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SUMMARY RECORD OF THE 45th MEETING

Chairman: Mr. MADAR (Somalia)

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The meeting was called to order at 3.25 p.m.

TRIBUTE TO THE MEMORY OF MR. EVNER ERGUN, DEPUTY DIRECTOR OF THE UNITED NATIONS CENTRE FOR SOCIAL DEVELOPMENT AND HUMANITARIAN AFFAIRS

1. The CHAIRMAN said that it was with great sadness that the Committee had learned of the tragic death of Mr. Evner Ergun, a Turkish national, who had been Deputy Director of the United Nations Centre for Social Development and Humanitarian Affairs. Mr. Ergun was well known to the Committee for his valuable contribution in the social field for which he was responsible at the Centre. On behalf of the Committee and on his own behalf, he expressed condolences to the bereaved family of Mr. Ergun and to the Secretary-General.
2. On the proposal of the Chairman, the members of the Committee observed a minute of silence in tribute to the memory of Mr. Evner Ergun, Deputy Director of the United Nations Centre for Social Development and Humanitarian Affairs.
3. Mr. DHAR (Assistant Secretary-General for Development Research and Policy Analysis) said that he had been shocked and grieved by the assassination of Mr. Ergun, who had served the international community with distinction and devotion for 17 years. He deplored such an act of terrorism against an international civil servant.
4. Mr. GEZER (Turkey) thanked the Assistant Secretary-General and the Chairman for their statements and said that he would convey their condolences to Mr. Ergun's family. He read out a letter of condolences from the Turkish Minister for Foreign Affairs addressed to the Secretary-General which expressed the hope that all Member States of the United Nations would join in condemning the terrorists and display solidarity in seeking to prevent assaults on international civil servants. He also expressed the hope that the Austrian Government would spare no effort to apprehend the perpetrator of the act.
5. Mr. WIESNER (Austria), speaking as a representative of the host country of the Centre for Social Development and Humanitarian Affairs, expressed his profound shock and sincerest condolences upon the assassination of Mr. Ergun. He noted that the Austrian Minister for Foreign Affairs had condemned the terrorist murder and that the Parliament had unanimously expressed its profound horror at the attack. His Government would do its utmost to pursue the person or persons responsible.

AGENDA ITEM 95: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued) (A/39/79 and Corr.1, 180 and Corr.1)

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- (b) STATUS OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: REPORT OF THE SECRETARY-GENERAL (continued) (A/39/461)
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AGENDA ITEM 99: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORTS OF THE SECRETARY-GENERAL (continued) (A/39/73, 360, 480 and Add.1 and 2, 499 and Add.1 and 2, 506, 662)

6. Mr. OBIANG NDONG (Equatorial Guinea) said that his Government attached special importance to item 99 because of the continued accusations made against Equatorial Guinea by the Economic and Social Council, particularly in the third preambular paragraph of its resolution 1984/36 of 24 May 1984, which stated that there had been no major change in the situation of human rights in Equatorial Guinea since the events of 3 August 1979. His country shared with the international community the conviction that respect for human rights was of fundamental importance in helping to achieve security and individual and collective well-being. The full enjoyment of human rights was the basis of his Government's policy, and it had always allowed visits not only from representatives of the Human Rights Commission but from other concerned persons. Since his country had nothing to hide, his delegation expressed its highest indignation at the above-mentioned resolution because it had been adopted unilaterally without prior consultation with the Government of Equatorial Guinea and had been based on unsubstantiated information.

7. The coup of 3 August 1979 had meant, for his country, the victory of freedom, law and justice over oppression, dictatorship and injustice. Therefore, the problem of fundamental freedoms and human rights had been resolved as a matter of principle. The people of Equatorial Guinea aspired to integrated development, and for that reason the Government had encouraged a climate of peace and tranquillity to ensure that the country's development and democratic process could not be reviewed.

8. In the socio-political development of Equatorial Guinea, two phases could be distinguished: before and after the enactment of the Fundamental Law. In the first phase, from August 1979 to August 1982, his Government had taken a number of steps towards social reform, such as the promulgation of legislation calling, inter alia, for general amnesty, the reopening of churches, the restitution of property and the restructuring of the Social Security Institute.

(Mr. Obiang Ndong, Equatorial Guinea)

9. During the second phase, from August 1982 to August 1984, decisive changes had taken place. In May 1982, the electoral law for the referendum on the Fundamental Law had been promulgated; on 15 August 1982, the Fundamental Law had been approved by a majority of more than 99 per cent of the vote, and had entered into force on 22 August 1982. Subsequently, through its three branches of Government - the President, Supreme Court and House of Representatives - and through the recently established National Council for Economic and Social Development, his country had been placing increasing emphasis on the development of the individual and the establishment of a legal basis for relations not only among individuals but between individuals and the State. The plan of action referred to in the above-mentioned resolution had not only been accepted but had been fully implemented; all the "conditions" and "requirements" of the plan of action were included in the articles of the Fundamental Law.
10. His delegation wished to reiterate that the constitutional Government of his country had no opposition, either from within or without. It did, however, recognize the existence of fugitives from the law, who were guilty of crimes, and of other persons who, because they were failures and therefore perpetual students, could not justify their long stay abroad.
11. Equatorial Guinea's diplomatic missions provided protection and assistance to persons who, for family or professional reasons, preferred to live abroad.
12. Some of the legal measures which had been taken or were planned in response to United Nations recommendations on human rights had been described in document E/1984/C.2/1, and his delegation was therefore greatly surprised and indignant concerning Economic and Social Council resolution 1984/36.
13. Equatorial Guinea could under no circumstances be considered a country which did not respect human rights or implement United Nations recommendations. On the contrary, it had endorsed all the relevant United Nations resolutions, had made respect for human rights the cornerstone of its integrated development policy, and invited the Commission on Human Rights to visit the country whenever it so desired.
14. Ms. SAELZLER (German Democratic Republic) said that the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief was an instrument that called for better understanding, tolerance and respect with regard to questions of religion and freedom of belief. The relations between her country and the churches were based on the principle of separation between Church and State. Consequently, the churches and other religious communities managed their affairs independently, within the framework of the Constitution and the law. Freedom to carry out religious activities as well as freedom of conscience and freedom of belief were enshrined in the Constitution of the German Democratic Republic as basic rights of the individual, and the work of religious groups, participation in religious activities and the seal of the confession were all protected by the Constitution and the law.

(Ms. Saelzler, German Democratic Republic)

15. Indeed, it was in the very nature of a socialist State to respect church autonomy and to co-operate with the religious communities. The trusting and purposeful co-operation between the State and the Lutheran churches on the occasion of the celebration of the 500th anniversary of the birth of Martin Luther was proof of the existing good relations. Leading representatives of world Protestantism who had visited the country for the Luther jubilee had been impressed by the wide range of opportunities open to the Protestant churches and the constructive relationship marked by mutual respect, between State and Church.

16. The guarantee of the freedom of belief was based on mutual confidence. In 1983, about 1,000 persons had visited the German Democratic Republic to take part in ecclesiastical events and approximately the same number of persons had traveled from the country to attend events abroad. Churches in the German Democratic Republic had recently been host to a great number of ecumenical events and had themselves been represented at important international church congresses and meetings abroad.

17. The opportunities for training at the theological faculties of the universities, the increased supply of literature to churches and believers by national and international publishing firms, and the realization of comprehensive investment programmes for construction were further proof of the co-ordinated co-operation between Church and State.

18. Relations between them had continued to develop positively after the Luther festivities. The recent IVth Synod of the Federation of Evangelical Churches in the German Democratic Republic had identified the task of ensuring the peaceful coexistence of Christians and Marxists, State and Church, for the benefit of the people, as a permanent joint task of society. The Synod had noted that the 35 years of existence of the German Democratic Republic had demonstrated that it was possible to deal objectively with differences and find constructive solutions. Good relations were continuing to develop between Church and State particularly with regard to matters that concerned both State policy and ecclesiastical activity, such as the safeguarding of peace.

19. Ms. CAO-PINNA (Italy), confining her remarks to the question of torture and the report of the Human Rights Committee (A/39/40), pointed out that her Government had made its position on the draft convention against torture and other cruel, inhuman or degrading treatment or punishment clear in its reply to the Secretary-General (A/39/499). It had declared that the draft convention dealt with a subject of the utmost importance which required urgent action by the United Nations and that Italy was prepared to accept it in its entirety. Despite the many principles and legally binding norms prohibiting torture, it was still widely practised. In most cases, the victims of torture had been deprived of the right to freedom of thought and expression because of their dissent from the policy of their Governments and were being kept in detention. In many cases, they died as a result of the torture or were summarily executed. The Commission on Human Rights had been working on the draft convention since 1977 and the current draft was the outcome of intensive negotiations and carefully worded compromises. Her delegation believed

(Ms. Cao-Pinna, Italy)

that it was the best text that could be achieved and that the General Assembly should adopt it in its entirety at the current session. Any other course of action would seriously compromise the credibility of United Nations efforts to protect human rights.

20. Torture was a criminal offence and the offender should be prosecuted regardless of his nationality, the territory in which the crime was committed or the territory in which he was found. Similarly, where there were substantial grounds to believe that a person would be in danger of torture should he be expelled, returned or extradited to another State, he should be protected, whatever his nationality or country of residence. By establishing universal jurisdiction in regard to all acts of torture and by making those acts extraditable offences, articles 3 to 8 of the draft convention adequately provided for the effective prosecution of offenders and the protection of persons exposed to torture. The most far-reaching provisions were those in articles 5 to 7. They were the result of a thorough study of a complex matter and reflected an enlightened spirit of co-operation in the Commission on Human Rights.

21. Unfortunately, that spirit of compromise had not prevailed during the drafting of the measures for implementing the draft convention. The square brackets in article 19, paragraphs 3 and 4, and article 20 signified that the Commission's Working Group had been unable to reach a unanimous position on the need to establish more advanced implementation provisions than those contained in the International Covenant on Civil and Political Rights and the Optional Protocol.

22. The failure to reach a consensus was apparently due to a rigid interpretation of the principle of non-interference in the internal affairs of States and its automatic application to the field of human rights. Those who opposed making implementation mandatory should consider how to resolve such controversial questions as whether the systematic practice of torture, whether ordered or tolerated, was an internal affair of the States within whose territory it was practised or a concern of the United Nations; whether the appointment by the Commission on Human Rights of Special Rapporteurs to study specific situations of violations of human rights constituted an interference in the internal affairs of the States concerned; whether the optional character of article 41 of the International Covenant on Civil and Political Rights and the Protocol thereto should be regarded as a crystallized general system of control over the effective compliance of States parties with the Covenant; whether States parties to the Covenant were to be presumed to be deaf to any comments or suggestions by the Human Rights Committee; whether United Nations action concerning situations of violations of human rights had involved investigations carried out by Special Rapporteurs or special envoys of the Secretary-General on the basis of unreliable information, or visits to the territory of the State party concerned without its permission. She hoped that the answers to those questions would induce those delegations not yet prepared to accept the draft convention in its entirety to change their position.

23. As far as the rest of the draft convention was concerned, her delegation would note only that the concept of "lawful sanctions" contained in the definition of torture should be understood as referring to both national and international law.



(Ms. Cao-Pinna, Italy)

24. Turning to the report of the Human Rights Committee (A/39/40) she expressed her delegation's satisfaction at the recent election to the Committee of an Italian expert, which was regarded as testimony to Italy's support for a more effective role by the United Nations in furthering the enjoyment of human rights and fundamental freedoms. She again commended the Committee upon its thorough examination of the reports of States parties to the Covenant, which established a useful dialogue between the members of the Committee and the representatives of the States parties.

25. In paragraph 54 of its report, the Human Rights Committee informed the Assembly that it had begun consideration of second periodic reports, the approach and the procedure for that consideration being described in detail in paragraphs 58 to 66. There was no indication in that description, however, whether the burden placed upon States parties by the reporting obligation had been taken into account. In her delegation's opinion, the consideration of the reports of the States parties to the Covenant on Civil and Political Rights, as well as to the other conventions on human rights, should not be viewed in isolation from the preparation of those reports by the States parties and the assistance provided to the Human Rights Committee by the Centre for Human Rights. The reporting system was a joint undertaking and commitment by three distinct entities: the States parties, the Human Rights Committee and the Centre for Human Rights. It would therefore seek more information on the procedure that the Committee would follow at its 1985 meetings when it considered second periodic reports.

26. Her delegation took a special interest in the action taken by the Human Rights Committee to implement the provisions of article 40, paragraph 4, of the Covenant. It had noted with concern at past Assembly sessions that two schools of thought had developed within the Committee on the interpretation of that article. Her delegation, though still inclined to share the view that the Committee was empowered to address comments to individual States parties and not simply to formulate general comments of interest to all States parties, had expressed appreciation of the general comments progressively formulated by the Committee on particular human rights established by the Covenant. One of the most interesting had been general comment b on article 6 of the Covenant concerning the right to life. It had been surprised and perplexed, however, to receive the text of an additional general comment on the right to life, transmitted by the Secretary-General at the request of the Human Rights Committee (A/39/644). It developed an observation previously made by the Committee on the supreme duty of States to prevent wars, but in terms that were outside the Committee's mandate.

27. The Italian delegation was working with other interested delegations on a draft resolution on the reporting obligations of the States parties to the various Conventions. In that connection, it attached great importance to the report of the meeting of Chairpersons of the Commission on Human Rights and of the bodies entrusted with the consideration of the reports of the States parties to United Nations conventions on human rights (A/39/484) as the beginning of a process of co-ordinating and rationalizing the various reporting systems.



28. Mrs. CASTRO de BARISH (Costa Rica) commenting on item 99, said that Costa Rica shared the concern expressed by many delegations over the intensification and greater sophistication of the practice of torture despite the international community's best efforts to eliminate it, and attached the highest importance to eliminating that scourge. Should the draft convention prepared by the Working Group be adopted by the General Assembly, Costa Rica would have no legal problems in implementing it, because it was compatible with the provisions of the Costa Rican Constitution. Such a convention would help to define torture; its effectiveness would depend upon the establishment of an international system for monitoring the compliance of States parties with the obligations they had undertaken. The broader framework represented by the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment would have been preferable, however, as it would have expanded the scope of the human rights violations covered by the convention.

29. The international monitoring system provided for in the draft convention must be obligatory for all States parties: for that reason, her delegation urged the retention of the texts of articles 19 and 20 as they were, and deletion of the brackets. Otherwise, the convention would set out extremely laudable principles and provisions, but would have no real effect. The draft was a good one, and all States must make every effort to ensure that it was adopted at the thirty-ninth session to benefit the millions of individuals whose human integrity was being violated.

30. Turning to item 98, she said that her delegation supported the efforts to complete the work on a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of capital punishment. In December 1982, Costa Rica had celebrated the centenary of its abolition of the death penalty. It would continue to contribute to all United Nations efforts to strengthen the International Covenants on Human Rights, and hoped that all States parties to the International Covenant on Civil and Political Rights would also sign the Optional Protocol.

31. She extended the sympathy of her delegation to the people and Government of Mexico in connection with the recent catastrophe which had occurred on the outskirts of Mexico City.

32. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic), speaking under item 96, said that mankind could make significant progress in solving vital modern problems if the fruits of human ingenuity were used exclusively to benefit human beings. The colossal destructive force of existing weaponry threatened all mankind; yet, more destructive weapons continued to be produced.

33. The military build-up was intimately linked with aggressive concepts and doctrines such as first strike capability, limited nuclear war and protracted nuclear conflict, which were based on the assumption that the first nation to use nuclear weapons would be the victor in a nuclear war. That approach toyed irresponsibly with human lives, since there could be no victors in a nuclear war. It was crucial to outlaw the use and threat of use of nuclear weapons and to destroy those weapons before they destroyed life.

(Mr. Oqurtsov, Byelorussian SSR)

34. Throughout the post-war period, the socialist countries had consistently advocated ending the nuclear arms race. The Soviet Union had pledged not to be the first to use nuclear weapons: if other nuclear Powers did likewise, nuclear weapons would essentially be prohibited and the right to life would be guaranteed.

35. Billions of dollars were being spent every year on military objectives, while a third of the world's population lacked basic medical care, a fifth was illiterate and a sixth was undernourished. If those resources were diverted to peaceful purposes, all peoples would benefit, because much higher sums could be devoted to overcoming the hunger and economic backwardness which many developing countries had inherited from colonial rule.

36. It was impossible to champion human rights and yet see nothing wrong with annihilating billions of human lives. The efforts of all United Nations bodies, including those concerned with human rights, should be focused on achieving real progress in curbing the arms race, averting military threats and developing political and international legal guarantees of the right to life. In that connection, his delegation welcomed the adoption by the General Assembly on the initiative of the Mongolian People's Republic of the Declaration on the Right of Peoples to Peace. His country's Constitution provided broad guarantees of the right to life and peace: Byelorussian citizens took those guarantees seriously, as was demonstrated by their numerous anti-war demonstrations. A great many citizens were helping to accelerate scientific and technological progress through membership in voluntary groups devoted to science and technology, invention and innovation. The right to education was guaranteed by providing access to all levels of education free of charge: one third of the population was engaged in some type of educational endeavour.

37. The inviolability of the human person and of his rights and freedoms and the right to legal defence against infringements of honour, life, health and personal freedom were guaranteed in the Constitution; the confidentiality of correspondence, telephone conversations and telegraph communications was protected by law.

38. The Byelorussian SSR had extensive scientific and technological ties with many countries. Its specialists were working successfully in developing countries, which were receiving Byelorussian modern technology, and thousands of specialists from the developing countries were being educated in the Byelorussian SSR.

39. The study which the Sub-Commission on the Prevention of Discrimination and Protection of Minorities had been requested to undertake on the use of the achievements of scientific and technological progress to ensure the right to work and development would facilitate the implementation of the provisions of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind relating to the strengthening and development of the scientific and technological capacity of the developing countries.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued)  
(A/C.3/39/L.34)

AGENDA ITEM 93: UNITED NATIONS DECADE FOR WOMEN: EQUALITY, DEVELOPMENT AND PEACE  
(continued) (A/C.3/39/L.19/Rev.1)

- (a) IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND HALF OF THE UNITED NATIONS DECADE FOR WOMEN: REPORT OF THE SECRETARY-GENERAL (continued)  
(A/C.3/39/L.29)
- (b) PREPARATIONS FOR THE WORLD CONFERENCE TO REVIEW AND APPRAISE THE ACHIEVEMENTS OF THE UNITED NATIONS DECADE FOR WOMEN (continued) (A/C.3/39/L.24)

AGENDA ITEM 101: INTERNATIONAL CAMPAIGN AGAINST TRAFFIC IN DRUGS: REPORT OF THE SECRETARY-GENERAL (continued) (A/C.3/39/L.30 and L.31)

40. Mrs. DOWNING (Secretary of the Committee) announced that the following delegations had become sponsors of draft resolutions: China and the Islamic Republic of Iran for L.34, Bangladesh and Guinea-Bissau for L.19/Rev.1, Ecuador for L.29, Sweden for L.24, Guyana for L.30 and Guyana and Italy for L.31.

The meeting rose at 5.10 p.m.