

GENERAL ASSEMBLY

NINTH SESSION

Records*



SA, Room 345

THIRD COMMITTEE
49th meeting
held on
Monday, 26 November 1984
at 10.30 a.m.
New York

SUMMARY RECORD OF THE 49th MEETING

Chairman: Mr. MADAR (Somalia)

CONTENTS

- ITEM 95: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE
(continued)
- ITEM 96: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS
(continued)
- ITEM 97: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued)
- ITEM 98: INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)
 - (a) REPORT OF THE HUMAN RIGHTS COMMITTEE
 - (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
 - (c) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY
- ITEM 99: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORTS OF THE SECRETARY-GENERAL (continued)

This record is subject to correction. Corrections should be sent under the signature of a member of the delegation within one week of the date of publication to the Chief of the Official Records Editing Section, 121980, 2 United Nations Plaza, and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

Distr. GENERAL
A/C.3/39/SR.49
3 December 1984
ENGLISH
ORIGINAL: SPANISH

The meeting was called to order at 10.50 a.m.

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

AGENDA ITEM 96: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS
(continued) (A/39/307, 422 and Add.1, 581 and Corr.1)

AGENDA ITEM 97: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued)
(A/39/185)

AGENDA ITEM 98: INTERNATIONAL COVENANTS ON HUMAN RIGHTS: (continued) (A/39/133,
360, 581 and Corr.1)

(a) REPORT OF THE HUMAN RIGHTS COMMITTEE (A/39/40, 484, 644)

(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)

(c) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON
CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY
(A/39/535)

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.1-2, 499 and Add.1-2, 506, 662; A/C.3/39/L.40)

1. Mrs. YAMAZAKI (Japan), referring to agenda item 98, said that her delegation was pleased to note the increase in the number of States parties to the International Covenants on Human Rights. However, more important still was the effective implementation of the International Covenants, which could be ensured only if States took the necessary measures to guarantee human rights. The reporting obligation was the best means of monitoring the implementation of the Covenants and ensuring greater international co-operation in that field. She noted with concern that a large majority of the reports were being submitted late, which considerably hindered the monitoring process.

2. With regard to the report of the meeting of chairmen of the bodies entrusted with the consideration of reports submitted under human rights instruments (A/39/484), one of the main reasons for the failure to submit or the late submission of reports was, in fact, the considerable burden that the reporting obligation imposed on Governments, especially in those States which did not have the qualified personnel needed or whose language was not one of the official languages of the United Nations. The suggestions made by the chairmen to provide advisory services and technical assistance to States and improve general publicity for the activities of the various organs deserved careful consideration. Japan

/...

(Mr. Yamazaki, Japan)

1. hoped that, in accordance with Economic and Social Council resolution 1984/9, the United Nations press service would issue press releases on the proceedings of the Sessional Working Group of Governmental Experts, beginning with the following session. Her country also endorsed the suggestion that the competent specialized agencies should be given a more substantial role in the operation of the reporting procedures and favoured the other suggestions made by the chairmen in paragraphs 28 to 31 of their report. Her delegation believed that the meeting of chairmen had been valuable indeed and that such meetings should be held on a biennial basis.

2. Concerning the question of capital punishment, her delegation hoped that the discussions on the limitation and abolition of the death penalty would serve to prevent its excessive application and, particularly, to prevent mass executions, which should be condemned as violations of human rights. Nevertheless, Japan believed that the retention or abolition of the death penalty should be decided at the national level, thereby ensuring that the views, customs and legal systems of each country would be taken fully into consideration. In Japan, the majority of the people supported retention of the death penalty, not only as a punishment for especially grave crimes, but also as a deterrent. Her Government therefore considered that it was not desirable to abolish the death penalty for the time being and that, before a second optional protocol was drafted, there should be further study of the divergent views on the question.

3. With reference to general comment 14 (23) on article 6 of the International Covenant on Civil and Political Rights, adopted by the Human Rights Committee at its twenty-third session (A/39/644), there was no doubt that the right to life was the supreme right, from which no derogation was permitted, and that, consequently, it was the supreme duty of States to prevent war in order to protect that right, especially in view of the development and proliferation of increasingly awesome weapons of mass destruction. However, her delegation regretted that the general comment touched upon some issues which were not within that Committee's competence.

4. Ms. ROTNES (Norway), speaking on agenda item 97 on behalf of the Nordic countries, said that those countries had participated actively in the drafting of a convention on the rights of the child and hoped that the working group would be able to conclude its work as soon as possible. Children were a very vulnerable group and should have special protection against maltreatment and abuse, especially in case of war or in crisis situations. It was equally important to avoid the separation of children from their families, and it should also be remembered that children were particularly susceptible to inadequate nutrition. The proposed convention should cover all those questions, and States themselves should ensure that children were protected in their national legislation. The Nordic countries hoped that it would be possible to speed up the drafting of the convention and that there would be broader international participation in the drafting by countries from different geographical regions in order to ensure the effectiveness of the instrument. The Secretariat should do more analytical work and improve the preparation of documentation well in advance of the sessions of the working group. The Secretariat might also seek the active participation of other bodies dealing with child welfare both within and outside the United Nations system. It might

/...

(Ms. Rotnes, Norway)

also be useful if the working group met for two weeks each year and not one, as was currently the practice, and if delegations submitted their comments on the draft convention before the beginning of the sessions of the working group.

6. Mr. ZADOR (Hungary), speaking on agenda item 95, said that his country attached great importance to the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and that it therefore guaranteed full freedom of religion to all its citizens, whether believers or non-believers. In Hungary that was a policy of principle, and the State was neutral in matters of religion and conscience, since Hungarian society was made up of people of different ideological persuasions. Relations between the State and the various churches in Hungary were founded on mutual understanding and respect. The State welcomed co-operation with the churches in improving the moral and material conditions of the Hungarian people and in averting international conflicts. That co-operation was also directed towards strengthening the family and promoting large families. The international meetings of various churches recently held in Hungary, as well as the symposia and other events in which theologians, philosophers and personalities of various denominations and ideologies had participated, were examples of ways in which Hungary implemented the principles of the Declaration.

7. In regard to item 96, there was an organic relationship between scientific and technological development and the promotion of human rights; it had to be stressed that the threat posed by nuclear weapons was incompatible with the right to life. His delegation was pleased that the Commission on Human Rights had taken an interest in that important matter in its resolution 1984/27, in which it had invited Member States and international organizations, as well as the Sub-Commission on Prevention of Discrimination and Protection of Minorities, to consider more effective means of using the results of scientific and technological developments for the promotion and realization of human rights and fundamental freedoms. Hungary also welcomed the concern of the Human Rights Committee (A/39/644) over the development and proliferation of increasingly awesome weapons of mass destruction. Nevertheless, it had to be recognized that scientific and technological progress had opened up vast possibilities for mankind, provided that people had access to its benefits; in that connection, the validity of the principles of the Declaration on the Establishment of a New International Economic Order should be underlined.

8. With reference to item 97 concerning the question of a convention on the rights of the child, his delegation supported the decision of the Commission on Human Rights to give high priority, during its 1985 session, to work on a draft convention on the issue so that the General Assembly might be able to adopt it during its fortieth session.

9. Turning to item 98, he agreed with Mr. Herndl, Director of the Centre for Human Rights, that the International Covenants on Human Rights represented the heart of the human rights programme of the United Nations. Hungary had become a party to both Covenants and continued to submit regular reports on the

(Mr. Zador, Hungary)

Implementation of their provisions; those reports had been well received by the respective supervisory bodies. In view of the fundamental importance of those instruments, it was a matter for regret that a large number of countries, including some of the most highly developed States, had not yet acceded to them. His delegation considered that ratification and implementation of those instruments, together with proper reporting on them, were an integral part of a country's human rights record.

10. Finally, on item 99, his Government as well as Hungarian public opinion had expressed revulsion at the widespread persistence of the use of torture and other cruel practices in a number of countries in flagrant violation of human rights. His Government had set forth its position on the issue in its reply to the Secretary-General contained in document A/39/499. Those shocking practices were alien to a socialist society and had been explicitly prohibited by Hungary's Constitution, Penal Code and Act on Criminal Procedure. His Government was therefore pleased to see that the Commission on Human Rights had given serious attention to the preparation of a draft convention against torture. Nevertheless, his delegation felt that certain major issues concerning, in particular, articles 19 and 20 remained to be decided. As a matter of principle Hungary favoured human rights instruments which enjoyed the widest possible agreement on all their provisions. Documents which did not meet that standard would not receive the support required for ratification. Hungary therefore considered that further efforts were needed to ensure general agreement on the outstanding issues before a convention was adopted by the United Nations; his delegation therefore urged delegations to do their utmost to facilitate the early adoption of a convention on torture.

11. Mr. FRAMBACH (German Democratic Republic), referring to item 98, said that the report of the Human Rights Committee (A/39/40) reflected the growing importance of the International Covenants on Human Rights for the co-operation of States in that field. He welcomed the fact that more States had ratified the Covenants and that the reports of States, together with the general comments of the Human Rights Committee, centred increasingly on the right to life as a right to life in peace. The German Democratic Republic regarded the safeguarding and strengthening of peace as the central issue of the present time.

12. The right to self-determination ranked first in the International Covenants on Human Rights. That represented a fundamental departure from the bourgeois conception of human rights, which held human rights to be only those of the individual who defended himself against his State. The exercise of the right to self-determination thus took various forms in different countries depending on their political system and national constitution; that point had been expressly mentioned in article 2 of the Covenant regarding its implementation at the national level. The variety of ways in which the right was implemented was also reflected in the reports submitted by countries. Human rights could not be implemented in the abstract; rather, they were exercised under specific social conditions which were largely determined by a country's history, culture and tradition and by its economic and political system, which, in turn, were greatly influenced by the

/...

(Mr. Frambach, German Democratic Republic)

international political and economic situation. Those aspects had not been given sufficient attention by some experts when discussing reports in the Human Rights Committee. The extent to which the obligations under the Covenants were being enforced could not be measured by the yardstick of bourgeois human rights notions to the exclusion of other concepts. For the socialist States, the implementation of the right of peoples to self-determination and the enjoyment of all other human rights were connected with the abolition of private ownership of the means of production, the liquidation of the economic bases of exploitation of man by man and the elimination of economic privileges. The Covenant did not reflect a human rights concept based on private property; such a concept should not, therefore, be imposed on countries with different economic and social systems. The idea of a uniform application of the Covenants was therefore not only unrealistic but also inconsistent with the basic thrust of those instruments. In considering reports, therefore, the Committee must bear in mind that, under article 1 of the Covenant, it was for each people alone to determine its political, economic and social system and thereby the manner in which to guarantee the exercise of human rights.

13. The success of the work of the Human Rights Committee would depend to a great extent on whether it functioned as a body of experts in accordance with its legal basis, namely, the Covenant. Its influence and effectiveness would essentially depend on the extent to which it worked effectively with States parties. The German Democratic Republic did not share the view sometimes expressed in the Third Committee that the Human Rights Committee was permitted to do anything that was not expressly forbidden to it under the Covenant; nor did it believe that the Committee could make statements or interpretations which were binding on States. In drafting general comments, care should be taken to ensure that elements that had been carefully avoided in drawing up the provisions of the Covenant should not be read into the Covenant at a later date. The comments should be based on the experience gained in the discussion of reports. It was wrong to assume that States would agree to have the content of obligations undertaken by them subsequently extended, amended or interpreted by a committee of experts that had no specific power to do so. In the discussion of reports, there was an equally important need to apply procedures that enjoyed the agreement of States parties, bearing in mind that the obligations of States flowed from the Covenant and not from the rules of procedure or other decisions taken by the Committee.

14. Dialogue was a two-way street. Even a procedure which the Committee might regard as desirable required the consent of the State concerned. It would be detrimental to co-operation between the Committee and States parties if it came to be thought that the Committee could take decisions regarding the reporting procedure and that the co-operative attitude of a given State might be measured by the extent to which it was ready to accommodate the wishes of the Committee. The German Democratic Republic fully understood that it was not easy for the Human Rights Committee to avoid being drawn into the hysteria of a crusade preached or instigated by certain States and organizations. It was, however, a matter of survival if the Committee wished to pursue its work with success.

(Mr. Frambach, German Democratic Republic)

His delegation had noted the report of the meeting of some chairmen of human rights bodies (A/39/484). It was regrettable that representatives of such important bodies as the Committee on the Elimination of Discrimination against Women and the Group of Three had not been invited to the meeting; they would have given it a more representative character. It was also important to state that the mentioned report reflected the personal opinions of the current chairmen of certain bodies; it was appropriate to recall that those opinions were not in line with the mandate of the bodies concerned and did not correspond to the different positions of various States. The report could not, therefore, serve as a basis for the activities of the Third Committee.

Referring to the draft convention against torture, he said that torture was in sharp contrast to all norms of human rights and fundamental freedoms. The German Democratic Republic had therefore participated actively in the elaboration of the draft convention against torture and other cruel, inhuman or degrading treatment or punishment and had shown a large measure of compromise as was reflected, for example, in paragraph 22 of the report of the open-ended working group on the draft convention (E/CN.4/1984/72), in relation to the adoption of article 3, paragraph 2, and articles 5, 6 and 7 of the draft; in approving articles 17 and 18 of the draft, his delegation had agreed to the establishment of a special committee under the torture convention. However, there were still serious objections to the functions of the Committee as envisaged in draft articles 19 and 20. For reasons of principle, the German Democratic Republic was not prepared to accept such a competence of a committee of experts as might affect the sovereignty of States. The mechanism which the International Covenant on Civil and Political Rights provided for the Human Rights Committee could also be applied in the case of the convention against torture.

Mr. RAJAPAKSE (Sri Lanka), speaking on agenda item 98, said that the proclamation of the Universal Declaration of Human Rights by the General Assembly in 1948 and the entry into force of the Covenants on Human Rights constituted a historic achievement of the United Nations. With the development of methods and modalities directed towards the promotion and protection of human rights, a further step had been taken towards translating those instruments into reality. In that context, the Human Rights Committee played an important role in implementing the International Covenant on Civil and Political Rights and the Optional Protocol thereto, and its principal task was to examine the periodic reports of the States parties. Since Sri Lanka's accession in mid-1980 to the two International Covenants, his Government had, within the resources available to it, taken positive steps to make the people more aware of the protection and promotion of human rights. To that end, among other measures, regional seminars on the subject had been held, and the question of human rights had been introduced in the curricula of universities and schools.

His delegation supported the measures proposed at the meeting of the chairmen of human rights organs (A/39/484) for improving the exchange of information among the various organs. With regard to the co-ordination of guidelines for the submission of reports, Sri Lanka agreed that the streamlining of the introductory

/...

(Mr. Rajapakse, Sri Lanka)

part of all guidelines and the preparation of a country profile would facilitate the work of the States parties and the organs concerned. His delegation also considered it important that the Chairman of the Committee on the Elimination of Discrimination against Women should participate in future meetings; it agreed that such meetings should be held regularly on an annual or biennial basis and that the Secretary-General should urge States which had not done so to ratify the International Covenants.

19. With a population composed of followers of four major world religions, namely, Buddhism, Hinduism, Christianity and Islam, Sri Lanka believed that religious harmony was vitally important to the life of the nation and to the spiritual and material well-being of its citizens. For that reason, Sri Lanka attached great importance to item 95. The Constitution guaranteed every person freedom of thought, conscience and religion, and, by means of other pertinent measures, the Government of Sri Lanka had guaranteed the inalienability of the moral rights of the population as a whole. In the circumstances, it had spared no effort and taken every precaution to prevent the politicization and commercialization of religion. His delegation noted with satisfaction, in that context, the efforts made by the United Nations to promote religious tolerance and freedom.

20. Mr. KALINOWSKI (Poland), speaking on agenda item 98, said that Poland attached great importance to the International Covenants on Human Rights, which, although they reflected the socio-political situation of the period 1948-1965, had preserved their validity to the present day. The adoption of the Covenants on Human Rights had brought to an end the stage of international efforts in standard-setting which had begun with the proclamation of the Universal Declaration of Human Rights. It was important to note that today the Covenants had some weak points: they did not take into account some new tendencies in the consideration of additional protection of human rights which had emerged in the 1960s, for example, the protection of human rights against the negative effects of scientific and technological progress, and they lacked provisions aimed at the elimination of all forms of discrimination in all fields of human relations, as was the case with the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid, since racism, racial discrimination and apartheid undeniably constituted the most flagrant violations of human rights and were problems that must be solved.

21. Poland believed that the Covenants could play an important role in the promotion and protection of human rights throughout the world, provided that there was a considerable improvement in the status of ratifications and accessions set out in document A/39/461. It had taken 18 years for slightly more than 50 per cent of the States Members of the United Nations to become parties to those international instruments. There was little reason to expect that the process would be accelerated unless appropriate steps were taken. Therefore the vital task of the international community and the United Nations was to attain universal accession of Member States to the Covenants and all international instruments on human rights. The United Nations, particularly the Centre for Human Rights, could

(Mr. Kalinowski, Poland)

an important role in achieving the goal, including the elaboration of a plan of action which would cover various activities in that field.

Turning to the meeting of chairmen of various organs dealing with human rights (A/C.3/39/484), he said it was regrettable that the Chairman of the Group of Three established under article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Chairman of the Committee on the Elimination of Discrimination against Women had not been among the participants. His delegation had hoped that the meeting would come to some conclusions which might help to improve the norms connected with the reporting obligations of States Parties. Instead, contrary to the decision of the General Assembly, the meeting had produced some rather strange ideas, including that of a system of regional advisers on international human rights standards who would visit various countries, and that of sending of experts from human rights bodies or the Centre for Human Rights on short missions to advise Governments. Poland had serious doubts that such proposals would effectively contribute to progress in the operation of reporting procedures and had serious objections to the continuation of meetings of the chairmen.

Poland had acceded to the two Covenants in 1967 in order to underline the equal importance of the rights contained in both, which were inseparable and interdependent. Those rights were in full consonance with the provisions of the Constitution of the Polish People's Republic and with the notions of humanism of the Polish people, which had a glorious tradition of struggle for human freedom and dignity. Poland valued highly the objectives of the Covenants, complied strictly with their provisions and would shortly be submitting its second periodic report under the International Covenant on Civil and Political Rights.

The draft convention against torture was an important contribution to international co-operation in the field of human rights. The humanistic principles of Poland's political system totally rejected any form of torture or degrading treatment, whether of individuals or of groups of people. History showed that torture and cruel and degrading treatment were the tools of oppressors. There was hardly a Polish family that had not suffered from the evil deeds perpetrated by the German Nazis 40 years ago. The draft convention would be one more reminder that human dignity was a sacred thing, to be respected and guaranteed both by Governments and by the international community.

It would be a pity if that important draft failed, as a result of the highly controversial clauses in articles 19 and 20, to receive unanimous support. His delegation, like many others, could not accept the current wording of those articles; it believed that a compromise formula would greatly facilitate the adoption of the draft by consensus. As the representative of India had said the previous week, there might be a way out of the present deadlock. His delegation would spare no effort to have the draft convention adopted unanimously.

26. Mr. TROUVEROY (Belgium) said that too many countries failed to respect the principle contained in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which said that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Despite the progress made in other areas, certain practices worthy of the Middle Ages still had not been eliminated, and some new techniques were being used for more refined cruelty and torture. The enormous physical and mental suffering which, according to many accounts, was being inflicted on many people for various reasons constituted the most flagrant violation of human rights.

27. The defence of those rights was one of the most important tasks of the United Nations and one of the most positive aspects of its activity. If the Organization was not to lose its credibility, it could not tolerate the physical destruction and, above all, the moral and intellectual destruction of so many people. The alarming world-wide increase in torture could not be viewed with indifference; it mattered to everyone. The entire international community should therefore bring pressure to bear in order to put an end to those odious practices.

28. Torture was prohibited by various international instruments, but they were of a limited nature. The international community should do more than proclaim principles: it was essential to create a submission and evaluation procedure for reports by States and a control mechanism within the framework of the obligatory implementation of the convention. The best way to combat that scourge would be the immediate adoption of the draft convention against torture.

29. His delegation felt that the draft submitted to the Committee was a compromise text and, as such, continued to create difficulties. Belgium therefore wished to change the wording of some parts. For instance, the concept of "legitimate sanctions" in the first paragraph of article 1 of the draft convention lacked precision, so that that paragraph might become a more far-reaching "escape clause" than the one in article 1 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975, which constituted the main source of inspiration for the draft convention.

30. His delegation was willing, however, to accept the draft convention in its present form, provided that articles 19 and 20 were kept as they were; without them the convention would lose practically all its meaning and become merely one more of the various limited international instruments in existence. A voluntary commitment to fight against torture was not sufficient. What was needed was means of implementation complete enough to ensure that it would be put into practice and that victims of torture would be protected.

31. International opinion would not understand and the victims of torture themselves even less, if the United Nations failed in such an important and tragic area. Failure by the United Nations in that area would be perceived as a failure to deal with one of the most flagrant violations of human rights. Adoption of the draft convention, on the eve of the fortieth anniversary of the Organization, would make a very positive contribution to the work of the United Nations.

Mr. LEBAKIN (Ukrainian Soviet Socialist Republic) said that although the United Nations had adopted many international instruments on human rights, the most complete were the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, which the Ukrainian Soviet Socialist Republic had been among the first to sign. Those Covenants defined the minimum rights that any State should guarantee its citizens. The increase in the number of countries which had acceded to those Conventions (by September 1984, 80 States had ratified or acceded to the International Covenant on Civil and Political Rights, and 83 the International Covenant on Economic, Social and Cultural Rights, according to the report of the Secretary-General in document A/39/461) was a positive step. Nevertheless, more than half the States members of the United Nations were not bound by those Covenants which ought to be universal. Since they regulated matters which were of interest to the majority of States, the level of participation in them was the basic criterion of their effectiveness, and accession to them reflected the policy of States and the degree to which they were truly willing to prevent violations of human rights.

His delegation, which in 1983 had expressed its satisfaction with the work of the Human Rights Committee and of the Sessional Working Group of Governmental Experts, had submitted its second periodic report, which contained information on guarantees enjoyed in that field by the citizens of the Ukrainian SSR and which had been favourably received. His delegation agreed with the critical comments of other delegations concerning the organizational aspects and the selective character of the meeting of chairmen of human rights organs.

The extent of a country's interest in human rights could be measured by its concern for children; the rights of children were mentioned in the Constitution of the Ukrainian SSR, a country which had always supported all United Nations activities in behalf of children. His delegation supported the draft convention on the rights of the child, but he pointed out that the drafting work was proving to be very slow and that more progress could be made; he therefore urged all members of the Working Group to speed up their work.

The position of the Ukrainian SSR with regard to item 95 was well known: it considered it very important that there should be no discrimination based on religion or belief and felt that the adoption of a declaration on the elimination of all forms of intolerance and discrimination based on religion or belief would be an additional guarantee that human rights and basic freedoms would be respected. At the thirty-sixth session of the General Assembly, his country had expressed its displeasure at the failure to take the position of certain countries into account. In its view, a partial interpretation of the concept of freedom of conscience had been made. The declaration should include the right to not hold a religious belief, the right to atheism. That formulation of the freedom of conscience, together with all the other freedoms, including the freedom of propaganda for atheism, was included in the Constitution of the Ukrainian SSR.

Like many other States, the Ukrainian Soviet Socialist Republic believed that torture and other cruel, inhuman or degrading treatment or punishment were heinous acts resulting from the violations of human rights perpetrated by

(Mr. Lebakin, Ukrainian SSR)

oppressive régimes. The approval of a convention against torture and other cruel, inhuman or degrading treatment could be an important step. Nevertheless, no international instrument could be truly effective unless it was able to count on the will of States. Countries which resorted to torture could not be expected to accede to the convention but, if it was approved, those countries would be isolated and the progressive groups struggling from inside them would be greatly encouraged. It was therefore important to achieve the widest possible consensus. Many delegations had said that the draft was a compromise text, the outcome of mutual concessions. It was clear from the Secretary-General's report (A/39/499 and Add.1 and 2) that the difficulties standing in the way of the adoption of the convention were due to the attitude of certain States which had not taken part in the work of the Commission on Human Rights. His delegation believed that the opinions of those States which had difficulties in accepting articles 19 and 20 should be taken into account. What was essential was that the articles of the draft should be in accordance with international law and with the Covenants. His delegation shared the hope of many others that the convention could be adopted at the thirty-ninth session.

37. His delegation, like a number of others, intended to submit amendments to the draft convention on torture to make it more acceptable to all Member States.

38. Mrs. LOEMBAN TOBING-KLEIN (Suriname), speaking on agenda item 97, said that despite the 10 principles of the Declaration on the Rights of the Child, adopted by the General Assembly in resolution 1386 (XIV), malnutrition, shortages of food and potable water, drought, inadequate education, abuse, and ill-treatment by their parents, were victimizing millions of children throughout the world. Suriname believed that to defend the rights of the child more forcefully the draft convention on the subject must be adopted as soon as possible. It therefore welcomed the idea of establishing an open-ended working group to carry out the necessary studies prior to the forty-first session of the Commission on Human Rights in Geneva.

39. Suriname was in the process of drafting new regulations regarding children and youth. In December 1981, a seminar had been held for governmental and non-governmental organizations on the theme of the rights and problems of youth in Suriname. In the regulations, account was taken of the need for parental authority not to be the sole prerogative of the father and for the age of majority to be reduced from 21 to 18. They also provided for the elimination of discrimination between legitimate and illegitimate children and for the obligatory hearing of minors over the age of 12 in matters concerning their own interest.

40. Quoting the words of Miss Eglantyne Jebb, whose name would always be linked with the first Declaration of the Rights of the Child, she said that the real enemies of the human race were poverty, squalor, disease and ignorance, which drove generation after generation of children, East and West, to a subnormal existence. The trouble was not lack of money but attitude of mind. It had been estimated that what was spent annually on luxuries and amusements could carry out adequate educational and nurture programmes. It was children who paid the heaviest price for the short-sighted economic policies, political blunders and wars of their elders.

/...

Mr. NGO (Democratic Kampuchea), speaking on agenda item 97, said that the Kampuchean children currently living in areas under foreign control were being denied their fundamental rights and freedoms. They were not allowed to use their own language and were being forced to learn Vietnamese. Thousands of children had been sent to Viet Nam for political indoctrination in order to serve its expansionist and warmongering policies in South-East Asia.

In the light of that situation, the progress made in elaborating the draft convention on the rights of the child was gratifying. There was every hope that the Commission on Human Rights would complete its work in that connection at its forty-first session, so that the convention could be adopted in 1985, during the International Youth Year.

Turning to agenda item 98, he said that appreciable progress had been made in the field of human rights and the exercise of the rights of peoples to self-determination. The entry into force in 1976 of the International Covenants on Human Rights had been a major step in the development of contemporary international law. It was gratifying that a growing number of States had recognized and become parties to the Covenants. Nevertheless, Democratic Kampuchea was deeply concerned that human rights, even the most fundamental, were still being violated in many parts of the world, as in Pretoria through the abhorrent practice of apartheid, and in the denial of the right to self-determination of the Kampuchean, Afghan, Namibian and Palestinian peoples.

The occupation of foreign territories by the armed forces of a State party to the Covenants, for whatever reason, was a flagrant violation of human rights in general and of article 1 of both Covenants in particular. For nearly six years, the foreign occupation forces had prevented the people of Kampuchea from enjoying their fundamental rights. Among other things, a policy of physical and spiritual "Vietnamization" of the population was being carried out, thousands of Kampucheans were being detained, their labour was being exploited, their property destroyed, their ancestral lands confiscated and their productive activities prohibited. An alarming development was the invaders' attempt to impose an ethnic and demographic change on the country through the massive and systematic installation of Vietnamese settlers, who already numbered more than 600,000. Equipped with weapons, they assisted the occupying forces in killing or expelling the natives, forbidding them to carry out economic activities and seizing their houses and lands, emptying the country of its people or, to say the least, turning the Kampuchean people into a minority of Viet Nam. What was happening in Kampuchea was not only tragic: it was shocking to the conscience of mankind and trampled underfoot all the international covenants on Human Rights. It was imperative to put an end to that state of affairs.

Turning to agenda item 99, he denounced the cruel, systematic and unprecedented torture being carried out by the occupying forces against Kampucheans suspected of loyalty to their country. They were subjected to electric shocks, or beaten after being trussed up and suspended from the ceiling in highly painful positions, or plastic bags were pulled over their heads and held closed around their necks until they fainted. Some prisoners had died from beatings: others

(Mr. Ngo, Democratic Kampuchea)

from hunger, malnutrition and disease, as the American Lawyers' Committee for International Human Rights had testified after its recent visit to the country.

46. Regarding agenda item 96, he said that scientific and technological developments should be used exclusively for peaceful purposes. At the moment, in addition to the Machiavellian use of hunger, chemical weapons were being used against the Kampuchean people, as well as the Mmong minorities in the Lao People's Democratic Republic. What was most ironic and striking was that Viet Nam was itself a poor developing country which, backed by an expansionist world Power, was trying in vain to wage a war of aggression against its neighbours at the expense of its own national reconstruction and economic and social development. That was a striking example of the negative effects that could be produced by scientific and technological developments.

47. In conclusion, he thanked the international community and the various organs of the United Nations for their condemnation of violations of human rights in Democratic Kampuchea by Viet Nam, and said that he was confident that they would succeed in eliminating all the obstacles to the genuine protection of human rights. To do so would require firm determination and an analysis of present realities and past errors.

48. Mr. WIESNER (Austria), taking up first the issue of capital punishment, recalled that in resolution 37/192 the General Assembly had asked the Commission on Human Rights to consider elaborating a second optional protocol to the International Covenant on Civil and Political Rights aimed at abolishing capital punishment. The Commission had in turn invited the Sub-Commission on Prevention of Discrimination and the Protection of Minorities to take up the task.

49. Austria had long ago abolished capital punishment and although it understood those countries which believed that capital punishment was essential for the implementation of their laws, it was convinced that time was working in favour of the Austrian view. On the other hand, it believed that the social factors should be changed in such a way that the society in question would no longer require capital punishment.

50. Austria urged the Committee on Crime Prevention and Control to examine the issue from that point of view, and that the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders would also take that approach. In addition, the close working relationship between the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs should be maintained.

51. Referring to agenda item 97, he said that fruitful consultations had taken place between the Member States of the Council of Europe in November 1984, and that such consultations should also take place in other regions in order to prepare a universally acceptable legal instrument. The concepts embodied in the International Covenant on Economic, Social and Cultural Rights should be taken into account in drafting the convention on the rights of the child and applied as

(Mr. Wiesner, Austria)

appropriate in order to spare countries with limited economic resources greater additional costs. Effort should also be made to have the finalization of the convention coincide with the fortieth anniversary of the United Nations.

Another basic problem was the reporting obligation of States parties to United Nations conventions. Austria had requested the standardization and unification of reporting procedures and had therefore welcomed the meeting of chairmen of the Commission on Human Rights, the Human Rights Committee, the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination (A/39/484) held in Geneva in August 1984.

The United Nations lacked bodies such as the Council of Europe or the Inter-American Commission on Human Rights, which were exclusively responsible for the implementation of all the legal instruments adopted under their auspices. Therefore, the value of United Nations international human rights conventions depended upon the full and conscientious performance of the obligation entered into upon ratification or accession and its subsequent verification by the relevant bodies. All that meant the creation of additional instruments, with correspondingly increased reporting obligations.

The reporting system was a heavy burden on all States parties, particularly those with limited technical and administrative resources or those whose official language was not an official language of the United Nations. Thus there was only one solution: standardized questionnaires permitting references and cross-references. All the experts participating in the various forums would need to be convinced of the usefulness of the system.

Regarding agenda item 95, his Government considered that, in the long run, a convention would have to be prepared on the elimination of all forms of religious intolerance. For the time being, priority should be given to the implementation of the 1981 Declaration (General Assembly resolution 36/55). As for the work of the Special Rapporteur, Austria believed that due consideration must also be given to the intolerance practised by religious groups in certain societies.

In connection with agenda item 99, Austria emphasized not only the decisive importance of the mandatory implementation provisions of the convention, but also his wish that they had been made even stronger in order to eliminate torture once and for all. In conclusion he said that Austria would endeavour to promote the development of advisory services in the field of human rights. In that connection, the Centre for Human Rights should become a clearing-house for aid programmes which could provide services to developing countries at their request.

Mr. MITREV (Bulgaria), referring to agenda item 98, said that the effectiveness of the International Covenants on Human Rights depended on their universality and on the strict performance by the States parties of their obligations under them. His delegation supported the persistent appeals of the General Assembly to those States that had not yet done so to accede to those

/...

(Mr. Mitrev, Bulgaria)

covenants and withdraw their reservations concerning article 1 in both, which dealt with the right of self-determination, and article 20 of the International Covenant on Civil and Political Rights, which prohibited propaganda for war and incitement to national, racial and religious hatred. It was evident that the non-performance of those obligations led to serious violations of basic rights and fundamental freedoms.

58. Bulgaria attached the greatest importance to the activities of the Human Rights Committee and had contributed to the establishment of a constructive dialogue in that Committee through the submission of periodic reports. His delegation viewed as positive the Committee's general comment 14 (23) concerning the right to life and thought that the text, which had been adopted by consensus, showed the Committee's clear-cut moral stand concerning the threat to mankind posed by nuclear weapons. It was regrettable that, under the influence of dangerous strategic doctrines, certain delegations, which had in the past actively supported the Committee's right to offer general comments, now opposed that practice.

59. As a State party to the International Covenant on Economic, Social and Cultural Rights, Bulgaria had encouraged international co-operation to promote and protect those fundamental rights and was pleased that the Sessional Working Group of Governmental Experts had considered a large number of reports and that useful recommendations had been made for its future work. The review of the reports had demonstrated the sincere desire of the States parties to comply with the provisions of the Covenant. Furthermore, the report of the Working Group had confirmed the existence of serious problems in that field by drawing the attention of the international community to the flagrant and persistent violations of human rights and fundamental freedoms in Chile (E/1984/83, para. 13), among other cases of non-compliance with the provisions of the Covenant. There was an alarming tendency, particularly in market-economy countries, to maintain high unemployment and weaken the social functions of the State. Moreover, long-refuted economic and social theories were being "rediscovered" with the aim of attributing the economic troubles of the Western countries to alleged excesses in social security policy. Such theories were no more than a device to justify the inability of certain States to fulfil their obligations under the Covenant, mainly because of the priority they gave to private profit at the expense of social security and social justice. His delegation therefore believed that the States parties, particularly those facing unemployment and social inequality, should concentrate on eliminating violations of economic, social and cultural rights and not to try to change the administrative and procedural practices of the Working Group or the machinery for implementing the Covenant.

60. His delegation had closely studied document A/39/484 concerning the meeting of the chairmen of the four human rights bodies held recently in Geneva, and was dissatisfied with how the meeting had been organized and conducted, as well as with its results. First of all, such a meeting was not representative because the chairmen of the organs concerned could not be considered representatives of those organs or of the States parties to the relevant instruments, especially with respect to questions on which there was no unanimity, or to the implementation of

(Mr. Mitrev, Bulgaria)

those instruments, which was solely within the competence of the States parties. In the final analysis, the chairmen could represent only their own Governments or offer their personal views as experts. Secondly, the meeting was held without the participation of all the chairmen of the bodies entrusted with the consideration of reports under the relevant human rights instruments, since the Chairperson of the Committee on the Elimination of Discrimination against Women and the Chairman-Rapporteur of the Group of Three on apartheid had not been invited to participate. That mistake had been aggravated by the participation of the Chairman of the Commission on Human Rights, which could not be considered a "body entrusted with the consideration of reports under the relevant human rights instruments". Without prejudice to his person, the Chairman of that Commission could not represent the interests of the States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid since his country had not ratified that Convention and therefore did not participate in the reporting procedure. Thirdly, the composition of the meeting violated one of the basic principles of multilateral negotiations, namely, the representation of regional groups. While half the participants were from one regional group, Africa and Eastern Europe were not represented at all. It was therefore not surprising that the results of the meeting were disappointing and one-sided. Instead of facilitating the effective implementation of human rights instruments, the meeting had proposed increasing the number of meetings, consultations and trips, as well as the volume of documentation and hence, the financial costs. Moreover, instead of focusing on co-operation between the Governments and the human rights bodies, the wording of the texts stressed the anti-democratic concepts of monitoring and supervising the States parties and included methods which constituted forms of interference in internal affairs, such as "sample legislation". Acceptance of the latter proposal, moreover, was inconceivable, in view of the political, economic, social and ideological differences between Member States.

61. In conclusion, his delegation wished to stress that human rights were not the prerogative of any single group of States, socio-economic system or culture. Hence the imposition of uniform models and methods of implementing the international human rights instruments was contrary to the very nature of international co-operation and was even harmful to that co-operation.

62. The CHAIRMAN made a statement and reminded delegations that the time limit for the submission of draft resolutions with programme budget implications under agenda item 12 was Wednesday, 28 November, at 6 p.m.

The meeting rose at 1.15 p.m.