



SUMMARY RECORD OF THE 25th MEETING

Chairman: Mrs. de REYES (Colombia)

CONTENTS

AGENDA ITEM 82: IMPORTANCE OF THE UNIVERSAL REALIZATION OF THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND OF THE SPEEDY GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES FOR THE EFFECTIVE GUARANTEE AND OBSERVANCE OF HUMAN RIGHTS (continued)

AGENDA ITEM 85: REVIEW AND CO-ORDINATION OF HUMAN RIGHTS PROGRAMMES OF ORGANIZATIONS IN THE UNITED NATIONS SYSTEM AND CO-OPERATION WITH OTHER INTERNATIONAL PROGRAMMES IN THE FIELD OF HUMAN RIGHTS (continued)

AGENDA ITEM 87: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 82: IMPORTANCE OF THE UNIVERSAL REALIZATION OF THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND OF THE SPEEDY GRANTING OF INDEPENDENCE TO COLONIAL COUNTRIES AND PEOPLES FOR THE EFFECTIVE GUARANTEE AND OBSERVANCE OF HUMAN RIGHTS (continued) (A/34/367 and Add.1, A/34/499, A/34/357, A/34/389 and Corr.1)

AGENDA ITEM 85: REVIEW AND CO-ORDINATION OF HUMAN RIGHTS PROGRAMMES OF ORGANIZATIONS IN THE UNITED NATIONS SYSTEM AND CO-OPERATION WITH OTHER INTERNATIONAL PROGRAMMES IN THE FIELD OF HUMAN RIGHTS (continued) (E/1979/36)

AGENDA ITEM 87: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/34/398 and Corr.1, A/34/196, A/34/357, A/34/389 and Corr.1)

1. Mr. CALERO-RODRIGUES (Brazil) said that the need for co-ordination of the various human rights activities and programmes of the United Nations had been recognized in General Assembly resolution 33/54 and Economic and Social Council resolution 1979/36, which had, inter alia, affirmed the central role of the Commission on Human Rights in co-ordinating human rights activities and in studying existing and alternative modes of co-ordination and co-operation in that field. Of particular importance, in his view, was co-ordination between the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, where some difficulties arose owing to the time-tables for meetings of the two bodies.

2. With regard to improvement of the effective enjoyment of human rights and fundamental freedoms, there seemed to be general agreement on the central role to be played by the Commission on Human Rights and on the need to use existing machinery more effectively. Various measures had been proposed and in some cases adopted, such as increasing the membership of the Commission so as better to reflect the membership of the United Nations and increasing the length of sessions, while maintaining the possibility of holding special sessions and intersessional meetings of the officers of the Commission and its subsidiary bodies as needed.

3. As could be seen from its report on its thirty-fifth session (E/1979/36), the Commission was continuing its valuable work on the normative process, including consideration of the draft convention on torture and other cruel, inhuman or degrading treatment or punishment; a body of principles for the protection of all persons under any form of detention or imprisonment; a draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief; the situation of migrant workers; and the question of a convention on the rights of the child. The Commission had also considered general questions, such as the matter of co-ordination for which he had referred and the importance of economic, social and cultural rights, especially in the developing countries, for the full realization of civil and political rights, as recognized by the General Assembly in its landmark resolution 32/130. The Commission had likewise

(Mr. Calero-Rodrigues, Brazil)

considered the relation between the enjoyment of human rights and the new international economic order, which had led it to adopt resolution 5 (XXXV), later endorsed by the Economic and Social Council. That resolution had coincided with a decision taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a Special Rapporteur on the subject. The Commission had also examined specific situations in certain regions, notably in southern Africa and the Middle East. In doing so it had continued to work on the basis of Economic and Social Council resolution 1503 (XLVIII), which had established a system for consideration of communications that seemed to be working well.

4. An important and complex matter which should be considered by the Committee was how to ensure that the sector of the United Nations concerned with human rights activities would have the form and the staff it needed if it was to be able to discharge its duties efficiently. The United Nations planning and budgetary documents prepared for the coming years showed some changes in the staffing of the Division of Human Rights, although the Director of the Division had assured the Committee that the small increase in the number of posts would be offset by decreases in general temporary assistance and consultants. Furthermore, the handling of communications was to be computerized in the interest of greater efficiency. The budget proposals seemed to reflect a decrease in the needs of the Division based on the deletion of non-recurrent requirements provided for in 1978-1979 and a decrease in the requirements foreseen for the biennium. The Secretary-General, who was in the best position to make such a judgement, seemed to feel that the Division would be able to discharge its functions despite its increased workload.

5. Various ideas had been advanced as to the form which the sector of the United Nations concerned with human rights activities should take, e.g. a body headed by a High Commissioner, a body headed by an Under-Secretary-General or Assistant Secretary-General, or a Centre. He noted, however, that various delegations, speaking on the subject during the thirty-third session of the General Assembly (A/C.5/33/SR.20), had expressed the hope that excessive importance would not be attached to the designations of sectors of the Secretariat, lest power struggles arise within the Secretariat. His delegation accepted the need for quantitative changes in the human rights sector of the Secretariat but could not accept any qualitative change in its functions. He noted, moreover, that the role - sometimes referred to as "good offices" although that term had a specific meaning in international law - and functions of the Secretary-General were based on the Charter and on the decisions of policy-making bodies of the United Nations and were personal and not transferable. His delegation therefore opposed suggestions aimed at establishing a new high post, such as a High Commissioner for Human Rights, with new and as yet unclear functions in the United Nations. The idea was of long standing but, in view of the constitutional difficulties referred to by various delegations and the lack of consensus, such an official would have great difficulties in carrying out his functions effectively. It should be noted that the United Nations could not deal with all of the human rights problems in the world and should set itself more modest goals. Governments should themselves

(Mr. Calero-Rodrigues, Brazil)

work harder and co-operate more fully. Evolution was required but could come only on the basis of consensus.

6. Mr. O'DONOVAN (Ireland) expressed his delegation's concern over the serious and increasing strain on the resources of the Division of Human Rights and urged that the necessary additions should be made to the Division's staff and other resources, in order that it might fulfil effectively the responsibilities entrusted to it by the various legislative and executive organs in the human rights field. It was difficult to imagine that the reduced resources to be made available to the Division in 1980-1981 in respect of temporary assistance and consultancy services would in fact suffice to enable it to meet its current needs and other needs which might arise from the decisions of legislative organs. The responsibilities of the Division had expanded greatly without any proportionate increase in the regular resources provided for in the budget, although there was general agreement, as could be seen from General Assembly resolution 33/51, that the Division should have the necessary staff and facilities for the effective performance of its functions and for the provision of adequate assistance to the various bodies established in connexion with the several international instruments which had recently entered into force. His delegation recognized that the Secretary-General was faced with the problem of reconciling many different requests and decisions of the legislative organs within certain budgetary constraints, but it felt that the needs of the Division of Human Rights were exceptional, because of the importance of its work, the place which that work had in the Charter, the increasing demands being made on the Division and the already inadequate resources allocated to the Division in the past. Furthermore, there was the question of the status of the human rights programme of the United Nations. His delegation felt that the time had come to transform the Division into a Centre for Human Rights. There were comparable organizations in the system, which had comparable responsibilities and a similar, or even smaller, staff structure and were now called Centres. The change would not involve financial implications and there would be no increase in staff. The Division already met twice over the criteria of nomenclature proposed by the Secretary-General in document A/C.5/32/17 and endorsed by the General Assembly in resolution 32/204.

7. Noting that his delegation had already commented on the activities of the Commission on Human Rights at the first regular 1979 session of the Economic and Social Council, he expressed his appreciation of the Secretariat report in document E/CN.4/1317 on procedures for investigating communications concerning violations of human rights, on the manner in which communications had been handled in practice and on points of overlapping or duplication, notably between the Commission on Human Rights and the Human Rights Committee. He hoped that the Secretariat would not fail to consider in the updated report requested for 1980 under Commission decision 4 (XXXV) the problem of overlapping or duplication between the procedures established by Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) respectively. He hoped also that further progress would be made in developing the investigative procedures of the Commission on Human Rights and noted that there were inconsistencies in the Commission's approach to human rights violations brought to its attention, for action was taken in some situations but not in others.

(Mr. O'Donovan, Ireland)

8. The application of the human rights principles to which the United Nations was dedicated - both in the Charter and in the Universal Declaration of Human Rights - was very controversial, involving, on the one hand, situations of great human misery and suffering and, on the other, the delicate questions of State sovereignty and non-intervention. In that connexion, his delegation wholeheartedly endorsed the emphasis recently placed by the Havana Conference of Non-Aligned Countries on the United Nations as a vital forum of the international community which should be utilized to the fullest extent possible in finding solutions to controversial issues. Among the contributions of the non-aligned countries in the United Nations had been the linking of the rights of peoples and of individuals and the stress on the right to development and the establishment of a just economic order. The new order would have to be applied both among nations and within nations, since the individual also had a right to develop and to determine his future. Personal rights could not be ignored and the United Nations could not turn its back on mass violations of human rights within countries, even if they happened to pose no immediate threat to international peace. The debate on the proposal to establish a post of United Nations High Commissioner for Human Rights, a proposal which might soon become widely acceptable, had at least had the merit of encouraging thought and discussion on the entire question of human rights, especially among non-aligned countries. In his delegation's view, representatives to the United Nations were required by their peoples and Governments to discuss the important issues of human rights in the forum of the United Nations, to promote to the greatest extent possible the common understanding of human rights principles and to seek to establish ways and means of protecting human rights. In that connexion, he observed that even such absolute principles as the principle of non-intervention might be seen to have their limitations and might then be better understood. At its current session the General Assembly had heard a historic statement by the leader of a sovereign State which had just emerged from a nightmare of grave violations of human rights. What had the United Nations done to end or even to alleviate the situation in that country? The answer might well be that it had not done enough. However, just as in the case of southern Africa when the racist régimes eventually fell and conditions were created for the full enjoyment of human rights, it might be recognized that United Nations debates and resolutions were not as far removed from reality as people sometimes thought.

9. Mr. RAKOTOZAFY (Madagascar) said that human rights questions had taken on special importance now that the international community was endeavouring to establish a new international economic order. Effective promotion of human rights and fundamental freedoms called for a radical change in the present structure of the international community. Even though numerous international instruments had been adopted within the context of the United Nations system with a view to guaranteeing effective enjoyment of such rights and freedoms, much remained to be done. Human rights questions could not be separated from their national, economic and social context, as recognized by the 1968 Proclamation of Teheran and General Assembly resolution 32/130. Moreover, his delegation welcomed the recommendations in Commission on Human Rights resolution 5 (XXXV) and took particular note of

(Mr. Rakotozafy, Madagascar)

paragraph 1 concerning the right to development. That resolution was important in that it constituted a further step towards establishment of a new international economic order.

10. Unfortunately, mass violations of human rights were continuing in various parts of the world. He had in mind the situation of the black population of southern Africa, the Palestinian people, the population of South Korea and peoples still under colonial domination. Moreover, certain Powers that claimed to be champions of human rights used the pretext of respect for human rights to interfere in the internal affairs of other States and oppose economic systems that differed from their own, thus endangering international peace and security and constituting an obstacle to the realization of human rights and fundamental freedoms.

11. Thus it was clear that machinery must be established within the context of the United Nations system to improve protection of human rights. In that connexion, he said it was not desirable to entrust the task of dealing with human rights questions to an institution composed of one person; it would be preferable to encourage States to accede to the various international instruments developed by the United Nations and to implement effectively measures to protect and promote human rights and fundamental freedoms. The measures provided for under General Assembly resolution 32/130 should be implemented as soon as possible.

12. Mr. FLINTERMAN (Netherlands) said that although the United Nations had achieved significant results in establishing new norms in the field of human rights and fundamental freedoms, that process of standard-setting was not yet finished. One outstanding achievement was the Universal Declaration of Human Rights, whose provisions had been defined in greater detail in a considerable number of conventions and further declarations. However, there were still areas in the field of human rights that called for international standard-setting, such as the questions of elimination of religious intolerance and discrimination against women. At the same time, it must be recognized that international standards in the field of human rights were of little avail without effective machinery for their implementation.

13. The most important factor in guaranteeing the effective enjoyment of human rights was the role of national institutions, which had been emphasized during the Seminar on National and Local Institutions for the Promotion and Protection of Human Rights, held in Geneva in 1978 (ST/HR/SER.A/2).

14. Second in importance in the promotion and protection of human rights was the role of regional agencies. In general, Governments might be more willing to explain their action before members of a regional organization than before those of a world organization. The Council of Europe and the Organization of American States were examples of effectively operating regional human rights systems. His delegation was pleased to note that a recent seminar at Monrovia, which had formed part of the Advisory Services Programme, had concluded that it would be desirable to establish an African Commission of Human Rights as soon as possible. It also

(Mr. Flinterman, Netherlands)

appreciated the fact that the Organization of African Unity had taken steps to convene a meeting of human rights experts for the purpose of adopting an African Charter on Human Rights.

15. With regard to protection and promotion of human rights at the international level, the previous year his delegation had suggested a number of possible ways of enhancing respect for human rights that the Commission on Human Rights could consider, and it therefore greatly appreciated the fact that during its thirty-fifth session the Commission had been able to conclude the over-all analysis called for in General Assembly resolution 32/130, paragraph 2 (a), with a number of specific ideas and suggestions. His delegation was also pleased to note that Economic and Social Council resolution 1979/36 authorized a longer annual session for the Commission while at the same time increasing its membership. Although his delegation appreciated the Economic and Social Council's decision to authorize the extension of the annual session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, it felt that serious additional strains would be placed on the Division of Human Rights if half of the meetings of the Sub-Commission were held in New York, a possibility which the Sub-Commission had discussed.

16. The decisions to which he had referred would add considerably to the workload of the Division of Human Rights. That workload had increased in other ways over the past three years as a result, for example, of the entry into force of the International Covenants on Human Rights and the call for a steadily increasing number of studies. It was therefore clear that the needs of the Division of Human Rights in staff and resources must be met in such a way as to permit the Division effectively to cope with its increasing responsibilities. If the Committee was not prepared to take appropriate action the quality of its work and that of various other bodies that relied on the Division might suffer. Since little had been done so far in real terms, the Committee should call for implementation of the most urgent measures.

17. It was regrettable that the Commission on Human Rights had not expressed its views with regard to the proposal for the establishment of a post of High Commissioner for Human Rights. However, even though his Government continued to prefer the establishment of such a post, it felt that the alternative proposal put forward by the Minister for Foreign Affairs of Canada merited close attention.

18. Since the existence of a large number of differing procedures for the implementation of human rights had resulted in a complex situation, better co-ordination of procedures was in principle desirable. However, as protection of human rights was a new field of international law the question of co-ordination of procedures should be approached cautiously so that potentially effective procedures were not discarded.

19. His Government welcomed the fact that the Commission on Human Rights was retaining the over-all analysis on its agenda. The Netherlands was firmly committed to the establishment of effective machinery for the implementation of the many human rights standards adopted by various international organs.

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20. Mr. MATELJAK (Yugoslavia) said that the full realization of all human rights and fundamental freedoms called for fulfilment of the following three conditions: definition of human rights and adoption of appropriate international instruments; existence of an appropriate organizational structure and implementation procedure within the framework of the United Nations system; and existence of the necessary conditions at the national and international levels.

21. The international community had already achieved significant progress in the field of human rights where the first two conditions were concerned. In that connexion, his delegation hoped that the draft declaration on the rights of national, ethnic, religious and linguistic minorities would soon be adopted. As the Minister for Foreign Affairs of his country had pointed out in his statement before the General Assembly during its previous session, the majority within a State could not enjoy genuine freedom if it had not guaranteed freedom for minorities. His delegation also hoped that steps would soon be taken to draft a comprehensive convention on the protection of the rights of migrant workers.

22. Human rights could not be separated from their national, economic and social context, and national independence was one of the essential conditions for the enjoyment of all individual human rights and freedoms. The concept of human rights had already been developed to such a degree in the various relevant United Nations instruments that there now appeared to be general agreement regarding such questions. General Assembly resolution 32/130 was of particular importance in that connexion.

23. Each new phase of the struggle for human rights enriched the concept of those rights. At the current level of social development, freedom of the individual was incomplete if the individual did not have the right freely to decide his or her conditions of work. Since that right also provided protection against arbitrary actions on the part of either State bureaucracies or private monopolies, it should be incorporated into the international community's concept of human rights. His country's social system was based on the principle of self-management, and the working people of Yugoslavia therefore fully enjoyed the right freely to decide their conditions of work. That system placed special stress on an active role for the individual in creating appropriate conditions for the enjoyment of individual freedoms.

24. The current situation regarding organizational structure and capacity within the framework of the United Nations system seemed to be satisfactory as far as human rights were concerned. There was already a number of bodies that dealt with human rights questions, and there were also special bodies to supervise the implementation of the relevant international instruments. There was therefore no need to increase the number of those bodies or upgrade them; attention should be concentrated on enabling the existing bodies to function more effectively. His delegation noted with appreciation chapter IX of the report of the Commission on Human Rights (E/CN.4/1347) and fully supported the recommendations in Economic and Social Council resolution 1979/36. It would, furthermore, like to see the Commission continue its work on the over-all analysis called for in General Assembly

(Mr. Mateljak, Yugoslavia)

resolution 32/130. At the same time, measures must be taken to ensure consistent and efficient implementation of those recommendations. He noted in that connexion that the budgetary resources planned for the human rights sector for 1980-1981 had been reduced by 11.7 per cent compared with the preceding period. Moreover, since the establishment of only four new posts had been requested in order to strengthen the personnel of the Division of Human Rights, he wished to request further information in that regard.

25. His country attached particular importance to the creation of appropriate conditions for the realization of human rights at the national and international levels, which was also the position adopted by the non-aligned countries. In that connexion, the Final Declaration of the Sixth Conference of Heads of State or Government of Non-Aligned Countries once again emphasized the need to create such conditions. It was evident that international conditions were far from conducive to the full realization of human rights. That situation particularly affected the non-aligned and other developing countries, whose difficulties were used as a pretext for intervention in their internal affairs. During the Havana Conference, attention had been drawn to the ever more numerous violations of the principle of non-interference, and reference had been made to the variety of forms that such intervention took.

26. In view of the foregoing, the Committee too should deal with the question of creating better conditions for the realization of human rights. Perhaps a first step in that direction could be the preparation by the Secretariat of a study on that question.

27. Unfavourable international conditions for the full realization of human rights and fundamental freedoms should not be used as an excuse for violations of those rights and freedoms by anybody. Régimes that committed mass and flagrant violations of human rights were unstable and provided opportunities for armed and other forms of intervention, resulting in gross violations of the principles of national independence and territorial integrity and in a threat to international peace and security. The United Nations must deal with questions involving flagrant violations of human rights and fundamental freedoms in individual countries. Such action must, however, be taken in accordance with the Charter and established United Nations practices, primarily on the basis of Economic and Social Council resolution 1503 (XLVIII), as well as by means of specific measures taken by the General Assembly in individual cases of flagrant violation of human rights.

28. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said the Byelorussian SSR believed that the question under consideration must be viewed in the light of the whole range of measures and efforts aimed at creating more favourable conditions for international co-operation in the sphere of human rights and the successful struggle against flagrant and massive violations of human rights resulting from the policies of aggression, racial discrimination, apartheid, foreign occupation, colonialism and neo-colonialism. The effectiveness of the

(Mr. Maksimov, Byelorussian SSR)

activities of the United Nations in promoting and developing universal respect for human rights and fundamental freedoms depended above all on how consistently Member States themselves strove for a fuller realization of the goals set forth in the United Nations Charter and on the extent to which their domestic and foreign policies conformed to those goals. The United Nations had done much to develop co-operation among States in the sphere of human rights.

29. Firstly, the Organization had secured wide recognition of the right of peoples to self-determination as the right which underlay all other human rights and freedoms. The admission to the United Nations of 69 newly independent States since the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples was proof of the universal recognition of the basic right of peoples to choose their political status and determine their economic, social and cultural development; favourable conditions were thereby created for broadening and deepening international co-operation in ensuring human rights on a global basis and making better use of the possibilities of the United Nations in that sphere.

30. Secondly, the significant efforts made by many Member States to attain the goals set forth in Article 1, paragraph 3, of the Charter had culminated in the formulation and entry into force of a number of important international agreements in the sphere of human rights. His delegation attached great importance to the continuing process of formulating new normative acts in the sphere of human rights and believed that the role of the United Nations in the sphere of human rights would be considerably enhanced after the adoption of conventions on the prevention of discrimination against women, the rights of the child, the prohibition of torture and other subjects. At the same time, the accession of all States to the existing international agreements in the sphere of human rights and the full implementation of all their provisions would play a decisive role in attaining the goals of the Charter in respect of the universal guarantee of human rights and fundamental freedoms.

31. Thirdly, an extensive system of international bodies concerned with the promotion of human rights in accordance with the Charter had developed within the framework of the United Nations. That system consisted primarily of the General Assembly and the Economic and Social Council, whose functions in the sphere of human rights were defined in Articles 13 and 62 of the Charter respectively; an important role was also played by their subsidiary bodies, particularly the Commission on Human Rights and the Committee on the Elimination of Racial Discrimination. The system was constantly being improved.

32. Nevertheless, the world had by no means seen the end of mass and flagrant violations of human rights. With the support of Western reactionary monopolistic circles, the racist régimes in southern Africa were continuing their criminal

(Mr. Maksimov, Byelorussian SSR)

policy of apartheid; the rights and freedoms of the Palestinian people and the Arab population of the occupied territories were being trampled; terror and police tyranny reigned in Chile; and the activities of Nazi and neo-fascist elements in certain Western countries were being stepped up. The struggle against all manifestations of racism, colonialism and aggression played a decisive role in safeguarding human rights, and the effectiveness of that struggle depended on the over-all political situation, which was decisively influenced by measures to strengthen peace and security, outlaw the policy of hegemonism in international relations, deepen détente and attain the goals of disarmament.

33. The Byelorussian SSR, like all the countries of the socialist community, was making great efforts to enhance the effectiveness of the United Nations in the human rights field. It had fully supported General Assembly resolution 32/130, which emphasized the indivisibility of human rights. The Constitution of the Byelorussian SSR enshrined and guaranteed the rights of citizens in the political and socio-economic fields, and the Soviet Constitution clearly demonstrated that the concept of freedom, human rights, democracy and social justice was given real meaning under the conditions of socialism.

34. It was indisputable that decisions on questions of the development of international co-operation in the sphere of human rights must be taken by bodies consisting of representatives of sovereign States, since States alone were concerned with the actual guarantee and development of the rights and freedoms of their citizens and the adoption of legislative and other measures fell within their domestic competence. His delegation was profoundly convinced that the success of all the activities of the United Nations in the human rights field depended above all on the resolve of States to develop fruitful international co-operation and consistently strive for a fuller implementation of multilateral agreements in the sphere of human rights and of the basic provisions of the Charter. Thus, the Byelorussian SSR firmly opposed the proposal to create a post of High Commissioner for Human Rights, the new proposal to establish a post of special representative of the Secretary-General for human rights, and other proposals of a similar nature. Beyond the high-flown words about the protection of human rights, those proposals were all aimed at creating some kind of supranational body whose members would not be representatives of States and which, under the ensign of the United Nations, would be able to interfere in the internal affairs of States, in violation of the provisions of Article 2, paragraph 7, of the Charter. The proposals were also designed to divert the attention of the world community from the determined struggle against flagrant manifestations of racism, apartheid, colonialism and aggression and would undermine co-operation between States in the sphere of human rights. The same was true, to a lesser extent, of the idea of transforming the Division of Human Rights or enhancing its status. All those proposals would do nothing to make the activities of the United Nations in the sphere of human rights more effective.

(Mr. Maksimov, Byelorussian SSR)

35. His delegation welcomed the positive decisions and recommendations formulated by the Commission on Human Rights at its thirty-fifth session, on the basis of the eight concepts set forth in paragraph 1 of General Assembly resolution 32/130, and in particular the Commission's resolution 22 (XXXV), which reflected the proposals of many delegations on the broadening of international co-operation in the sphere of human rights. The decision of the Economic and Social Council to broaden the scope of the Commission's jurisdiction was of great importance and would further enhance the authority of the Commission as one of the basic means of promoting co-operation among States in the sphere of human rights. It was too early to judge the results of the measures devised by the Commission to improve its working machinery and approved in Economic and Social Council resolution 1979/36, but it was clear that the Commission was on the right course and that, despite the various and sometimes directly opposed positions of its members, it was able to work out mutually acceptable decisions and serve as a centre for inter-State co-operation. It was thus evident that the Commission on Human Rights was the body which should formulate recommendations for Member States on organizational measures aimed at enhancing the effectiveness of the United Nations in the further promotion and development of human rights and fundamental freedoms. His delegation hoped that the Commission would consider with due attention all the proposals put forward in the Third Committee and make appropriate recommendations to the General Assembly at its thirty-fifth session.

36. Mrs. MORRISON (Lesotho) said that her Government was seriously concerned at the disparity between the lofty ideals enshrined in the Universal Declaration of Human Rights and the realities of human existence. The concept of human rights had become a political slogan and a propaganda tool for politicians throughout the world. In some countries, emphasis was placed on the rights of the individual to economic and social security, and in others, on the right to political security and the right to vote. The definition attached to the notion of human rights was very nebulous; it was not clear when States could be justified in trampling human rights in the name of "internal peace and security" and when violations of human rights became a matter for international outrage rather than being considered "internal affairs". Her delegation was deeply concerned at the frequent use of a double standard in approaching the question of human rights. Even more unacceptable was the erroneous notion that human rights could be measured by the yardstick of certain geographical regions. Lesotho called not for interpretation but for universal observance of the ideals enshrined in the Declaration of Human Rights. It would like to see more emphasis on promoting the ideals of human rights; there would then be less need for campaigns to protect human rights. It believed that the recent proposals for establishing an African Commission of Human Rights would help to promote the concept of human rights.

(Mrs. Morrison, Lesotho)

37. Her delegation fully supported the proposal to create a post of United Nations High Commissioner for Human Rights in order to attain proper promotion of human rights. It would be essential for States, individually and collectively, to co-operate with the High Commissioner, if his work was to be effective. Her delegation had no doubt that, with time, the world community would accept the idea of creating the new post. It welcomed the spirit behind the proposal to create a post of special assistant to the Secretary-General for human rights but was unconvinced of the practical effectiveness of such a post, since the Secretary-General himself had certain limitations imposed by the mandate of his post. Nevertheless, her delegation would support that proposal if it was not possible to agree on the establishment of the post of High Commissioner for Human Rights.

38. With regard to the proposal to upgrade the Division of Human Rights, her delegation felt that the Division had done reasonably well in the past and would not automatically achieve more if it were given a higher standing. It therefore felt that the Division should be maintained in its existing capacity, although an increase in staff would certainly enhance its work.

39. Mr. BARTON (Canada) said that the United Nations had been born out of the common aspiration for a more humane and decent global order, yet, over the years, there had been a tragic series of situations in which fundamental rights had been compromised. In virtually all those cases, the international community had not had the means, even where the will existed, to translate its concern for human rights into practical and effective measures. The Charter embodied the commitment to promote and encourage respect for human rights but contained no specific indication of the appropriate degree of international co-operation in a delicate field in which there were legitimate differences on issues of social organization. Furthermore, the Charter entrenched the doctrine of State sovereignty, and therefore its provisions on human rights were placed in what some States believed was an ambiguous position. Centuries of tradition in the field of international law had concentrated attention on inter-State relations and had so far accorded only limited recognition to the individuals for whose benefit the human rights provisions of the Charter had originally been adopted. The difficulties in implementing international concepts of human rights thus involved very real and substantial differences of perception which had led to differences in finding a measured response to problems involving social breakdowns.

40. Nevertheless, events during the past few months had indicated that the obstacles to effective international action were not insuperable, and many countries appeared to believe that the international community could play a more effective role in promoting human rights; an increasing number of States had

(Mr. Barton, Canada)

acceded to international legal instruments relating to human rights, the provisions of article 41 of the International Covenant on Civil and Political Rights had entered into force, and there was even greater interest in the creation of effective national institutions in the human rights field. Even more significant were recent developments at the regional level, such as the proposals to create an African Commission of Human Rights and the holding of the inaugural session of the Inter-American Court of Human Rights, initiating a new phase in the already substantial activities of the Organization of American States. The significance of regional arrangements in the field of human rights could readily be appreciated from the records of the European Court of Human Rights, whose jurisdiction spanned a number of different legal systems in Western Europe. Another significant development had been the decision of the Lusaka meeting of Commonwealth Heads of Government to explore the possibility of a Commonwealth human rights mechanism.

41. All those initiatives invited a concomitant response on the part of the United Nations. His Government continued to support the idea of establishing a post of High Commissioner for Human Rights but, recognizing the difficulties which some delegations had in reconciling the idea with their accepted norms of national jurisdiction, and in the hope of ending the impasse, it was proposing the establishment of a post of special representative of the Secretary-General for human rights and humanitarian affairs. The special representative would be an individual of internationally recognized stature, competence and prestige, possessing the diplomatic skills and sensitivity required to discharge the responsibilities of the post effectively and discreetly. He or she would function at a political level in situations where the use of the political process at a high level would be instrumental in effecting solutions and would obviously have to enjoy the confidence of the Secretary-General. The special representative would be concerned primarily with the promotion of human rights and the exercise of good-offices functions assigned by the Secretary-General and would be the Secretary-General's point of liaison with Governments on such matters; he or she would act in a low-key and unpublicized manner with a view to reconciling local conditions with international expectations. The special representative would operate with a small staff, drawing, if necessary, on the entire range of services and expertise currently offered by the Secretariat, and would also represent the Secretary-General at major regional and international human rights events. It should be made clear that the special representative would function only through the Secretary-General as chief administrative officer of the United Nations and in accordance with the Charter. Nevertheless, Canada believed that, over time, as the post functioned to the satisfaction of Member States, a general willingness to strengthen its position might well develop. While Canada did not preclude the need for the United Nations to report publicly on specific areas of human rights, it had taken into consideration the reservations of some delegations in that respect.

(Mr. Barton, Canada)

42. His delegation supported the efforts to strengthen the Division of Human Rights at the working level; the Division had been short of personnel and financial resources for some time, and its workload had increased enormously in recent years. The Committee must consider that problem in the light of the over-all analysis which the Commission on Human Rights had completed earlier in the year.

43. The financial implications of Canada's proposal were comparatively modest, since it consisted essentially of the creation of one office. Although fiscal restraint was important, that was not a reason for rejecting all new activities, but simply for keeping all programmes under review and screening out or de-emphasizing those programmes whose relevance had declined over the years. If the United Nations was to be a living and significant force in international life, its programmes and interests must be in harmony with the times.

44. Mr. WANG Tie-chen (China) said that his delegation fully supported General Assembly resolution 32/130 and the concept that the right to development fell within the area of human rights. A number of third world countries had requested that due attention should be given to the mass and flagrant violation of the political and economic rights of peoples, such as those which resulted from racial discrimination, apartheid, foreign occupation and domination, as well as from the refusal to recognize the right of peoples to self-determination and the right of every nation to exercise full sovereignty over its natural resources. Such demands were fully justified. Human rights involved not only individual rights and fundamental freedoms but also, and primarily, national rights, and covered social, economic and cultural rights as well as political rights. His delegation had noted with satisfaction that a number of States which had earlier failed to express their agreement with resolution 32/130, had accepted those new concepts of human rights during the current session.

45. A legal framework for the protection of human rights was also necessary, and the legislation of many countries incorporated individual rights in the form of the rights of citizens. Such rights varied from State to State in accordance with social systems and actual conditions. Such matters fell within the internal responsibility of each State and brooked no interference by outsiders. His delegation therefore supported the view that the United Nations should focus its attention on the search for solutions to the problem presented by the mass and flagrant violations of human rights which were inseparable from the policies of colonialism, racism, racial discrimination, apartheid, expansionism, aggression and hegemonism followed by certain countries. When a country pursued a hegemonist policy of oppressing the peoples of other countries, it must clearly oppress its own people at the same time, for the people opposed such actions of aggression and expansion. The mass and flagrant violation of human rights frequently produced a problem of large numbers of refugees and consequent international tensions. While the question of affording relief to the many thousands of refugees was a humanitarian matter the root cause of the problem stemmed from mass violations of human rights. World public opinion had already been outraged by the thousands of deaths of refugees at sea.

(Mr. Wang Tie-chen, China)

46. His Government had not yet acceded to the various international instruments on human rights but it was studying them carefully. In the meantime his Government continued to support the just and rational ideas set forth in those instruments.

47. China was a socialist country and since the founding of the new China, the broad masses of the Chinese people had enjoyed unprecedented democratic rights; democracy and the rule of law had suffered much under the "Gang of Four", whose rule had now been brought to an end; measures had been adopted to ensure that socialist democracy would prevail. Speaking at the second session of the Fifth National People's Congress, Premier Hua Guo-feng had stressed that it was an unshakeable socialist political principle that the entire people should wield the supreme power of running the country on the basis of the rights of ownership and disposal which they exercised in various forms over the means of production and that deviation from that basic principle represented sabotage of the socialist State. A prerequisite for democracy was the rule of law. The legal system of his country had recently been strengthened by the adoption of a revised Constitution and seven accompanying laws. The new Constitution included provisions for the fundamental rights of the people in the political, economic and cultural spheres and stipulated that all citizens had such rights as the right to vote and to stand for election, to work, to education and to freedom of the person, of speech, religious belief, correspondence, the press, assembly, association, procession and demonstration and the freedom to strike. Women enjoyed equal rights with men and all nationalities were equal. Torture and unlawful incarceration were prohibited.

48. His delegation considered that the question of increasing the staff and institutional framework for human rights work in the United Nations system required further study.

49. Ms. RICHTER (Argentina) said that universal respect for human rights was enshrined in Article 55 of the Charter as a condition for the stability and well-being which were necessary for peaceful and friendly relations among nations. Any attempt by means of intimidation or pressure to interfere with the freedom of any State to determine its political system or to pursue its economic, social and cultural development represented a violation of the Charter. In the same spirit, the non-aligned countries, at their sixth summit conference in Havana, had denounced the use by the great Powers of human rights as a political instrument for interfering in the internal affairs of sovereign States. In paragraph 1 of its resolution 32/130, the General Assembly had stipulated the eight concepts which should guide the approach to future work within the United Nations system with respect to human rights questions. The Commission on Human Rights had followed those guidelines and had stressed the right to development as a human right; its resolution 5 (XXXV) had been endorsed by the Economic and Social Council and her delegation hoped that it would be reaffirmed by the General Assembly. The international community should give its full support to the future work of the Commission on Human Rights in implementing the terms of resolution 32/130 and, in particular, its paragraph 1 (e). The administrative and budgetary resources for the corresponding United Nations activities should be redistributed to reflect the thrust of that resolution. In that connexion, she reminded the Committee that the human rights component of the medium-term plan for the period 1980-1983 had not

(Ms. Richter, Argentina)

been approved by the General Assembly, which, in its resolution 33/118, had limited itself to taking note of the plan and to requesting the Secretary-General to use it as the framework for the preparation of the programme budget for the biennium 1980-1981, in the light of the comments of the Committee for Programme and Co-ordination on individual plan sections. CPC had, however, recommended that activities which had not received the legislative sanction of intergovernmental organs should be eliminated from the proposed programme budget for 1980-1981. He considered it necessary to direct the Committee's attention to that point in connexion with its discussion on different methods of complying with the General Assembly's mandate to promote the effective enjoyment of human rights and fundamental freedoms. It was in the same spirit that the General Assembly had adopted resolution 32/197 regarding the restructuring of the economic and social sectors of the United Nations system. The extent of the restructuring had, however, been limited, as Governments had hesitated to introduce unnecessary innovations for fear of unforeseeable consequences. Since 1977, restructuring had been used to justify the lack of appropriations for certain restructured departments of the Secretariat. General Assembly resolution 32/197 had reminded the Economic and Social Council of its responsibilities to keep under review and evaluate the implementation of global strategies, policies and priorities established by the General Assembly. The Council had not yet fulfilled that responsibility and the omission should be remedied as quickly as possible.

50. Mr. JAIN (India) said that he had noticed a definite increase in interest in questions of human rights on the part of Member States and within the United Nations system. The recent decision of the Economic and Social Council to expand the membership of the Commission on Human Rights was clear evidence of the trend. The recent conference of Heads of State or Government of Non-Aligned Countries had called upon the United Nations in paragraph 262 of its political declaration (A/34/542) to continue working towards ensuring human rights in a comprehensive manner and had reaffirmed the willingness of those countries to work actively for the implementation of General Assembly resolution 32/130. The Committee should build upon such growing support from the international community in its search for solutions to major human rights problems. The United Nations must, however, be careful to preserve the proper balance between the sovereign rights of States, the common law of civilized nations and the inalienable rights of human beings in such a way as to favour the fuller enjoyment of all human rights by mankind.

51. At the most recent session of the Commission on Human Rights, his delegation had not favoured the creation of additional bodies, on the grounds that they would complicate rather than simplify the work of the Organization. It would be preferable for existing arrangements and procedures to continue but to be fully utilized. The proposals to create a post of High Commissioner for Human Rights or new offices such as that of an Under-Secretary-General for Human Rights were not acceptable, for the Director of the Division of Human Rights already enjoyed sufficient powers to discharge his mandate fully. The appointment of field officers for human rights would depend on the countries concerned but it would be in order for the officers of the Commission on Human Rights to be entrusted with certain functions between sessions of the Commission. His delegation would support any

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(Mr. Jain, India)

action which would serve to strengthen the role of the Commission on Human Rights and to improve the functioning of existing organs and procedures. In that connexion, he welcomed the recent decision of the Council to authorize the Commission on Human Rights to assist the Economic and Social Council in the co-ordination of human rights activities in the United Nations system. Ways and means of enhancing the role of non-governmental organizations should also be studied. Every effort should, however, be made to avoid overlapping activities in the field of human rights.

52. His delegation welcomed the importance attached by the Director of the Division of Human Rights to public information activities. Research, information and education in the field of human rights were of primary importance. Instruments concerning human rights were directed not only at Governments but also at the individuals and peoples whose rights required protection. Governments and non-governmental organizations therefore had a vital role in providing the necessary information and education. In that connexion, the advisory services of the Division of Human Rights could play a useful role through seminars, training courses, publications and public information activities carried out in co-ordination with other units of the Secretariat, with the specialized agencies and with non-governmental organizations. His delegation would welcome the appropriation of additional budgetary resources for that activity. He had been surprised to note the comment of the Director of the Division that, since the proposal for three Professional posts and one General Service post had been counter-balanced by a decrease in general temporary assistance and consultancy funds, the Division would continue to face great difficulties in discharging its responsibilities. That had not been the intention of his delegation in the Commission on Human Rights when it had strongly supported the appropriation of additional budgetary resources for the Division of Human Rights. It would therefore support an additional allocation from the proposed programme budget for the 1980-1981 biennium. The matter was of particular importance because a programme had recently been adopted for the remaining four years of the Decade for Action to Combat Racism and Racial Discrimination under which a number of important activities were to be initiated by the Division of Human Rights.

53. The increasing number of States which were becoming parties to existing international instruments was evidence of their desire to bind themselves legally to adhere to established standards in the field of human rights. His delegation considered it vital that all Member States should become parties to those instruments in the near future and in that connexion had noted with interest the decision taken recently by the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish a sessional working group each year which would consider ways and means of encouraging Governments which had not yet done so to ratify or adhere to international human rights instruments. Regional arrangements for human rights should not be imposed on regions without their consent. The initiative should come from the States themselves and such arrangements would have to be based on a certain homogeneity within the region. With regard to his delegation's own region, it would prefer to wait until national institutions for the promotion and protection of human rights had had time to establish themselves within the countries

(Mr. Jain, India)

of the region. Such national institutions could help to make public opinion aware of its rights and would serve to buttress constitutional safeguards such as an independent judiciary and the national constitution, which were not always sufficient in themselves to protect citizens from violations of human rights. As the President of India, Dr. Sanjiva Reddy, had stated recently, freedom could not be preserved unless all were continuously aware of the responsibility each had to protect it; it was not possible for any people anywhere to expect that the machinery of the State was sufficient; too often that machinery had been used to curb and even stamp out the rights of the people and of individuals.

The meeting rose at 6 p.m.