

**GENERAL  
ASSEMBLY**

**THIRTY-SECOND SESSION**

*Official Records\**



**THIRD COMMITTEE**

**50th meeting**

**held on**

**Thursday, 17 November 1977**

**at 3 p.m.**

**New York**

---

**SUMMARY RECORD OF THE 50th MEETING**

**Chairman: Mrs. MAIR (Jamaica)**

**CONTENTS**

**AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS  
SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS:  
REPORTS OF THE SECRETARY-GENERAL (continued)**

---

\* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

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

**77-58205**

**Distr. GENERAL**

**A/C.3/32/SR.50**

**22 November 1977**

**ORIGINAL: ENGLISH**

**/...**

The meeting was called to order at 3.35 p.m.

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued) A/10235; A/32/61, 178, 179; A/C.3/32/L.17, L.25/Rev.1, L.28 and L.32)

1. Mr. PALACIOS TREVIÑO (Mexico) said that, as the Mexican Minister for Foreign Affairs had stated at the 14th plenary meeting of the General Assembly, the Mexican Government unreservedly supported the adoption of adequate measures to strengthen the protection of human rights, provided such measures were in strict conformity with conventions or decisions adopted by the United Nations and did not discriminate against any group of human beings, including those who, for social or economic reasons, had been obliged to abandon their countries of origin. That policy was consistent with the principle of universal respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion, and also with the tradition of his country dating back to its struggle for independence; at that time slavery had been abolished and equality before the law had been guaranteed to all individuals. Those rights had been guaranteed as individual rights, and therefore were extended to every human being as a human being and not as a national of the Mexican State. The Constitution also guaranteed the rights of workers, since individual guarantees had to be set within the framework of social rights.

2. His delegation was convinced that human rights could not become a reality until the world had been freed from fear, poverty, tyranny and oppression. Civil and political rights could become a reality only when combined with economic, social and cultural rights. His Government had therefore joined in the struggle to eliminate evils such as colonialism, apartheid and racial discrimination. Practical measures which it had taken included refusal to grant visas to individuals from racist countries and refusal to be associated with sporting events in which athletes from the countries ruled by those minority and racist régimes participated. His Government had also sponsored proposals against torture and other cruel or inhuman treatment, and had participated actively in efforts to humanize war. Mexico had adopted an "open-door" policy on the question of asylum. In the economic field, his Government had committed itself to the establishment of a new international economic order.

3. In regard to the draft resolutions before the Committee, his delegation was prepared to participate in strengthening and improving multilateral instruments for the protection of human rights, while insisting on the need to avoid unnecessary duplication. His delegation agreed with the priorities set for solving the problem of violations of human rights. If the Commission on Human Rights was to be requested, as in draft resolution A/C.3/32/L.17, paragraph 2, to undertake an over-all analysis of measures for the protection of human rights, it should not establish its priorities in advance; otherwise there was a danger that the foundations of the International Covenants on Human Rights and other conventions would be altered.

(Mr. Palacios Treviño, Mexico)

4. In regard to draft resolution A/C.3/32/L.25/Rev.1, which proposed the establishment of a United Nations High Commissioner for Human Rights, his delegation noted with surprise the omission of a paragraph which would have provided for the establishment of an advisory group of five members to advise and assist the High Commissioner in carrying out his functions.

5. Mr. de PINIES (Spain) said that the reassertion of basic human rights was more than ever necessary in the modern age when technical progress represented both a promise of general prosperity and a threat to personal identity. Nevertheless, the individual could not be regarded as a cell isolated from the rest of society. The history of the past two centuries had shown clearly that the constitutional declaration of fundamental freedoms did not cause situations of injustice and poverty for a large part of the population to disappear. Thus world-wide emphasis on the importance of economic, social and cultural rights was fully justifiable, although it might entail the risk of denying the validity of civil and political rights. The protection and enjoyment of human rights were linked to their generic indivisibility, although it was understandable that one or another aspect would be emphasized in greater or lesser degree depending on levels of culture and development. Liberty and justice were not mutually exclusive but complementary. His Government regarded the protection of human rights as one of the corner-stones of its internal and external policy.

6. His delegation had co-sponsored draft resolution A/C.3/32/L.25, which proposed the establishment of a United Nations High Commissioner for Human Rights. The Commission on Human Rights was a political organ and the Division of Human Rights was of a technical nature. The High Commissioner would co-ordinate the complex activities of the United Nations in the field of human rights, without interfering in the work of such existing organs. The High Commissioner could use his good offices at the request of States and, with their co-operation, could contribute to resolving conflicts. His office, as conceived in the draft resolution, would pay special attention to racial discrimination, colonial domination and obstacles to the establishment of a more just and equitable international economic order. His delegation believed that the establishment of the post would be a realistic and effective step. He expressed the hope that the draft resolution would be adopted by the greatest possible number of delegations. He did not think that the financial implications of the establishment of such a post would be substantial. In that connexion, he reminded the Committee that the report of the Committee for Programme and Co-ordination (A/32/38, paras. 24-25) had recommended that the relative growth rate of the human rights programme should be held at the rate approved by the General Assembly; furthermore it had recommended that the Fifth Committee should give particular attention to that programme.

7. His delegation supported draft resolution A/C.3/32/L.28 requesting States to waive the right accorded them under paragraph 6 of Economic and Social Council resolution 1503 (XLVIII).

(Mr. de Pinies, Spain)

8. The proposal in draft resolution A/C.3/32/L.17 was an interesting and comprehensive one and he considered that its underlying philosophy was acceptable.

9. His delegation had not yet had time to decide on the position it would take on draft resolution A/C.3/32/L.32.

10. Mr. TROYANOVSKY (Union of Soviet Socialist Republics) said that the promotion of and respect for human rights must be viewed within the general context of chapter IX of the United Nations Charter, which referred to the promotion of higher standards of living, full employment, and conditions of economic and social progress and development, as well as the solution of international economic, social and related problems. It was perfectly clear that provisions relating to the development of international co-operation in the human rights field must be viewed within the general context of the principles laid down in Article 2 of the Charter. He wished to emphasize that the Soviet Union, together with the other socialist countries, had actively co-operated with other Member States and specialized agencies of the United Nations to ensure human rights. It was on the initiative of the USSR, for example, that Article 1, paragraph 3, had been included in the Charter. The Soviet Union had also suggested that provisions regarding the right to self-determination, economic and social rights, the rights of colonial peoples, the struggle against racism and discrimination, and the prohibition of racist propaganda and the preaching of national hatred should be included in the Universal Declaration of Human Rights, and it was not responsible for the fact that those proposals had not been adopted.

11. The Soviet Union had also participated actively in the elaboration of the International Conventions on Human Rights. It was on the initiative of the Soviet Union that the historic Declaration on the Granting of Independence to Colonial Countries and Peoples, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Suppression and Punishment of the Crime of Apartheid and many other important human rights decisions had been adopted.

12. The effectiveness of the United Nations in the promotion of human rights depended primarily, of course, on how consistently Member States implemented the goals of the Charter in their foreign and domestic policy. The recently adopted Soviet Constitution was a relevant example at the national level. It not only strengthened and expanded a broad range of basic social, economic and political rights but also provided material guarantees for their implementation. In accordance with the Soviet Union's firm policy of promoting international peace, security and co-operation, the Constitution also declared that the guiding principles of the Soviet Union's relations with other States were the principles of sovereign equality, non-intervention in internal affairs, respect for human rights and fundamental freedoms and the rights of peoples to self-determination.

13. The agenda item under discussion presupposed careful and comprehensive analysis of the many-faceted activities of the United Nations bodies and specialized agencies and their experience with a view to determining their

(Mr. Troyanovsky, USSR)

effectiveness and pointing the way for future activity. A businesslike and constructive approach and willingness to co-operate were basic prerequisites for success in that connexion.

14. In gauging the effectiveness of the United Nations in the area of human rights it was essential to take into account the liberation of many countries and peoples from the yoke of colonialism and their integration into the international community as full-fledged members which were making a valuable contribution to the solution of international problems. An important result of that development was the elaboration in the United Nations and entry into force of a number of important international human rights agreements, which not only embodied wishes or recommendations but also imposed specific obligations on the signatories. Accession to those instruments was a good measure of the extent to which States were prepared to help implement human rights in deeds as well as in words, and it was essential to make them universal. At the same time, efforts must be made to elaborate new international agreements reflecting democratic principles and the positive changes which were taking place in the world.

15. The United Nations system included a number of bodies successfully engaged in the protection of human rights. The Secretary-General had also organized advisory services in the field of human rights which took the form of seminars, the provision of fellowships and assistance to experts. In accordance with the Charter, the General Assembly had not only defined basic directions but also co-ordinated the activity of all United Nations bodies concerned with human rights.

16. It must be stressed, however, that the effectiveness of the United Nations in the field of human rights was directly linked to the general world situation. In that connexion, the entry of many new States into the United Nations had created favourable conditions for promoting international co-operation with respect to human rights and for making better use of existing possibilities within the Organization. Only world peace could ensure economic and social development and the enjoyment of human rights, and especially the inalienable right to life. The first task of the United Nations, therefore, was to work for détente, for curtailment of the arms race and for the promotion of peace. The more consistently the United Nations fought against aggression, colonialism and racism and the more actively it supported national liberation struggles and the vital interests of the workers, the more favourable would be the conditions for enhancing its effectiveness in securing the inalienable rights of peoples and human freedoms. The Soviet Union felt that greater attention should be given to the study of that problem in the United Nations agencies.

17. Equally important was the question of reducing military expenditures and using the funds thereby released for securing the social and economic rights of the workers. The development of international economic co-operation on a just, equal and mutually advantageous basis and the implementation of basic social and economic transformations by States would greatly help not only to ensure social, economic and political rights but also to promote the development of international co-operation in that field.

(Mr. Troyanovsky, USSR)

18. The entry into force of the Conventions on Human Rights and other human rights instruments and the work of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination made it easier to determine where duplication of effort and unnecessary units could be eliminated and where outmoded procedures must be changed. That would unquestionably help to improve the effectiveness of the entire human rights machinery of the United Nations. United Nations organs should concentrate on the most important and productive questions concerning human rights and freedoms. There should be a clearer demarcation of their functions on the basis of long-term programmes and secondary "artificial" questions should be deleted from their agendas. The Soviet Union continued to support United Nations efforts to eradicate racism and apartheid and to achieve the full implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination. Continuing attention must be given to the speedy attainment of self-determination and to the question of curbing the massive violations of human rights resulting from the policies of colonialism, racism, aggression, foreign occupation and the exploitation of peoples.

19. The Soviet Union at the same time firmly opposed using the question of human rights as a pretext for demagogical campaigns that would harm international co-operation. It opposed the frequent practice in United Nations organs of saying one thing but doing the opposite.

20. The attempts to establish a High Commissioner for Human Rights had nothing to do with the task of developing international co-operation in the human rights field, as defined in the Charter. The proposal to establish that post had originally been made for the purpose of creating machinery to implement the International Covenants on Human Rights, but the General Assembly had deferred the question. At the twentieth session the proposal had been revived and in an explanatory memorandum it had been stated with commendable frankness that, if such a post was established, States would be obliged to surrender part of their sovereignty. At the twenty-eighth session the General Assembly had deleted from its agenda the highly controversial question of establishing such a post.

21. General Assembly resolution 3136 (XXVIII) could justifiably be interpreted to mean that the Assembly had provided for the study of alternative approaches to the proposal for establishing a High Commissioner, and the submission of draft resolution A/C.3/32/L.25 under the item was therefore unjustified.

22. The purposes, principles and activities of the United Nations reflected the realities of the modern world, of sovereign and equal States belonging to different social systems. The proposal was aimed above all at undermining the authority of existing representative organs and barring Member States from participating in the consideration of human rights questions. It was significant that the very countries which were pressing the proposal made groundless accusations against representative United Nations organs concerning so-called "double standards" and other faults. They had invented those accusations because they were loath to implement United Nations decisions, including the decision to boycott the racist régimes. They proposed that the High Commissioner should possess the independence required for performing his functions, in other words, to act on his

(Mr. Troyanovsky, USSR)

discretion. His activities would inevitably involve questions relating to the domestic competence of States and might lead to interference in their internal affairs. The purpose of the establishment of such an organ would be to provide a means of levelling fabricated accusations about so-called violations of human rights in various countries and to instigate campaigns of slander designed to poison the international atmosphere.

23. Not only would the establishment of a High Commissioner exert no favourable influence on the actual realization of human rights but it would also divert the attention of States from action to combat really flagrant violations of those rights and, in the final analysis, would seriously harm the cause of international co-operation in the human rights field. Whatever its wording, the proposal was unsound from the political, legal and procedural points of view. His delegation vigorously opposed attempts to foist it on the international community, since it was fundamentally incompatible with the purposes and principles of the Charter. His delegation was convinced that the attempts would be opposed by all those interested in the development of international co-operation and respect for human rights and freedoms.

24. Mrs. MARICO (Mali) said that the universal values underlying the lofty ideals of the Charter were often in conflict with the concerns of States, because a universally acceptable definition had not been found for the rights enunciated in the Charter, the Universal Declaration of Human Rights and the International Covenants on Human Rights.

25. For example, while the Charter recognized the right of States to their own existence in accordance with the aspirations of their peoples, it gave pre-eminence to the right of all peoples to peace. Similarly, while it gave some recognition to the right of the colonial Powers to administer Non-Self-Governing Territories, it accorded pre-eminence to the inalienable right of peoples to self-determination and independence. As the freedoms proclaimed in the Universal Declaration of Human Rights had become part of the life of peoples, the need had been felt to recognize new freedoms and new rights.

26. That explained the delicacy and complexity of finding a universally acceptable definition of the concept of "rights". For some, it meant individual rights such as freedom of expression, in line with the individualistic concept of society. Praiseworthy as it might be, it was restrictive and had no claim to universal truth.

27. In her delegation's view, the debate should be elevated above the level of partisan views and hasty generalizations in order to permit an exhaustive study of the question and the enunciation of a universally acceptable policy based on the different values of the various societies. Human rights included both the rights of the individual and the rights of societies. A society which ignored the basic rights of individuals became dictatorial; recognition of individual rights alone, however, led to anarchy. Human rights and fundamental freedoms must be viewed as part of a network of indivisible and interdependent socio-political relationships. Hence those rights could not be limited to civil and political rights but must include economic, social and cultural rights.

(Mrs. Marico, Mali)

28. Human rights and freedoms were sacred, but in order for human beings to enjoy those rights, there must be life. Yet the preservation of life, the most fundamental right of all, rested less with the individual than with society, which had more adequate means to that end. If human rights were to be upheld and realized to the fullest extent, the requirements of society must take precedence over the guarantee of individual rights. That involved a philosophical and political choice which determined the forms of administration chosen by peoples to guarantee their survival as a group.

29. Recognition of the enjoyment of collective rights was laid down in the Charter. That precluded any accommodation with apartheid, racial discrimination, colonialism, foreign domination, aggression against the national sovereignty of States and their national unity and territorial interests and denial of the right of peoples to self-determination and the full enjoyment of their wealth and natural resources. The existing iniquitous international economic order was a subtle example of the massive violation of the human rights and the rights of peoples. Failure to ratify international conventions on human rights and the rights of peoples and failure to apply the relevant resolutions also impeded the enjoyment of human rights and the rights of peoples.

30. In her delegation's view, consideration of the question should therefore cover both the international protection of human rights and the development of international co-operation with a view to promoting respect for and the enjoyment of all fundamental rights and freedoms. The need for such co-operation, moreover, was reflected in the Secretary-General's report (A/10235). Her delegation welcomed the progress achieved by the international community in guaranteeing the enjoyment of human rights and fundamental freedoms. In order to promote further progress, it was necessary to draw on the views and experience of all countries, whatever their degree of development, way of life, or philosophical or ideological outlook, so that the Commission on Human Rights might continue its good work.

31. Her delegation was accordingly co-sponsoring draft resolution A/C.3/32/L.17. It was for the entire international community and for it alone, to determine which cases of violations of human rights fell within its competence and what procedure could most appropriately be applied to put an end to those violations.

32. Mrs. SHAHANI (Philippines) said that, in her delegation's view, item 76 was of exceptional importance. If the Committee made the right decisions on the item, that would reinvigorate consideration of human rights by the United Nations; conversely, failure to do so would contribute to the stagnation which had recently characterized discussion of the issue.

33. Her delegation greatly appreciated the careful and objective manner in which the Deputy Director of the Division of Human Rights had presented the item, which was of great complexity, and it wished that that method were used more often when the Secretariat introduced items to the Committee.

34. The international community was witnessing an increasing polarization of fundamental freedoms. Some nations advocated the primacy of civil and political rights and the rights of the individual; others affirmed that economic, social and

(Mrs. Shahani, Philippines)

cultural rights, and the rights of peoples, should have priority. That polarization had been most evident at the United Nations, particularly in bodies dealing with human rights. Even OPI publications reflected the concept that one set of rights was easier to secure than another. In an OPI publication on the International Covenants on Human Rights, for instance, it was stated that the prevailing view had been that separate covenants should be adopted because civil and political rights could be secured immediately, whereas the enjoyment of adequate economic, social and cultural rights could be achieved only progressively according to each State's available resources. The fact was that the implementation of human rights by developing countries in later years did not follow such a logical order. That publication conveyed the impression that civil and political rights were easy to implement, but the contrary was true. The concept was a misleading one and she requested that OPI review its publications accordingly.

35. As a result of the process of polarization, to which she had referred, the developing countries had often been caught in the middle of a futile struggle. The United Nations would do well to return to the original intention of its founders that there should be an international bill of rights covering all aspects of the issue. In 1945 it had been recognized that, while civil and political rights could be enforced through positive law, the implementation of economic and social rights required the necessary economic infrastructure and social discipline; the bill of rights had therefore been divided into three parts, namely, the Universal Declaration of Human Rights, an international covenant on civil and political rights and an international covenant on economic, social and cultural rights. The Universal Declaration had been designed to cover individual rights and the rights of people belonging to a community, but had not included the right to self-determination. The emphasis on civil and political rights in the Charter and the Universal Declaration of Human Rights had been inherited from Western political thought. On the other hand, the importance which the international community attached to economic, social and cultural rights had been the unique contribution of socialist countries. Developing countries had attempted in their own way and at their own pace to implement the two sets of rights. Their experience had provided a new insight into the role of human rights in the development process which might expand the traditional concepts of human rights.

36. During its colonial history, the Philippines had adopted through Western influence many basic laws on civil and political rights. Following its attainment of political freedom, however, it had realized that, without the satisfaction of basic economic and social needs, civil and individual rights were good only on paper. Political and economic rights had to reinforce each other, and the claims of the individual had to be balanced against the legitimate responsibilities of government. Indeed, the irresponsible exercise of individual freedom had sometimes to be curtailed in order to restore public order.

37. President Marcos had declared that the Government and people of his country were deeply committed to the protection of human rights but that in the absence of any concrete effort to provide for basic human needs that commitment would become

(Mrs. Shahani, Philippines)

a farce. He had stated that equality rather than freedom should be the more powerful motive force in a developing society.

38. In order to promote economic democracy and social justice, the Philippine Government had had to restore and maintain political stability and public order. It had not, however, abandoned the rule of law and respect for individual political and civil rights. As the President had emphasized, every citizen must be assured of his basic rights and, above all, he must not be denied participation in the management and planning of national life.

39. The Philippine Government had shown sensitivity in balancing the claims of the individual with the communal needs of a developing country. Many developing countries had the same objective, and no one group of countries had a monopoly of the best methods of implementing human rights. Some countries had been able to accord civil and political rights to their citizens; others were more advanced in implementing economic, social and cultural rights. Many developing countries placed more emphasis on the role of government in promoting fundamental freedoms. That did not mean, however, the subordination of the individual to the State; rather, it meant a closer partnership between the two to attain national goals which could in turn immensely enrich the lives of all citizens. Thus, many developing countries were witnessing an evolution of the traditional concepts of human rights: while the principles enshrined in the Universal Declaration remained the same, the context within which they could be given meaning was changing.

40. Perhaps it was time, therefore, to evolve a new system of measuring the implementation of human rights in addition to the reporting and fact-finding systems which the United Nations had followed from the outset. There was a growing trend towards quantifying human values. For example, work was beginning, at the request of the Economic and Social Council, on the development of guidelines and methods for measuring women's economic and social contributions which were not a part of regular national data collection systems. The Council had suggested a number of indicators, such as literacy, income and level of skills, for that purpose. The Philippine Government's research institutions were also introducing a wide range of indicators of social and political values to measure the quality of life.

41. Her delegation hoped that the appropriate United Nations bodies would begin to study the indicators by which human rights could be measured. While that was a complex and controversial issue, it could be a step towards giving new vigour to the traditional reporting and fact-finding systems, and would also assist in an objective manner in the functioning of the human rights enforcement machinery of the United Nations. She hoped that the Secretary-General would also take account of that suggestion. All those concerned with human rights within the United Nations system must now pay close attention to the new trends in the human rights field, instead of being tied to the traditional concepts.

42. Her delegation welcomed the recommendation of the Commission on Human Rights that a study should be undertaken on the international dimensions of the right to development as a human right in relation to other human rights based on

/...

(Mrs. Shahani, Philippines)

international co-operation, including the right to peace, taking into account the requirements of the new international economic order and fundamental human needs. That study should include the role of the human person in the development process, since there must be a balance between the needs of the individual and the needs of the community.

43. The entry into force of the International Covenants on Human Rights and the establishment and functioning of the Human Rights Committee represented important developments in the human rights enforcement machinery. Other developments at both the national and international levels were taking place which should bring about the more effective realization of fundamental freedom. She welcomed the suggestions made in that regard in the Secretary-General's reports. In her delegation's view, the question before the Committee must take into account the unique experience of the developing countries, which were committed to discharging their responsibilities in accordance with their citizens' economic, social and cultural rights, within a context of political stability and freedom. For that reason, her delegation was co-sponsoring draft resolution A/C.3/32/L.17.

44. Miss LOPEZ (Venezuela) said that the report of the Secretary-General (A/32/178) had shown that concern for fundamental human rights and the need to create new and more effective patterns for their protection called for urgent action. The field of human rights was one to which the United Nations had devoted a major effort; nevertheless, results had been limited, so that the question of finding new means for their reinforcement had become urgent. Her Government was prepared to support all initiatives aimed at strengthening human rights and encouraging their strict observance. It had accordingly sponsored such initiatives at the regional and world levels, as well as through bilateral declarations. The debate had shown that there was wide interest on the part of delegations in finding ways to ensure the effective enjoyment of human rights. Notwithstanding the entry into force of a number of international instruments, it was clear that a majority of Member States wished to see not only a broadening but also a strengthening of the basis for such effective enjoyment. Her delegation therefore welcomed the initiatives taken with a view to establishing an appropriate framework within which that task could be accomplished. Economic inequalities were closely related to human rights. The existence of an unjust order which suppressed fundamental human rights, whether social, political, economic or cultural, constituted a problem which must be overcome.

45. In that connexion, Venezuela had co-sponsored draft resolution A/C.3/32/L.25/Rev.1 which provided for the establishment of a United Nations High Commissioner for Human Rights. That would provide not only a stimulus but also a focal point for activities related to improving the effective enjoyment of human rights and fundamental freedoms. It would be compatible with regional systems for the protection of human rights and its establishment would certainly contribute to alleviating tensions.

46. Mr. VINCI (Italy), speaking on behalf of the sponsors, introduced draft resolution A/C.3/32/L.25/Rev.1 regarding the establishment of a United Nations High Commissioner for Human Rights. Bearing in mind that the Committee had only a short time at its disposal, he wished to devote attention to those aspects of the proposal which the debate had shown to be the most important.

/...

(Mr. Vinci, Italy)

47. The first four preambular paragraphs required no detailed explanation, as they were limited to a statement of facts. The fifth and sixth preambular paragraphs summarized the principal goals of the draft. Those were: to entrust a high official of the United Nations with the task of co-ordinating and developing all the resources at the disposal of the United Nations in the field of human rights, with a view not only to improving the effectiveness of the work of the United Nations in that field but also to affording States such assistance as they might require in carrying out their obligations under the Charter. The seventh preambular paragraph was intended to act as a reminder that the proposal contained in the draft resolution had already been the subject of careful study by a working group 11 years earlier, and that the results of that study had encouraged the Economic and Social Council to recommend the establishment of such an institution in its resolution 1237 (XLII).

48. In drafting the proposal the sponsors had wished to make a clear break with the past, bearing in mind the objections which had been raised during earlier debates as well as other developments. While retaining the nomenclature used in the past, the proposal took as much account as possible of current realities and of the limits which those realities imposed.

49. The United Nations High Commissioner for Human Rights would be under the authority of the Secretary-General. His position would therefore be practically analogous to that of an Under-Secretary-General, although he would be assured of the prestige deriving from his title and from the process of confirmation by the General Assembly. The intent of the sponsors was that the High Commissioner would act under powers delegated by the Secretary-General. It therefore followed that the latter must retain the right to be consulted in delicate situations and to take the initiative himself whenever he deemed it necessary. That position would be consistent with a principle in which his delegation believed firmly, namely that the direction of and responsibility for action in all areas must, in conformity with the letter and spirit of the Charter, remain in the hands of the Secretary-General as chief administrative officer of the Organization.

50. The text imposed other well-defined limits on the activity of the High Commissioner. Paragraph 1 indicated clearly that that activity must be of a confidential character, such confidentiality being not only a protection for Member States but probably also the essential condition for the success of the new institution. Paragraphs 2 and 3 stipulated that the High Commissioner must act within the framework of the Charter of the United Nations and in conformity with its provisions, including Article 2; he must therefore refrain from all interference in the internal affairs of States. Paragraph 2 (b) set a precise limit to his activity in relation to Member States by stipulating that his assistance must be requested by a State, that it must be rendered to that State, and that such activity could not be mentioned in the annual report of the High Commissioner without the consent of that State. To prevent those limits from being exceeded and the new organ from abusing its power, a triple set of controls had been foreseen: first, the permanent control of the Secretary-General; second, the annual control of the General Assembly, to which the High Commissioner must

/...

(Mr. Vinci, Italy)

submit his report; third, the opportunity which the General Assembly would have, at the time when the first mandate expired, to re-examine the whole question of the office and functions of the High Commissioner and even the continued existence of that office.

51. The need to prevent interference in the activities of other services or organs of the United Nations system was taken into account in paragraph 2 (c), which envisaged an essentially advisory function for the High Commissioner, as well as in paragraph 3. In the latter paragraph, the sponsors provided that the High Commissioner should not interfere with certain organs, such as the Special Committee on Apartheid and others having a specific mandate in the areas listed in paragraph 2 (a) (i). In areas such as apartheid, racism and colonialism, therefore, the High Commissioner would confine his activities to the humanitarian aspects of the problems involved and avoid their political aspects.

52. The activities of the High Commissioner would thus be essentially of a diplomatic nature, in relation both to Member States and to other organs of the United Nations system. It was because of the pragmatic character of diplomatic action and because of the need to adapt such action to different situations and to changes taking place in the same situation that the sponsors had concerned themselves with setting clear limits to that action rather than trying to describe the High Commissioner's activities in detail. The sponsors were aware that the work of a High Commissioner would be very delicate and difficult and that years would be required to prove his effectiveness. The foundation for such a complex activity would be the quality of the relations and the degree of confidence which the High Commissioner could establish with Governments and with existing organs. That confidence would be the essential condition for the effective accomplishment of the High Commissioner's task; indeed, it would be the one factor which would enable him to overcome the psychological obstacles which would confront him in his initial efforts. A personality capable of creating such an atmosphere of co-operation would be in a position to produce very satisfactory results.

53. Against that background, the financial implications of the proposal would seem to be very modest. As the High Commissioner could not be appointed before the thirty-third session of the General Assembly, the draft resolution would involve no expenditure for the year 1978. The sponsors hoped that the Secretariat would study, during the forthcoming year, the possibility of grouping under the High Commissioner's authority the different services currently responsible for the protection of human rights. The regrouping and rationalization of existing services should ensure the necessary funds for the High Commissioner, at least during the first phase. In any case, the draft resolution left open the possibility that, at the thirty-third session, the Committee could examine the Secretariat's proposals in detail.

54. The sponsors were well aware that a number of delegations had reservations

(Mr. Vinci, Italy)

regarding the draft resolution and that it would therefore be difficult for it to be adopted by consensus. He appealed to delegations to let themselves be guided by a desire to contribute to the better functioning of the United Nations and to the establishment of a new, more just and equitable international order.

55. Mrs. de BARISH (Costa Rica) requested that the statement by the representative of Italy should be reproduced as extensively as possible in the summary record because of its general interest in relation to draft resolution A/C.3/32/L.25/Rev.1.

56. The CHAIRMAN stated that the Secretariat would be requested to report the statement by the representative of Italy as extensively as possible.

57. Mr. PIPER (Australia) said that human rights concerns were having increasing impact on his country's national policies and that the Australian Government had submitted plans for the establishment of a domestic human rights commission for public debate. That debate was expected to lead to the establishment of valuable new machinery for better promotion and implementation of human rights.

58. The concept of human rights had in recent years been broadened to include more than the traditional civil and political values of the Western democracies, but that should in no way lessen the importance attached to those values. The question of human rights was reflected in many areas of human activity and the issues they involved had to be defined more precisely in order to assist States in implementing their formal human rights obligations under the United Nations Charter. The heart of the problem was, of course, how to reconcile the implementation of those obligations with the prerogatives of national sovereignty, since it was clear that States had binding international and domestic human rights obligations and that the international community had rights and duties relevant to their implementation. As the Australian Minister for Foreign Affairs had stated in the plenary General Assembly, the problem was too important to be dealt with in terms of rhetoric, political manoeuvring or mere public relations.

59. Specifically, it was not enough to reaffirm the rights of the individual. Consideration had to be given to the different interpretations of and priorities assigned to human rights in different cultural, social and political contexts and the different possibilities for implementing them. As a country in a region consisting predominantly of developing countries, Australia was conscious of the important relationship between civil and political rights on the one hand and economic and social rights on the other, as also of the need to define and establish what group, community or State rights could be derived from the base constituted by the equality of the rights of the human person. It was the free concession of rights by the individual to the collectivity which lay at the centre of any such derived group rights or State rights, and it was one of the Committee's tasks to discuss the ways in which that concession could be made. His delegation was therefore suspicious of the kind of slogans which accorded

(Mr. Piper, Australia)

inherent rights or some kind of organic personality to temporal institutions or entities rather than individuals. History showed that the road to authoritarianism was paved with such concepts, from the alleged divine right of kings to the spurious rights claimed by modern dictatorships of one kind or another. Australia recognized, on the other hand, the proper and important function which human institutions could and should play in reconciling individual and collective purposes. Human rights, which, after all, were for human beings, could in many cases be fully realized and protected only in a wider community context, but States Members of the United Nations should never lose sight of the basic purpose of the exercise of human rights, which was to ensure that men and women were given the opportunity to realize their full potential on the basis of freedom and equality.

60. With reference to the statement made by the Deputy Director of the Division of Human Rights, he said that a vital factor in eliminating the root causes of human rights violations was provision of such advisory services as assistance in education, training and dissemination of information, and his delegation therefore felt that it was essential for the Committee and other relevant United Nations bodies to have the necessary resources to enable them to devote attention to the strengthening of such programmes.

61. There already existed a number of international instruments and procedures relating to human rights problems, and efforts had been made from time to time to create new and more prestigious organs to deal with them at the highest possible level. Such efforts had been directed at making real progress in a difficult area and had inevitably generated strong feelings. They had also artificially generated much mystification and controversy and that was true of the current discussion concerning the possibility of establishing a High Commissioner for Human Rights. Therefore, it was essential to view that proposal objectively and honestly in light of a number of considerations. Firstly, the High Commissioner and his staff would operate within the framework of the Charter as servants of the United Nations and its Member States. Secondly, it was inconceivable under present conditions in the United Nations that any small group of countries would be able to manipulate a High Commissioner against the general interest. Thirdly, the increase in accessions to the International Covenants on Human Rights and the Optional Protocol and the increased workloads which that involved necessitated better co-ordination of procedures and machinery in overlapping areas of United Nations human rights activities and improved support from the Secretariat. Fourthly, newer and profounder approaches to human rights were still being sought and draft resolution A/C.3/32/L.17, initially put forward by a group of developing countries, represented a constructive and thoughtful contribution in that connexion. Furthermore, there was no doubt that a senior United Nations representative highly qualified in the area of human rights would make a valuable contribution to the kind of conceptual analysis called for in that draft resolution.

(Mr. Piper, Australia)

62. Some delegations had argued that it might be advisable to defer attempts to strengthen United Nations machinery in the human rights field to allow more time for reflection, and others had argued with some justification that although the proposal to establish a High Commissioner was a good one, it would be better to wait until such a proposal could be assured of adequate support. A few countries, of course, were unalterably opposed to any strengthening of the United Nations in that field, and invoked various arguments in support of their positions, including budgetary ones. For those who sympathized with the concept but had genuine reservations, he suggested that their reluctance would perhaps be overcome only when an appointment had been made and when the individual chosen had demonstrated an ability to make a valuable and constructive contribution to improving the effectiveness of the United Nations approach to human rights. His delegation's principal concern was that the matter should be discussed in a spirit free from factionalism and undue timidity.

63. Mr. BLACKMAN (Barbados) said that recent international discussions on human rights had centred around three approaches. The first approach was based on the concept of general right advanced by Jeremy Bentham and John Stuart Mill, by Kant and by Professor John Rawls, that social and political rights were paramount. The second approach asserted that it was futile to talk of other rights before economic rights had been assured; and the third synthesized the previous two, claiming that all rights were of equal importance and should be equally guaranteed to all men. A consequence of those varied concerns had been the adoption of several instruments reflecting different emphases on human rights. There had been scant success in the implementation of the principles embodied in those instruments, and it must be understood that the problem inhibiting the implementation of those instruments was to be found in the theory of general right.

64. The fatal flaw of the first approach - whether it postulated the doctrine of the greatest good for the greatest number, upheld the concept that an action was right by virtue of its intrinsic character without reference to its ends, or deemed an act to be good if it could be equally beneficial to all persons - was that it inevitably ignored historical experience, and was therefore of very limited use for the solution of the multitudinous human rights problems of the present day.

65. The exponents of the second, Marxist, approach improved upon the first point of view by taking historical circumstances into account, but still made the same basic mistake: they reduced all men to a single archetype, economic man, who could be explained only in terms of economics. Because it ignored the many other facets of man, that analysis, too, failed.

66. The third approach averred that all rights were of importance in making men whole and that societies were entitled to emphasize those rights which were consistent with their development interests. The danger of such a formulation was that it could be used to justify the actions of any tyrant.

67. The Government of Barbados considered that the United Nations was, in its entirety, a human rights organization. The proposal to establish a High Commissioner for Human Rights implied that existing United Nations offices could not adequately

(Mr. Blackman, Barbados)

deal with certain problems relating to human rights. Those problems must be identified in order to evaluate the usefulness of such a post.

68. A Human Rights Commissioner could not operate in isolation from the other parts of the United Nations system. He must recognize that political and civil rights problems could not justly be separated from economic ones. He would have to deploy a holistic strategy, incorporating a complex and massive effort of co-ordination with other parts of the United Nations system, as well as the Governments concerned.

69. Mrs. HOUNGAVOU (Benin) said that item 76 was of great importance for her country. Discussions on the establishment of a High Commissioner for Human Rights had been continuing for 11 years, and the attention given to the problem underlined its fundamental importance.

70. The emphasis on human rights in the methods and practices of certain Governments had aroused legitimate suspicion as to the desirability of certain proposals which the Committee was being pressured to accept. The sudden transformation of international imperialism - the major protector of apartheid, zionism and the Chilean régime, all of which had been condemned by the international community for massive and flagrant violations of human rights - into the moralizing protector of those rights, which it invoked to justify its policies of intervention, interference and aggression, was both confusing and alarming.

71. The Committee was trying to go too fast, rather than iron out the basic difficulties inherent in the correct definition of human rights, for the notion of human rights currently being discussed by the Committee was not shared by all members. For Benin and other States of the same political orientation, the concept of human rights embraced social, economic, political and cultural rights, the right of peoples to self-determination, and so forth. For the adherents of imperialism, only the limited civil aspect, which was invoked to justify interference in the internal affairs of other States, counted. Under the terms of the Charter, however, the promotion and protection of that aspect of human rights was generally the responsibility of the individual State.

72. The existence of two contradictory draft resolutions showed that there was continuing disagreement over the establishment of a High Commissioner for Human Rights. Yet the establishment of such an institution must command the enthusiastic approval of all Member States; otherwise the new body could be entrusted with tasks totally alien to the purposes and principles of the Charter. Her delegation believed that, at the present stage, the Committee's efforts should be directed towards ironing out existing differences concerning future action. For that reason, it had become a sponsor of draft resolution A/C.3/32/L.17.

73. Mrs. GUEVARA (Argentina) said that, in debating the question of human rights, the General Assembly was also indirectly discussing the essence and the future role of the United Nations. In general, the United Nations was readily recognized by Governments as the forum for co-ordinating international co-operation efforts, without prejudice to the sovereign jurisdiction of every State. That understanding

(Mrs. Guevara, Argentina)

of the Organization recognized the obligations of States to the international community and the commitment they had assumed, as embodied in Articles 55 and 56 of the Charter, to take joint and separate action to promote higher standards of living, full employment, and respect for human rights. Article 13 of the Charter gave the General Assembly the task of initiating studies and making recommendations for the purpose of promoting international co-operation, so that the General Assembly should, by its very nature, make possible the ideal of the sovereign equality of States. In order to function efficiently, however, the system had to include other bodies and in the assessment of the system's work in promoting human rights those bodies deserved special attention.

74. On the positive side, norms had been established within the United Nations system which had made it possible for basic principles of human rights to gain universal acceptance. States' acceptance of the obligations arising from international instruments already concluded or in the process of elaboration was of the utmost importance for the realization of and universal respect for human rights and fundamental freedoms. Her delegation noted with satisfaction the large number of accessions to international conventions in that field.

75. The establishment of mechanisms and procedures to promote and safeguard human rights was another positive achievement. Such mechanisms, while not perfect, proved that it was possible to find solutions to international co-operation problems by reconciling opposing viewpoints.

76. On the debit side, much remained to be done in establishing the direction of future work. The forthcoming thirtieth anniversary of the adoption of the Universal Declaration of Human Rights was an appropriate occasion to begin work to establish new standards which would contribute to the achievement of the complete and effective enjoyment of human rights.

77. The promotion and safeguarding of human rights, by their very nature indivisible and interdependent, concerned not only individual rights but also those belonging to peoples or the community as a whole. Her delegation did not share the view of those who advocated the immediate promotion of individual rights and argued that the enjoyment of economic, social and cultural rights could be gradually achieved in the long term. On the contrary, it believed that efforts to promote all categories of human rights should be made simultaneously and in parallel. It was particularly necessary that the work of the United Nations in the field of human rights should not be governed solely by the European criteria which had prevailed in the past.

78. Due attention should be given to the opinions of all countries, particularly the developing countries, so as to ensure their greater participation in the efforts made by the international community. That participation could be ensured only through the effective application of the principle of equitable geographical distribution, which should be implemented in the Economic and Social Council, its functional commissions and all the specialized agencies. The current distribution of posts within the United Nations still made it difficult for some regions of the world to express their needs and desires in accordance with their economic, social and cultural systems.

(Mrs. Guevara, Argentina)

79. The problem was particularly serious in the bodies responsible to the Council, where the active participation of certain States in various regional economic commissions allowed them to impose the views of their own regions, thus distorting the regional point of view and depriving the commissions of their raison d'être. Her delegation believed that the time had come for the international community to derive greater benefits from the contribution which the developing countries could, should and wished to make. The contribution should take the form of greater participation in the Commission on Human Rights and its Sub-Commission, which dealt with matters that were truly universal and not the province of any one particular region.

80. Furthermore, it would be hard to ensure the international co-operation necessary for the protection of human rights while some States sincerely believed that a given mechanism for protecting those rights at the international level could conceal policies not in keeping with humanitarian ends. In that connexion, the principle of confidentiality, which provided for the protection of States as well as the objective consideration of facts by the competent United Nations organs, was of great importance. Lack of secure guarantees of confidentiality would entail the risk of making responsible work impossible.

81. Any procedure for the promotion of human rights had to strike a delicate balance, guaranteeing the rights of individuals and peoples while fully respecting the principle of non-intervention in internal affairs as set out in Chapter VII of the Charter.

82. Her delegation did not consider it was appropriate to discuss the establishment of new organs to supplement the existing ones before the General Assembly had given exhaustive consideration to the desires and needs of the great majority of States in the community of nations. Only an over-all discussion of the real problem could prove the sincerity of the attempt to improve methods for promoting human rights.

83. Her delegation did not seek a mere confrontation of opinions but rather the harmonious combining of efforts to improve the United Nations system and strengthen the principle of co-operation and persuasion for that was the way that progress could be made. In that spirit it was co-sponsoring draft resolution A/C.3/32/L.17, hoping that the General Assembly, in adopting it, would take a real step forward in the promotion of human rights.

84. Mr. MUTHAURA (Kenya) said that there was no doubt that the United Nations, and particularly the Third Committee, had made a significant contribution towards the promotion and protection of human rights over the previous 30 years. Many international declarations and conventions concerning the promotion of human rights had been formulated; much, however, remained to be done.

85. The successes achieved in the field of human rights were the result of unanimity among Member States on the importance of concerted international action for the promotion and protection of human rights and fundamental freedoms. Yet

/...

(Mr. Muthaura, Kenya)

international instruments on human rights were only a means to an end, the achievement of which was the responsibility of individual Member States, whose participation in international organizations supplemented national efforts and programmes.

86. Although there was agreement on the need to promote and protect human rights, there were numerous options and alternatives for achieving that goal. It would, therefore, be unrealistic for the United Nations to try to develop a model for solving all the human rights problems of all of its 149 Members.

87. Human rights problems could be solved only in the light of the political, economic, social and cultural systems and values obtaining in individual States. Political instability quite often necessitated the suspension of civil and political rights and the curtailment of economic, social and cultural rights. On that basis, his delegation associated itself with draft resolution A/C.3/32/L.17.

88. The United Nations and its specialized agencies should encourage and support all national, regional and international attempts to promote and protect human rights and fundamental freedoms. They should also continue to explore areas of common interest and concern so as to establish international standards, particularly by the formulation of international codes of behaviour in certain occupations, and legal machinery for promoting and protecting human rights. They should take special measures to assist in the restoration of human rights in areas, such as South Africa, where gross violations and the systematic suppression of human rights were practised. The Office of Public Information should work to extend knowledge of conventions and covenants on human rights beyond government offices and academic institutions.

89. The Secretary-General's work in connexion with human rights was commendable, but he was overburdened with pressing responsibilities which limited the amount of time he could devote to the problem. Moreover, the United Nations Secretariat was inadequately equipped to deal with all aspects of the human rights problem. His delegation believed that the proposed institution of a High Commissioner for Human Rights could suitably fill the gap within the United Nations Secretariat in dealing with all aspects of human rights and fundamental freedoms.

90. The fear that such a High Commissioner would interfere in the internal affairs of Member States was unjustified: in order to succeed, the High Commissioner would have no option but to co-operate with Member States, and the General Assembly provided an absolute check against the abuse of the mandate of any of its organs. Kenya therefore did not question the usefulness of establishing a United Nations High Commissioner for Human Rights but felt that that would be a positive step towards promoting universal respect for human rights. It did, however, feel that the functions of the High Commissioner should be more clearly spelled out.

The meeting rose at 6.35 p.m.