

## 2160th meeting

Friday, 14 November 1975, at 3 p.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/SR.2160

### AGENDA ITEM 74

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

1. Mr. SPEEKENBRINK (Netherlands) commended the Director of the Division of Human Rights on his lucid introduction, at the preceding meeting, of the item under consideration, in which he had given a complete picture of the background to the item and of the work done by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in September 1975. By its virtually unanimous adoption of resolution 3218 (XXIX), the General Assembly had indeed taken a momentous decision and had reflected the concern of all its Member States over that problem, which affected innumerable individuals throughout the world. The main thrust of that resolution was to refer the problem to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, in other words to the most competent body within the United Nations structure to advise the General Assembly on ways and means of combating torture and other cruel, inhuman or degrading treatment or punishment.

2. His delegation was particularly gratified at the very positive response of the Fifth Congress, as it appeared from the report of the Secretary-General contained in document A/10260. As one who had had the privilege of participating personally in the work of the Congress, he said that, after having considered the best way of responding to the request of the General Assembly, the Congress had set up a working group to consider all the aspects of resolution 3218 (XXIX). After carefully considering that question, the working group had decided that it would be best to concentrate on the basic elements in the fight to eradicate torture and other forms of cruel, inhuman or degrading treatment or punishment, and, accordingly, to consider in depth article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights (General Assembly resolutions 217 A (III) and 2200 A (XXI), annex) in order to submit a declaration to the General Assembly for approval. In that way, a general framework could be set out and subsequently general rules of conduct could be elaborated for all those who had authority over persons who were deprived of their liberty. Thus, the working group had decided to start work on a draft text submitted by the delegations of Sweden and the Netherlands. After a general discussion, the actual drafting work had been entrusted to a drafting group, participation in which was open to all members of the working group. The drafting group had reached a consensus on a draft declaration, which had been approved by the working group and subsequently submitted to

section IV of the Congress, which had studied it in detail. It had emerged from the discussion that all delegations were prepared to support the draft as a whole, but that some had suggestions to make which they wished to have taken into account. Those suggestions had once again been referred to the drafting group, which had, as far as possible, incorporated them in the text of the draft declaration. Finally, after having been approved by the working group, the draft declaration had once again been submitted to section IV of the Congress, which had approved it unanimously. In plenary meetings, the Congress had taken ample time to consider the draft declaration, to which it had made some further changes before adopting a resolution in which it recommended that the General Assembly adopt the Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, reproduced in paragraph 15 of document A/10260.

3. As far as the substance of the declaration was concerned, the working group and the drafting group had taken as their point of departure the view that it would be possible to give a precise definition of torture if the question was approached through the purpose for which it was used. But the concept of cruel, inhuman or degrading treatment or punishment did not lend itself to such a precise definition. For that reason, it had been considered judicious to deal with the question of torture strictly within the context of criminal law, while other forms of cruel, inhuman or degrading treatment or punishment were dealt with in a more general way, as could be seen from articles 7, 8, 9 and 10 of the declaration. There was thus in the declaration an absolute measure to be applied in the case of torture, while in the less clearly definable cases of cruel, inhuman or degrading treatment or punishment the gravity of the complaint and the situation under which it arose could be taken into account.

4. The second main element of the declaration was to be found in the provisions which ensured the individual the right to bring a complaint and to set the machinery of review in motion. Moreover, articles 11 and 12 of the declaration completed the structure of protection in that the former provided that the victim was entitled to redress and compensation and the latter laid down the principle that statements made as a result of torture or other cruel, inhuman or degrading treatment or punishment could not be used as evidence in any proceedings.

5. The delegations which had participated in the Fifth Congress, all of which had associated themselves with the decision taken with regard to the declaration, had felt that, while there might be certain imprecisions, the text represented the consensus of the experts in the field with regard to the standards which any national legislation should lay down in order to protect individuals against torture and

other cruel, inhuman or degrading treatment or punishment. Since it was for national legislation to give concrete expression to those principles, it had been felt that the declaration should not, or could not, be an all-embracing instrument. It should be regarded as a political document which expressed the common intent of many countries whose legal, social and economic structures were widely diverse. Without purporting to impose a legal obligation, the declaration imposed a moral obligation on States to ensure that their national legislation conformed to the standards laid down therein. In the view of his delegation, the reservations which appeared in paragraph 16 of document A/10260 should not be regarded as formal proposals for amendments, but rather as suggestions. It would therefore be wise for the Committee to rely upon the judgement of those experts who had recommended the text to it for approval and, while considering the declaration carefully to see if it was a complete response to the request formulated in resolution 3218 (XXIX), to approve it in the form in which it had been presented.

6. Ms. FINBORUD (Norway) expressed her Government's satisfaction with the progress achieved since the twenty-eighth session of the General Assembly, when the topic under consideration had first been raised. The Committee was currently in a position to consider a concrete and realistic text which prohibited torture and other forms of humiliating and degrading treatment of human beings. Her delegation also wished to express appreciation to the representatives of Sweden and the Netherlands who, as sponsors and drafters of the draft declaration adopted by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, were mainly responsible for it. Before commenting on the draft declaration before the Committee, she wished to reiterate the position of her Government with regard to torture, a practice which was beneath the dignity of man but which was increasingly used in the modern world. Shocking statements had been made not long before in the Third Committee on the current situation in Chile. But, even if the gravity of that situation was such that the General Assembly and several of its organs had deemed it necessary to deal with it specifically, it should not be forgotten that human rights were also being violated in other parts of the world. In that connexion, the United Nations had an important role to play in arousing the consciousness of the world and in establishing generally accepted rules to put an end to such inhuman behaviour.

7. With regard to the declaration submitted to the General Assembly by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Norwegian Government believed that it represented a balanced view and it urged the Committee to adopt the text by consensus without amendments. Without going into details, it would be wise to concentrate particularly on article 2 of the declaration, which the Norwegian Government fully supported, since violations of human rights transcended national frontiers and had adverse repercussions on the international climate. A high priority should be given to the creation of machinery to ensure the implementation of the draft declaration and her delegation hoped that the United Nations would, in due time, take the necessary measures to that end.

8. Finally, she would like to draw attention to the work being done in drafting international codes of ethics, in particular for doctors and the police, and to the need to review the Standard Minimum Rules for the Treatment of Prisoners.<sup>1</sup>

9. Mr. FARANI (Pakistan) solemnly reaffirmed that his country condemned torture, which was unfortunately a world-wide phenomenon and was not the monopoly of any one political ideology or economic system. Beyond its manifestations at the individual level, however, torture could not exist without the knowledge and tacit consent of the authorities in power. In such an institutionalized form, it was a manifestation of the insecurity of Governments vis-à-vis their own people and become a tool of repression. History showed, however, that such repression and the fear it was meant to engender had never succeeded in suppressing the will of freedom-loving peoples.

10. Inspired by the ideals proclaimed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, the Penal Code of Pakistan prohibited torture as a means of extracting confessions or information. Any person found guilty of having inflicted torture was liable to imprisonment for a term of seven years, which reflected the constant concern of the people and Government of Pakistan in that regard. During the period preceding independence, the police had at times indulged in such practices in order to extort information or confessions. As a result of that sad experience, torture for the purpose of extracting evidence had been specifically mentioned in Pakistan legislation, while all other manifestations of torture had also remained completely prohibited. Besides physical torture, the masses in Pakistan—like those in many other third world countries—had suffered terrible mental torture as a result of economic and social deprivation during the period of colonial exploitation. For that reason, the Pakistan Government had banished that form of suffering for ever and had endowed every person with a sense of his dignity and an awareness of his rights and responsibilities as a citizen. Freedom of expression was now a fact and was protected by established democratic institutions at all levels. The judiciary had always exhibited complete independence and the courts quickly came to the rescue of any alleged detainee. Finally, article 14 of the Pakistan Constitution protected the dignity of man and the privacy of his home. The Government had always honoured that provision and had provided legal assistance at State expense to such persons as needed it. For that reason, his delegation reaffirmed its rejection of torture and pledged its support for any initiative taken to combat that inhuman practice.

11. Mr. SUCHARIPA (Austria), after commending the Director of the Division of Human Rights on his statement at the preceding meeting, recalled that the General Assembly had reaffirmed its rejection of those appalling acts by adopting resolution 3218 (XXIX) at the preceding session. Austria was proud to have been a sponsor of that resolution, one result of which had been the Fifth United

<sup>1</sup> *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.

Nations Congress on the Prevention of Crime and the Treatment of Offenders. At the preceding session of the General Assembly his delegation had already stressed the importance his Government attached to a satisfactory solution of the problem under consideration. His delegation had studied with great interest the information submitted by Member States and compiled by the Secretary-General in his report (A/10158 and Corr.1 and Add.1). In their replies, Governments had fortunately not confined themselves to comments on measures aimed directly at protecting persons against torture and other inhuman or degrading treatment or punishment, but had taken into consideration a broad spectrum of rights which appeared to play a significant role in the protection of prisoners against all forms of unjustified ill-treatment. The various observations of Governments on articles 24 to 27 of the draft principles on freedom from arbitrary arrest and detention showed that many countries, while fully agreeing with the basic philosophy of those articles, had some difficulty in accepting several of the principles contained in them; the reason for that was that those articles bore, to a large extent, the imprint of the Anglo-American system of law and thus were not necessarily compatible with continental European and other legal systems. In his delegation's view, articles 24 to 27 of the draft principles deserved more thorough study by the competent United Nations organs.

12. In adopting resolution 3218 (XXIX), the General Assembly had requested the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to make further sustained efforts to protect the basic human right to be free from torture and other cruel, inhuman or degrading treatment or punishment. Accordingly, his delegation believed that the Committee should give more particular attention to the results of the Fifth Congress, as reported in document A/10260. One of the most remarkable of those results was the adoption of a Declaration on the Protection of All Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which, when adopted by the General Assembly and implemented by all States Members of the United Nations, would constitute a major step towards the abolition of torture. His delegation wished to draw the Committee's attention to the provisions of article 3 of the declaration, which stated that exceptional circumstances could not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment. It also considered extremely important the fact that under articles 7, 8, 9 and 10 of the declaration, each State was to ensure that all acts of torture were offences under its criminal law. His delegation would actively support any draft resolution aimed at the ratification of that declaration.

13. In further implementation of General Assembly resolution 3218 (XXIX), the Fifth Congress had also considered the question of the development of an international code of ethics for police and related law enforcement agencies and had, in particular, studied two drafts prepared for that purpose. It was noted in the report of the Secretary-General that the majority of the members of that Congress had favoured an international code of police ethics to be adopted by the United Nations, but that the Congress had not been able to reach a consensus on the text of such a code. For that reason, his delegation would like to lend its

support to any resolution asking a competent United Nations body to study the question and prepare a document containing a draft code. In doing so, his delegation would be faithfully following his Government's policy of supporting any initiative that had a chance to bring about some advance towards the final eradication of torture. Although the Fifth Congress had responded vigorously to the requests made by the General Assembly at its twenty-ninth session, it had not had enough time to consider in detail all the items on its agenda. Thus, the question of an international code of ethics required further clarification, and there also seemed to be a specific need for appropriate studies concerning action taken to follow up the discussions of the Congress. Those questions should be referred to the Committee on Crime Prevention and Control, whose structure and mandate should be strengthened so as to enable it to carry out that new task. It was essential that any new instrument on the suppression of torture should not weaken the legal impact of existing international conventions containing provisions on degrading or inhuman treatment.

14. Mr. PAPASTEPHANOU (Greece) said that his delegation fully endorsed the draft declaration prepared by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (A/10260, para. 15). However, the Greek nation's recent experience had convinced it that the international community should quickly take more effective steps. Everyone was aware that between 1967 and 1974, under the dictatorial régime which had been established in Greece, opponents of the régime had often been subjected to torture. The dictatorship had fallen, democratic legality had been restored and criminal prosecution had been instituted against certain members of the civil and military police who had committed acts of torture in the course of police investigations. His delegation's observations were therefore based on real experience, of which, unfortunately, a number of members of the current Greek Government had sometimes been victims. In practice, torture could be of two kinds: either it was an unusual phenomenon, regarded only as a marginal practice engaged in by officials who had gone beyond permissible limits, without abolition of the principles of legality and respect for human rights, or it was systematic and constituted a recognized means of maintaining and stabilizing a régime, in which case it was truly a reign of "political torture". In the latter case, the fundamental democratic principle which served as the basis for article 21 of the Universal Declaration of Human Rights was violated, and it became almost impossible for opponents of the totalitarian régime and supporters of liberty to escape the actions of the régime's police. In the first case, the suppression and prevention of torture were unquestionably governed by each country's domestic legislation. On the other hand, in the second case, where the fundamental principles of law were no longer respected, the provisions of domestic legislation did not suffice. That fact had been clearly seen in Greece, where the legal provisions for prosecution in cases of torture had never been applied so long as the totalitarian régime had lasted. For that reason, his delegation believed that the text of the draft declaration could not be considered entirely satisfactory. Only intervention by various international and national organizations or protests by foreign Governments which truly respected the principles of freedom and democracy could exert an

influence on dictators and guarantee some protection to political prisoners under totalitarian régimes. Such régimes were in fact very much afraid of having their crimes exposed to the international community and being condemned by that community.

15. His delegation therefore felt that those observations should be reflected in the text of the declaration itself, the last preambular paragraph of which might be supplemented by adding the phrase “while taking account of the fact that further efforts should be made subsequently with a view to establishing appropriate systems of supervision and international measures, where necessary”.

16. Needless to say, the penal provisions against torture which were contained in the domestic law of each country also served as preventives in a general way: the prospect of severe punishment in the event of the downfall of a totalitarian régime in a given country could influence the practitioners of torture, who were usually cowards unable to face up to their responsibilities. Nevertheless, the general feeling remained that existing legislation was not sufficient for punishing such persons. In particular, it did not cover certain forms of torture, such as psychological torture, and the criteria applied—such as “abuses of authority” or “blows and wounds”—were matters in a different sphere. Torture not only violated a “legal good”, such as the bodily and personal integrity of an individual, but was also directed against something very different and of infinitely greater importance, namely, human dignity. His delegation was therefore convinced that it was essential for the legislation of each country to include provisions which made torture a special offence, covering not only violations of personal integrity but also violations of human dignity, in order to provide effective penal sanctions for the protection of human dignity as such, in conformity with article 2 of the draft declaration. In that connexion, the provision contained in article 7 of the draft was insufficient and should be supplemented by a statement that every State should ensure that all acts of torture, as defined in article 1, were considered crimes and offences under the country’s criminal law.

17. His delegation also believed that those who gave the orders for torture bore far greater responsibility than those who carried them out, since they were guilty of a twofold violation of human dignity, one against the person tortured and one against the torturer who was thereby debased. Provision should therefore be made for the punishment of those truly responsible, going beyond the concept of complicity. To that end, the declaration should make provision for “the penal responsibility of chiefs of public services who tolerate any resort to torture or neglect to take the proper steps for preventing the practice thereof”.

18. While believing that the draft under consideration should be supplemented in the manner indicated, his delegation regarded it as a step in the right direction and would therefore vote in favour of the draft if it was put to the vote.

19. Mr. NOTHOMB (Belgium) said that the increasing reports of torture in several parts of the world, whether they involved physical or mental torture, made the task of the United Nations in that field more urgent than ever. His

delegation, which had been a sponsor of the text subsequently adopted by the General Assembly as resolution 3218 (XXIX), was pleased to note that, as a result of that resolution, the Fifth Congress had drawn up a declaration on the protection of all persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment. At Geneva, Belgium had joined in the consensus on that text and was sorry that the rules of the Organization prevented it from joining the sponsors at that stage. His delegation wished to thank the Netherlands and Sweden, which had played a decisive role in the preparation of that declaration. It thought that the Third Committee should give priority to the adoption of a text which should, as at Geneva, meet with the unanimous support of delegations and therefore be adopted by consensus.

20. Mr. TOMUSCHAT (Federal Republic of Germany) said that the discussions which had taken place under agenda item 12 on the question of human rights in Chile had abundantly demonstrated the firm determination of the Third Committee to combat torture and other forms of cruel, inhuman or degrading treatment. The draft resolution on the question, which had been adopted by an overwhelming majority at the 2155th meeting, unequivocally condemned such practices. The fact that the international community was aware that torture and similar practices constituted a fundamental denial of human dignity was indeed encouraging. However, torture was still practised to some extent in various parts of the world and the United Nations must make a planned and co-ordinated effort to stop it. His delegation therefore whole-heartedly welcomed the draft declaration before the Committee. By adopting the declaration, the Committee would merely be developing the principles enshrined in article 5 of the Universal Declaration of Human Rights, in article 7 of the International Covenant on Civil and Political Rights, and in General Assembly resolution 3059 (XXVIII). There were two major positive elements in the declaration. In the first place, the somewhat abstract general principles set out in those instruments needed to be brought to the level of concrete provisions that could be carried out to the letter so as to facilitate implementation by Governments, through the appropriate agencies, whether they pertained to the executive or the judicial branch of government. His delegation thus attached vital importance to the definition of torture contained in article 1 of the draft declaration, through which greater clarity on the substance of the matter had been achieved. Secondly, the Congress had most perspicaciously included in its draft declaration a number of provisions dealing with measures to prevent the practice of torture at the national level. There was a need not only for precise rules of the kind found in any national penal code, but for efforts to find out how best to counteract any tendency to resort to torture. In that respect the training of law enforcement personnel was of the utmost importance. Moreover, the prohibition of torture should be expressly mentioned in the relevant domestic legislation as well as in any supplementary rules and regulations. The responsibility of the State must be made clear so that it could not be evaded on the pretext that there had been an abuse of power by the officials concerned, unless clear proof was given that every appropriate measure of prevention had been taken. Lastly, his delegation fully agreed that compensation should be awarded to the victims of such practices and that evidence resulting from the application

of unlawful methods should be barred. Provisions to that effect were already reflected in the legislation of the Federal Republic of Germany.

21. His delegation also felt that there should be no hesitation about providing for international supervision as necessary. Experience had shown quite recently in Chile that internal controls and checks could break down in certain unfortunate circumstances. He therefore stressed that particular attention needed to be given, within the framework of the procedure established by Economic and Social Council resolution 1503 (XLVIII) for the consideration of communications concerning violations of human rights and fundamental freedoms, to complaints of torture being practised in a systematic way. The Sub-Commission on Prevention of Discrimination and Protection of Minorities should also be encouraged to continue its endeavours to keep under annual review developments with regard to the human rights of detained or imprisoned persons. Any initiative aimed at the eradication of all forms of torture or cruel, inhuman or degrading treatment must be given due consideration. Such practices were an affront to human dignity and could not be tolerated. In adopting the draft resolution on the protection of human rights in Chile, the United Nations had taken a step in the right direction.

22. Lastly, his delegation would like to stress that the other items which had been dealt with by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, but on which no final conclusions had been reached, should not be lost sight of. Efforts should be made to elaborate principles that would strike a sound balance between the need to ensure that criminal proceedings were conducted in an efficient manner and the need to safeguard human rights and fundamental freedoms in such proceedings. That concerned the Standard Minimum Rules for the Treatment of Prisoners and the proposed international code of police ethics as well as a code of medical ethics. His delegation would be gratified if all the resolutions, drafts and proposals pertaining to those matters were referred to the competent United Nations bodies with a view to the establishment of final drafts that could be submitted to the Committee at a later date.

23. Mr. DE SILVA (Sri Lanka) said that the question under consideration was of great importance, as had been demonstrated by the recent discussion of the situation in Chile. The Third Committee was therefore to be congratulated on giving priority to the item. Needless to say, consideration of the question was not related to the situation in any particular country. Protection against torture or other cruel treatment of persons in custody or detention was guaranteed by article 5 of the Universal Declaration of Human Rights and articles 7 to 10 of the International Covenant on Civil and Political Rights. However, it could happen, in special circumstances where there were conflicting interests, that law enforcement authorities failed to pay sufficient attention to those safeguards.

24. A distinction should be made at the outset between detention pending trial and imprisonment. Ascertainment of the truth was a necessary requisite for the administration of justice so that the guilty might be punished and the innocent set free. Sometimes, however, the police and security forces, possibly as a result of misguided zeal,

exceeded the limits set by law at the expense of the persons in custody. Such excesses were common and took place in all parts of the world, and it was quite often a difficult exercise to balance that conflicting interest and to ascertain the truth while safeguarding the rights of suspects and their human dignity.

25. Other difficulties, which needed to be overcome, arose with regard to the definition and interpretation of the words "cruel, inhuman or degrading treatment". The question concerning the point at which treatment of prisoners became cruel had been debated at length. In view of the high incidence of crime and violence throughout the world, and particularly organized crime and violence, public reaction to the question of safeguarding the rights of prisoners was not always favourable. It was to be hoped that in the preparation of the code of police ethics all conflicting interests would be taken into account so as to ensure the protection of society while safeguarding the dignity of the human person. It was essential that the proposed code should set out in unambiguous terms the humanism so clearly spelled out in the Universal Declaration of Human Rights, so that it would provide effective safeguards against torture or cruel treatment. His delegation, believing that torture had no place in civilized society, was in favour of developing such an international code of police ethics which could, generally speaking, serve as a guide for law enforcement authorities throughout the world. It therefore felt that the proposal by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders that the General Assembly should be requested to establish a committee of experts to study the question of an international code of police ethics (see A/10260, para. 6) was a timely initiative.

26. A long period of pre-trial detention was not only afflictive but degrading to the human being. It was well known that it provided further opportunity for interested parties to subject those awaiting trial to inhuman treatment with a view to extracting confessions or obtaining other statements involuntarily. By a complete and careful restructuring of the entire court system and by accelerating the former procedure, which had been a relic of the colonial era, his country had been able substantially to improve the lot of prisoners, since trials even in respect of the gravest charges were concluded within three months. With regard to the protection of persons serving terms of imprisonment, there were already the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations in 1957. It was a matter for satisfaction that most countries had given effect to those rules to the extent that their resources permitted. That last-mentioned factor was of considerable importance, particularly where the question of accommodation was concerned. It should be mentioned that some countries, including Sri Lanka in certain respects, had standards which were sometimes more advanced than some of the Standard Minimum Rules. Therefore it was not strictly necessary to adopt those rules as such, and the other relevant rules could be adopted by adaptation to suit the particular needs of each country.

27. The need to draw up a code of medical ethics for the safety of persons subjected to detention and custody should be emphasized. That need had been recognized by

the General Assembly in its resolution 3218 (XXIX), and who had already prepared a comprehensive working paper which had been submitted to the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. It was now for the appropriate authorities in the United Nations system to consider the recommendations of WHO in order to establish guidelines for the implementation of the Standard Minimum Rules.

28. In conclusion, he expressed appreciation for the tremendous amount of work done by the Commission on Human Rights and by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the field of the protection of the fundamental rights of persons subjected to any form of detention or imprisonment.

*The meeting rose at 4.45 p.m.*

## 2161st meeting

Monday, 17 November 1975, at 10.30 a.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/SR.2161

### AGENDA ITEM 80

Office of the United Nations High Commissioner for Refugees (A/10003, chap. I, chap. III, sect. M; A/10012 and Add.1, A/10177 and Corr.1):

- (a) Report of the High Commissioner;
- (b) Report of the Secretary-General

1. Prince Sadruddin AGA KHAN (United Nations High Commissioner for Refugees), referring to the concept of interdependence in relation to the problem of refugees and displaced persons, said that the refugee was the product of the errors of peoples and nations. The United Nations and States, in seeking to find solutions to international crises, sometimes forgot that there was a human and individual dimension to them. Yet the essence of interdependence lay in recognizing the consequences of men's actions on others, as individual human beings. When those consequences were not taken into account, refugee situations were created, destroying in the process precisely that interdependence to which the international community paid homage.

2. The area in which the work of the Office of the United Nations High Commissioner for Refugees (UNHCR) had fallen short was in the legal protection of refugees, for acts of *refoulement*, kidnapping and even assassination of refugees had occurred in countries of asylum. States must of course be guided by interests of national security and foreign policy; however, those interests must not serve as an alibi to deny asylum when justifiably sought, or to subvert the principles embodied in the Convention relating to the Status of Refugees of 1951 and the Protocol relating to the Status of Refugees of 1967. Such violations, if not protested, became the norm, and neither States nor he could acquiesce in such a norm. The dilemma for his Office was that it could use only two weapons: persuasion and protest. Accordingly, it needed the fullest support of Member States and the widest possible acceptance of the Convention and the Protocol, and he urged Members to accede to those instruments.

3. The Executive Committee of the High Commissioner's Programme had reiterated its view that a conference of plenipotentiaries should be convened to consider the draft Convention on Territorial Asylum (see A/10177 and

Corr.1), and had recommended that the costs involved should be borne from the regular budget of the United Nations (A/10012/Add.1, para. 69 (d)).

4. Turning to other matters, he said that it had always been understood that a country of first asylum carried a particularly onerous responsibility when victims of strife entered *en masse* into its territory. Wherever practical, his Office had sought to ease the problem, either through voluntary repatriation or through resettlement in other countries. However, in recent months his Office had been asked to relocate, more frequently than was always feasible, thousands of refugees and displaced persons from one continent to another. Since the countries of first asylum hoped that a maximum number of refugees would go elsewhere, thousands of persons remained without work or residence permits. He recognized the predicament of countries of first asylum and stressed his deep gratitude to them and to countries of resettlement. He urged that, as evidence of interdependence, there should be a far greater willingness, both on a regional basis and universally, to grant resettlement facilities.

5. If he had spoken of his Office's difficulties, it was, paradoxically, because there were few areas of United Nations endeavour where the record of international understanding, unanimity and cohesion had been as impressive. In that regard, he paid a tribute to the Third Committee, which over the years had guided and supported the actions of his Office, actions which covered various assistance programmes—including the annual programme, which now stood at \$13.8 million—and the appropriate use of UNHCR's "good offices", including the participation of the Office in those essential humanitarian activities of the United Nations for which UNHCR had particular expertise and competence.

6. In Africa, as required by General Assembly resolution 3271 (XXIX), his Office was facilitating the repatriation of tens of thousands of refugees now returning in freedom to Mozambique and Guinea-Bissau, and was helping with their rehabilitation as well as that of the internally displaced. The programmes for those two countries amounted to \$7 million and \$4 million respectively, and were proceeding with the fullest co-operation of the Governments concerned and