recalled that Romania had offered to act as host, in 1975 or subsequent years, to an international seminar on the role of young people in human rights and their participation in national development and the decision-making process.

22. During the current year, Romania had celebrated the thirtieth anniversary of its liberation from Fascist domination. During those 30 years, decisive achievements had been made in realizing the aspirations of the Romanian people for independence, liberty and social justice, and the full development of the human personality by ensuring the broadest rights and democratic freedoms to all citizens. Romania had participated and would continue to partici-

pate with interest in international co-operative efforts in the field of human rights. It was important that all States should adopt and effectively apply the existing international juridical instruments in that field. The States Members of the United Nations must play a decisive role in that field; their national achievements would be duly reflected on the international scene as a result of their co-operation and respect for the fundamental principles of international law and of the Charter of the United Nations. His delegation was certain that the Third Committee would reach specific conclusions and take useful decisions that would have a positive influence on future activities and on continuing efforts for the effective promotion of human rights at the international level.

23. Mr. LEHTIHET (Algeria) announced that the Gambia had become a sponsor of draft resolution A/C.3/L.2108.

24. Mr. NOTHOMB (Belgium) said his delegation firmly hoped that the Committee would adopt draft resolution A/C.3/L.2107, on the protection of human rights in Chile, of which it was a sponsor.

25. Although prior to the events of the preceding year, Chile had always been a model of democracy, since then there had been an increasing number of reports on the violation of human rights and fundamental freedoms in that country. Amnesty International had recently published a most disturbing report on the situation in Chile and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recommended, in its resolution 8 (XXVII), that the Commission on Human Rights at its thirty-first session should study the reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment. His delegation strongly supported the idea of carrying out that study and hoped that the Chilean Government would facilitate its proper preparation.

26. Honouring a tradition which dated from its own independence, Belgium had granted political asylum to about 90 persons who had taken refuge in the Belgian Embassy in Santiago, as well as to some 30 other Chilean refugees sponsored by the Office of the United Nations High Commissioner for Refugees, who had been evacuated with their families and provided with financial assistance by the Belgian State for their initial installation expenses. It had also granted asylum to other refugees who had come on their own or with the support of private organizations. Furthermore, the Belgian State had made a financial contribution to the Office of the High Commissioner for Refugees, to the International Committee of the Red Cross and to the Intergovernmental Committee for European Migration, which were doing humanitarian work on behalf of Chile. On numerous occasions, it had also intervened with the Chilean authorities, either bilaterally or multilaterally, on behalf of persons who were experiencing difficulties as a result of the political situation. Finally, it had prohibited the export of arms to Chile.

27. Belgium strongly supported the urgent appeal made in draft resolution A/C.3/L.2107 and urged the Chilean Government to bear in mind the democratic traditions of Chile.

28. Mr. TRAVERTE (France) said that all Governments were in duty bound to condemn without reservations torture and other cruel, inhuman or degrading treatment or punishment. France had supported the many texts that had already been adopted and would have no difficulty in undertaking new commitments. However, as his delegation had repeatedly stressed, every effort should be made to work effectively and not sacrifice real progress—which required the adoption of specific and widely accepted measures—to a desire for quick results that would prove more spectacular than sound.

29. In modern times, torture as a punishment was widely condemned. Substantial progress had been made: for example, the Standard Minimum Rules for the Treatment of Prisoners had been adopted; the death sentence had disappeared from the legislation of many countries, and everyone was agreed in recognizing the barbarity of punishments that went back to the Middle Ages. On the other hand, there was an unfortunate diversity of opinion with regard to torture as a means for obtaining evidence or information, particularly in situations of armed conflict or serious threat to the maintenance of order. Efforts were sometimes made to twist the argument by drawing a distinction between torture as such, which involved bodily cruelty, and medical or pharmaceutical procedures aimed at weakening or breaking down the physical resistance of the individual without leaving any visible effect.

30. In view of the complexity of the problem, his delegation was most pleased with the prudent yet exhaustive manner in which the debate had been carried out: the formulation, taken directly from the Universal Declaration of Human Rights, was unequivocal and covered all forms of torture or similar treatment. The draft resolution (A/C.3/L.2106) did not stop with a mere formal condemnation but called for specialists to draw up measures that would be effective in practice. The international agencies concerned, as well as Member States, were to be associated with the research and codification efforts. His delegation asked to be added to the list of sponsors of the draft resolution, which was in keeping with its own objectives.

31. Mr. DURAN (Chile), speaking in exercise of his right of reply, objected to the procedure used by the representative of Poland, who had dwelt at length on the suffering of his people under the Nazi barbarians during the Second World War, and had established a parallel with Chile. The crimes that had been committed against Poland, and the silence that had surrounded them, had been possible only because the German-Soviet pact had delivered part of

Europe to Nazi subjugation which had subsequently been replaced by the tyranny of another totalitarianism. Walter Rauch did indeed live in Chile, but it was not true that he was an adviser to the junta. The Polish representative had insulted Chile by giving the impression that the Chilean Government was inspired by nazism. Furthermore, he had concealed half of the truth: Walter Rauch had been tried, but the Chilean Supreme Court, an autonomous judiciary organ, had refused to extradite him for procedural reasons. Furthermore, Walter Rauch had already been living in Chile under the Allende Government: why had his presence not caused surprise at that time? He pointed out that Walter Rauch had been defended by a lawyer belonging to the Unidad Popular, whom Allende had appointed senior attorney of the Central Bank.

32. Mr. NOWORYTA (Poland), speaking in exercise of his right of reply, said that the representatives of the junta always accused others of accusing them groundlessly and tried to draw attention to the faults of others instead of replying to criticism. Everyone knew what was happening in Chile; the life of Walter Rauch was well known, as were the crimes which the representatives of the junta tried to present as non-existent and for which they must eventually be held accountable. The insinuations made by the representative of Chile with regard to the causes of the Second World War and the suffering of the Polish people were altogether false. It was to be hoped that the junta would draw the obvious conclusions from the history of fascism.

33. Mr. DURAN (Chile), speaking in exercise of his right of reply, said that the real situation in Chile should be made known and that at the next meeting his delegation would present an evaluation of that situation. Chile, which had a long-standing tradition of democracy, religion and respect for human rights, had always voted at the United Nations for texts condemning violations of human rights. It respected the spirit of the Charter and did not have to be held accountable to anyone. He pointed out that it had been the representative of Poland who had introduced the subject of the Second World War in the debate and had spoken of Walter Rauch. The Chilean delegation was not in the pay of the military; it consisted of former members of the Chilean Parliament, university professors and members of the bar who represented all the parties.

34. Mr. NOWORYTA (Poland) said he hoped that the Chilean delegation would be able to explain in greater detail the crimes committed by the junta.

The meeting rose at 4.50 p.m.