



SUMMARY RECORD OF THE 30th MEETING

Chairman: Mr. SOBHY (Egypt)

CONTENTS

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)

AGENDA ITEM 88: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

- (a) QUESTIONNAIRE ON THE DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
- (b) UNILATERAL DECLARATIONS BY MEMBER STATES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
- (c) DRAFT CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

ORGANIZATION OF WORK

* This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one week of the date of publication* to the Chief of the Official Records Editing Section, room A-3550, 866 United Nations Plaza (Alcoa Building), and incorporated in a copy of the record.

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

Distr. GENERAL
A/C.3/34/SR.30
8 November 1979
ENGLISH
ORIGINAL: SPANISH

The meeting was called to order at 10.45 a.m.

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; A/C.3/34/L.17)

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, A/34/542, A/34/614; A/C.3/34/L.15/Rev.1, L.16, L.18, L.19, L.20 and L.21)

1. Ms. COHEN (United States of America) introduced draft resolution A/C.3/34/L.17 relating to agenda item 85 on behalf of the sponsors, Ecuador, Portugal, Spain, Sweden and her own delegation. Those same delegations had proposed the inclusion of the item in the agenda of the thirty-third session of the General Assembly in the belief that there was much valuable and constructive human rights work being accomplished in the specialized agencies, the regional bodies and other United Nations organs. They had felt that a review might reveal more clearly human rights areas that were being neglected and others in which there might be some duplication. The review would promote greater efficiency and give the General Assembly a greater sense of world problems and trends in the field. Furthermore, the review might stimulate greater co-operation, communication and co-ordination among the many agencies whose mandates involved the protection and promotion of human rights.

2. In its resolution 33/54, adopted by consensus, the General Assembly had requested the Commission on Human Rights, in the context of its over-all analysis, to consult with the specialized agencies and other United Nations bodies and, as appropriate, with regional bodies related to the United Nations system concerning their activities and programmes and modes of co-ordination. The Assembly had also requested the Commission to submit a study to the General Assembly, through the Economic and Social Council, of existing modes of co-ordination, co-operation and communication in the human rights field and any suggestions in that respect which the Commission might deem appropriate.

3. In response to those requests the Commission on Human Rights, in its resolution 22 (XXXV), which had later been adopted by the Economic and Social Council, had requested the specialized agencies and other organs related to the United Nations system to provide the Secretary-General with a survey of their human rights activities and programmes and had requested the Secretary-General to compile an analysis of those materials for the Commission at its thirty-seventh session so that the Commission could carry out the study requested by the General Assembly.

4. In draft resolution A/C.3/34/L.17 the General Assembly would welcome the action taken by the Commission on Human Rights, urge the specialized agencies and other organs related to the United Nations system to co-operate with the Secretary-General in preparing the materials for the Commission's study, request the Commission to give priority to the completion of the study at the Commission's thirty-seventh session in 1981, and decide to include the item on review and co-ordination in the provisional agenda of the General Assembly's thirty-sixth session in 1981 and to accord high priority to the consideration of the item at that session.

(Ms. Cohen, United States)

5. The sponsors of the draft resolution had consulted with delegations on the text and had received valuable suggestions, which had been accepted as amendments. The amendments were the following:

(1) In the third preambular paragraph, after the words "at its thirty-seventh session" the words "and of resolution 1979/36 of the Economic and Social Council which requested the Commission to do so," should be added;

(2) A new fifth preambular paragraph should be added reading:

"Noting further that, by its resolution 1979/36, the Economic and Social Council decided to add to the terms of reference of the Commission on Human Rights the mandate to assist the Council in the co-ordination of activities concerning human rights in the United Nations system,"; and

(3) In paragraph 1, after the words "by the Commission on Human Rights" the words "and the Economic and Social Council" should be added.

6. Her delegation hoped that the draft resolution A/C.3/34/L.17, as amended, would be adopted by consensus as had been the case at the thirty-third session.

7. Mrs. HOUNGAVOU (Benin) said that her country had always attached great importance to the promotion and protection of human rights, both at the national and at the international levels. Human rights were indivisible and could not be dissociated from the rights of peoples. Her country had therefore always vigorously condemned the gross and flagrant violations of human rights caused by colonialism, neo-colonialism, foreign domination, racism and apartheid. Consequently, her country had always condemned the imperialist countries which attempted to perpetuate their influence over the countries of the third world through political domination and economic and social exploitation. Those same countries, which claimed to be enthusiastic defenders of human rights, by providing unconditional support to the racist minority régimes of southern Africa, became accomplices in the atrocities committed daily by those régimes against the black majority of those countries.

8. The United Nations should continue its efforts to promote respect for human rights and the dignity of the human person by giving effect to all of the measures provided in General Assembly resolution 32/130 within the framework of the existing structures of the United Nations system. The existing system for the protection of human rights was sufficient and only political will was lacking for the implementation of international instruments relating to human rights, namely the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the International Covenant on Civil and Political Rights and its Optional Protocol, and the International Covenant on Economic, Social and Cultural Rights. Strict implementation of those international instruments by all States would be enough to ensure effective enjoyment of human rights and fundamental freedoms by nations and the individuals who were their nationals.

/...

(Mrs. Houngavou, Benin)

9. The Canadian delegation had presented to the Committee its Government's views on the appointment, by the Secretary-General of the United Nations, of a Special Representative of the Secretary-General for Human Rights and Humanitarian Affairs with rank of Under-Secretary-General (draft resolution A/C.3/34/L.18). The mandate of the proposed official was not clear and should be carefully defined to avoid the danger that he might become an instrument for politically motivated manipulation against small countries. The same arguments applied to the proposal by Costa Rica and Uganda to establish the post of a United Nations High Commissioner for Human Rights (draft resolution A/C.3/34/L.19).

10. With regard to the Italian proposal to transform the Division of Human Rights into a Centre for Human Rights (draft resolution A/C.3/34/L.16), her delegation felt that such a change was costly and not justified. The same purpose could be achieved by providing the Division of Human Rights with the human and financial resources it needed in order to improve its methods of work and carry out its functions more effectively.

11. Her delegation had therefore joined in sponsoring draft resolution A/C.3/34/L.15/Rev.1, and believed that the strict implementation of the provisions of that draft resolution would make it possible to ensure the full enjoyment of human rights and fundamental freedoms.

12. Mr. PARDO PARRA (Colombia) stressed the link between human rights and the main purposes of the United Nations, namely to maintain peace and security among nations. In practice there was often a failure to distinguish human rights from the prerogatives of political entities such as States or Governments, entities which often ignored, disregarded or violated those rights. A distinction should be made between the State as a political apparatus and the Government as the activating agency of that apparatus, on the one hand, and those who were governed, on the other hand. Human rights referred to the latter group and his delegation therefore supported any measures aimed at guaranteeing those rights at the national and international levels as the first and highest duty of the United Nations.

13. At the thirty-second session his country had joined the sponsors of the resolution which had proposed the establishment, under the authority of the Secretary-General, of a post of United Nations High Commissioner for Human Rights. It now supported proposals aimed at developing better means for improving the effective enjoyment of human rights and fundamental freedoms. Draft resolutions A/C.3/34/L.16, L.18 and L.19 had that objective, although each would use different procedures to achieve it and his delegation felt that the sponsors should consider the possibility of merging the three proposals into a single text.

14. His delegation would vote in favour of draft resolutions A/C.3/34/L.15/Rev.1, L.17 and L.20, which dealt with important aspects of the observance of human rights, i.e. the rights of individuals and of peoples and not of States or Governments. He hoped that it would be possible some day to establish an international monitoring agency which would guarantee respect for human rights.

15. Mr. PAPADEMAS (Secretary of the Committee) said that the delegation of Colombia had joined the list of sponsors of draft resolution A/C.3/34/L.17.
16. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee adopted draft resolution A/C.3/34/L.17.
17. Draft resolution A/C.3/34/L.17, as amended, was adopted without a vote.
18. The CHAIRMAN announced that consideration of item 85 had been concluded.
19. Mr. van BOVEN (Director of the Division of Human Rights), replying to a question raised during the previous meeting by the representative of Ireland, informed the Committee that the studies completed in recent years on topics similar or related to those mentioned in paragraph 10 of document A/C.3/34/L.15/Rev.1 were as follows: an updated study on racial discrimination (1977), a study on the practices of the Committee on the Elimination of Racial Discrimination (1978); a study on the historical and current development of the right of peoples to self-determination (1979); a study on the implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination (1978); a study on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa (1978); a study on the effects on human rights of assistance given to Chile (1978); a study on the international dimensions of the right to development as a human right in relation to other human rights based on international co-operation, including the right to peace, taking into account the requirements of the new international economic order and fundamental human needs (1979); and a study on illicit traffic in migrant workers (1975).
20. Moreover, the following studies had been requested or were under preparation: a study on apartheid and colonialism as a collective form of slavery; a revised study on slavery; a study on the link between the struggle against racial discrimination and the struggle for self-determination; a study on the regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of those rights; and a study on the new international economic order and the promotion of human rights.

AGENDA ITEM 88: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (A/34/566, A/34/146, A/34/273, E/324/389 and Corr.1)

- (a) QUESTIONNAIRE ON THE DECLARATION ON THE PROTECTION OF ALL PERSONS FROM BEING SUBJECTED TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (A/34/144)
- (b) UNILATERAL DECLARATIONS BY MEMBER STATES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (A/34/145 and Add.1 and 2)
- (c) DRAFT CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS (A/34/431)

/...

21. Mr. van BOVEN (Director, Division of Human Rights), introducing agenda item 88, said that it was imperative to prohibit torture in the modern international community and that no State could claim legitimate justification for torturing persons. Torture was condemned in article 5 of the Universal Declaration of Human Rights; in article 7 of the International Covenant on Civil and Political Rights, it was stated that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Moreover, in article 3 of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, it was established that exceptional circumstances such as state of war or any other public emergency could not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

22. The action of the international community in seeking to prohibit torture had four principal aspects. The first, in the field of standard-setting, was to be seen in the relevant provisions of the instruments mentioned in the previous paragraph, to which could be added the work on the preparation of a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, and of a draft body of principles for the protection of all persons under any form of detention or imprisonment. Other activities in that connexion were a draft code of conduct for law enforcement officials, which was being considered by a Working Group of the Committee, and the draft code of medical ethics, submitted to the General Assembly by the Director-General of the World Health Organization.

23. The second aspect was related to measures designed to strengthen the authority of the existing standards, particularly the Declaration against Torture. In that connexion, mention should be made of the questionnaire on the Declaration sent to Member States and of the unilateral declarations against torture made by a number of States, which were before the Committee.

24. The consideration being given to special phenomena of urgent concern that could lead to acts of torture was the third aspect of action by the international community. Experience had shown that prolonged situations of state of siege or emergency could give rise to acts of torture and that situations involving mass disappearances could also give rise to acts of torture. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had therefore requested a study of the implications for human rights of states of siege or emergency, and in a resolution adopted during its thirty-second session, it had pointed out that enforced or involuntary disappearances of persons as a result of illicit acts or excesses on the part of the law enforcement or security authorities continued to occur. The Sub-Commission considered that the emergency action called for by that situation could be entrusted to a group of experts of the Sub-Commission. Furthermore, the Sub-Commission had suggested that, if the phenomenon continued, its extreme gravity would justify envisaging some form of emergency remedy, based on the notion of habeas corpus or of full legal protection, designed to induce official organs to devote the necessary means to the search for the missing and disappeared persons in various regions of the world.

25. The activities of bodies investigating situations of gross violations of human rights constituted a fourth aspect of the action of the United Nations.

26. Experience suggested that there were cases of torture, sometimes systematic, where the basic and legitimate aspirations of peoples and persons towards self-determination and political, economic and social justice were suppressed or denied. Those cases also occurred where the dignity of human beings was sacrificed in the name of perverse or racist ideologies or doctrines; in those situations torture became part of systems of repression, terror and intimidation.

27. Although the international community had condemned torture as a crime against humanity, there was a great difference between the standards and practical reality. The elaboration of international standards and the enactment of national legislation were insufficient to guarantee the elimination of acts of torture. Notwithstanding all the measures taken by the international community, much remained to be done to make the prohibition of torture effective; measures therefore had to be adopted at the international and national levels. During its consideration of that item, the Committee might wish to consider further measures for implementing the prohibition of torture.

ORGANIZATION OF WORK

28. The CHAIRMAN again expressed his concern at the slow pace of the Committee's work and the resulting delay in carrying out the programme outlined at the beginning of the session. Although he did not wish to pressure delegations unduly, he drew the Committee's attention to the fact that it was deplorable to have to cancel meetings because there were no speakers on the list.

29. There continued to be uncertainty concerning the date of the voting on the draft resolutions submitted under agenda item 87, as well as completion of consideration of agenda item 82. In that connexion, there was no point in introducing new items without having completed consideration of the items on which the Committee had begun discussion.

30. Following a discussion in which Mrs. FLORES (Cuba), Miss CAO PINNA (Italy), Mr. NORDENFELT (Sweden), Mr. CARDWELL (United States), Mrs. SIBAL (India), Mr. NSAHLAI (United Republic of Cameroon), Mr. VOICU (Romania) and Mrs. MORRISON (Lesotho) took part, the CHAIRMAN announced that the Bureau would meet on Wednesday, 31 October, in the morning to consider problems affecting the progress of the Committee's work and that it would inform the members of the outcome of that meeting. He then suggested that the speakers' list on agenda item 88 should be closed that day, Tuesday, 30 October 1979, at 6 p.m.

31. It was so decided.

The meeting rose at 12.10 p.m.