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SUMMARY RECORD OF THE 54TH MEETING */
(Second part)

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on Wednesday, 9 March 1983, at 3 p.m.

Chairman: Mr. BARAKAT (Jordan)

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*/ The first part of the summary record of the meeting was issued as document E/CN.4/1983/SR.54.

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ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 23) (E/CN.4/1983/30-31; E/CN.4/1983/L.91; ST/HR/SER.A/12)

1. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights), introducing the item, said that under the advisory services programme the Secretary-General was authorized to make provision, with respect to human rights, for advisory services of experts to Governments, at their request, for seminars, fellowships and training courses and had been specifically requested under General Assembly resolution 926 (X) to organize two seminars and one training course annually, and to award at least 25 fellowships each year, depending on the availability of resources. The Secretary-General also regularly reported on the programme to the Commission and at the present session had submitted two reports, one on activities under the advisory services programme during 1982 (E/CN.4/1983/30) and another on the question of possible advisory services to Uganda (E/CN.4/1983/31).
2. Under the programme, the United Nations had organized in 1982 a regional seminar in Sri Lanka on "National, local and regional arrangements for the promotion and protection of human rights in the Asian region" (ST/HR/SER.A/12) and had granted 32 individual fellowships to candidates from 32 countries. The recipients of the awards included government officials with responsibility for the administration of justice and for the drafting of legislation, and officials of ministries of justice, education, foreign affairs, the interior and the police department. The subjects selected for study encompassed protection of human rights in the administration of justice, education of young people in respect of human rights, freedom of information and human rights, elimination of all forms of racial discrimination, implementation of the International Covenants on Human Rights, protection of human rights in the developing countries, measures to safeguard the human rights of refugees, and the study of United Nations activities in the field of human rights, including standard-setting activities.
3. Mr. ODOCH-JATO (Uganda) said his delegation had already reviewed the current human rights situation in Uganda in its statement on agenda item 12. The good will displayed towards his country by the international community was most gratifying and, with regard to the implementation of Commission resolution 1982/37, he wished to express his profound appreciation for the initial steps taken by the Secretary-General through the Centre for Human Rights. His Government had submitted preliminary proposals to the Secretary-General in December 1982 and would be presenting more detailed proposals in the near future.
4. Lastly, he wished to draw the attention of members of the Commission to draft resolution E/CN.4/1983/L.91, on the subject of advisory services and other appropriate forms of assistance to Uganda.
5. Mr. BANDIER (United Towns Organization) said that the aim of his organization was a closer union between the towns and communities of the entire world, so as to promote the ideals of peace, freedom, respect for human rights and cultural, economic and social advancement. Its mission was carried out by bringing towns in different countries into contact with one another and encouraging them to co-operate in a spirit of understanding and mutual respect, in keeping with the basic principle of non-discrimination and the defence of fundamental freedoms, particularly the right to free movement of persons, ideas and information. Without interfering in the internal affairs of States, it denounced instances of discrimination, and sought to influence public opinion through groups of persons dedicated to the protection of the rights and freedoms of persons in all their forms. The large intergovernmental organizations dealt with Governments, but the United Towns Organization was in contact with the man in the street, as was apparent from its congresses and from its other actions designed to put into practice the principles embodied in the Universal Declaration of Human Rights.

6. His organization also worked to complement the Universal Declaration by making suggestions to the competent authorities, particularly in respect of the rights of children, the rights of women in administering communities, the rights of migrants and the transnational role of communities, and had developed the idea of bilingual education, namely, a thorough knowledge of the mother tongue, along with a knowledge of a language of world communication with a view to full and direct participation in world culture. Action for human rights and for peace were inseparable. Any violation of international agreements on human rights was plainly an obstacle to mutual trust and friendship between peoples and nations. His organization hoped to promote centres for education, information and civic life and to make the towns and cities of the world areas of peace.

7. Mr. ODOCH-JATO (Uganda), introducing draft resolution E/CN.4/1983/L.91, said that it was modelled on the form of language employed in Commission resolution 1982/37, the only difference being that it requested the Secretary-General to continue the contacts already established with the Government of Uganda. Again, it renewed the invitation to all States, specialized agencies and United Nations organs, as well as humanitarian and non-governmental organizations, to lend their support and assistance to the Government of Uganda in its efforts to guarantee the enjoyment of human rights and fundamental freedoms.

8. The Government was deeply grateful for the Commission's steps to help it in its efforts to restore the rule of law and guarantee the enjoyment of human rights and fundamental freedoms. It was anxious to see the development of further co-operation in that field with the Commission and the United Nations in general. He hoped that, as in the two previous years, the draft resolution on assistance to Uganda would be adopted without a vote.

9. The Commission adopted draft resolution E/CN.4/1983/L.91 without a vote.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT
(agenda item 10 (a)) (continued) (E/CN.4/1983/4, chapter I-A, draft resolution VIII;
E/CN.4/1983/L.2, L.62, L.84)

10. Mr. BURGERS (Netherlands), Chairman-Rapporteur of the Working Group on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, introducing the report of the Working Group (E/CN.4/1983/L.2) said that, during its meetings in January, the Group had continued with the elaboration of a draft convention, as requested in General Assembly resolution 32/62. For the first time it had considered all parts of the draft: the preamble, the substantive provisions, the implementation provisions and the final clauses.

11. The Group had succeeded in adopting a set of preambular clauses. One proposal for the inclusion of a further paragraph had been retained for consideration at a later stage. Some unresolved questions relating to the substantive articles had been discussed, but it had proved impossible to find a solution that would command the support of the entire Group. The most important issue was whether the convention should include a system of universal jurisdiction. The Group had also discussed in detail the possible formulation of a number of articles relating to implementation, although final decisions had yet to be made. The main point, on which there were widely diverging views, was whether the system for implementing the convention should be optional or mandatory. Lastly, a revised set of final clauses had been drawn up, as could be seen from the text of the convention set out in the annex to the Group's report. Disappointment might be felt because final decisions had not been reached on so many draft provisions, but the Group had worked hard and constructively and had made considerable progress in clarifying the issues.

12. He hoped that Governments would study those questions before the next session and issue instructions to their representatives so that decisions could be taken on the questions still outstanding. The Commission might then be able at its next session to discharge the task entrusted to it by the General Assembly.
13. Mr. ZAHIRNIA (Observer for Iran) said that the Commission's attention should be drawn to a lacuna in the provisions of the draft convention. Since the Second World War, more than 100 regional wars had taken place throughout the world, leaving in their wake prisoners of war who were not covered by article 2 of the draft convention. He was not speaking about a hypothetical situation but about real people who were being subjected to barbaric treatment, and in that regard he cited from a document of the International Committee of the Red Cross, a number of atrocities and examples of ill-treatment of Iranian prisoners in Iraq. Since the draft convention did not cover such cases, his delegation urged the Working Group to make proper provision for prisoners of war. His delegation would be gratified if, under the right of initiative envisaged in article 1 of the Geneva Convention, contracting parties were informed of grave violations of that Convention in the war between Iran and Iraq.
14. The Observer for Iraq could rest assured that no one would ask the Iraqi Government to answer for the systematic torture and wilful killing and disappearance of persons, for Iraq represented an immensely rich market and large-scale oil interests.
15. Mr. DHAVERNAS (Canada) and Ms. HERRAN (Colombia) said that they wished to include their delegations among the sponsors of draft resolution E/CN.4/1983/L.62.
16. Ms. FELLER (Australia) said that her delegation firmly maintained its position of support for mandatory implementation of provisions in the draft convention. It had traditionally taken a strong and active interest in the negotiation of such a convention and wished to be added to the list of sponsors of draft resolution E/CN.4/1983/L.62.
17. Mr. TALVITIE (Finland), introducing the draft resolution, said that General Assembly resolution 32/62 had requested the Commission to draw up a draft convention in the light of the principles embodied in the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The mandate had been renewed in General Assembly resolution 37/193, in 1982, when the Commission had been requested to complete, as a matter of the highest priority, at its thirty-ninth session, the drafting of such a convention.
18. The open-ended Working Group had made substantial progress, but had not been able to complete the work at the present session. There was a great deal of testimony that torture was still practised in many parts of the world, underscoring the urgent need to finish the elaboration of the convention. Accordingly, the draft resolution proposed that the highest priority should be accorded to consideration of that question.
19. The Economic and Social Council had authorized a meeting of the Working Group for one week prior to the fortieth session of the Commission in order to complete the work. It was the hope of the sponsors that the draft resolution, which was of a procedural nature, would be adopted by consensus.
20. The Commission adopted draft resolution E/CN.4/1983/L.62 without a vote.

21. Mr. AL-BADRAN (Observer for Iraq), speaking in exercise of the right of reply, said that, over the past few days, his delegation had respected the Commission's standards in order to facilitate procedure and, hence, it had not replied to the accusations levelled against it. Unfortunately, it could not remain silent in the face of the allegations just made by the Observer for Iran.
22. Matters pertaining to prisoners of war fell within the competence of the International Committee of the Red Cross and it should be emphasized that that organization's documents were wholly confidential. His delegation wished to abide by the decisions of the International Committee of the Red Cross and it remained steadfast to its commitment.
23. Mr. ZAHIRNIA (Observer for Iran), speaking in exercise of the right of reply, said that, contrary to the assertion by the Observer for Iraq, the documents of the International Committee of the Red Cross did not constitute allegations but statements of fact. The Commission should send a telegram to the Iraqi authorities and ask them to put an end to the inhuman situation in that country.
24. The CHAIRMAN said that the Commission took note of the report of the Working Group on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1983/L.2).

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 11) (E/CN.4/1983/4 and 15; E/CN.4/1983/L.3, L.4, L.61, L.73, L.80 and L.92).

25. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights), introducing the item, said it was considered to be one of the most important on the Commission's agenda, as could be seen from the fact that, in addition to the general aspects for consideration by the plenary, two Working Groups had been meeting to examine particular issues. Apart from the reports of those two Working Groups (E/CN.4/1983/L.3 and L.4), the Commission had before it a report submitted by the Secretary-General (E/CN.4/1983/15) pursuant to earlier resolutions of the Commission dealing with the question of public information activities in the field of human rights.
26. Promotional activities within the United Nations Human Rights Programme were as **deserving of attention** as activities concerned with the implementation of human rights. Following the redesignation of the former Division of Human Rights as the Centre for Human Rights, and in the light of the role of centres within the United Nations system as focal points for dealing with particular sectors of activities, it was intended in the future to enhance the promotional activities of the Centre and to place more emphasis on public information activities and the dissemination of information on the endeavours of the United Nations to promote international co-operation for the realization of human rights.
27. With regard to other matters under the present item, attention should be drawn to the deliberations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fifth session, and particularly to its resolution 1982/27, on the question of the possible terms of reference for the mandate of a High Commissioner for Human Rights. Similarly, the General Assembly had adopted resolutions 37/199 and 37/200, on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms.

28. Lastly, it might be appropriate for the Commission to consider how best it could be associated with the activities to celebrate the thirty-fifth anniversary of the Universal Declaration of Human Rights in December 1983.

29. Mrs. PURI (India) Chairman-Rapporteur of the Working Group established under Commission resolution 1982/40, introducing the Group's report (E/CN.4/1983/L.3), said that over the past five years the deliberations within the open-ended Working Group had produced the ideas of a six-week session for the Commission, the upgrading of the Division of Human Rights into a Centre, the proposals for rescheduling the sessions of the Commission and the Economic and Social Council, the attempts at rationalizing the Commission's agenda and time management during its sessions.

30. The Working Group, however, had reached a turning point. In attempting to tackle the more fundamental structural, organizational and conceptual issues, it was hampered by the lack of specificity in its mandate and by shortage of time. It was essential for the Group to meet longer during any session of the Commission and the problems of a specific mandate and of time constraints must be dealt with directly if the Commission wished to maximize the output of the Working Group.

31. In its quest for specificity, the Group had decided to discuss items listed under the heading of structural issues, including a possible intersessional role for the Bureau, emergency sessions of the Commission, the establishment of a post of High Commissioner for Human Rights and a possible redefining of the Commission's terms of reference, together with the related issues of the rescheduling of the sessions of the Commission and the Economic and Social Council.

32. In the matter of the organizational role of the Bureau during the intersessional period, the absence of time to work out a detailed listing of the Bureau's duties had meant that agreement could not be reached on the number and time of the sessions. Interest had also been expressed in other possible tasks for the Bureau in the intersessional period for the sake of continuity, and the suggestion had been made that it could be mandated to deal with emergency situations and could also assist the work of the Working Group on Communications. However, the problem for many members was how the political will of the Commission as a whole could be made to devolve on the Bureau. Again, there was a feeling in the Working Group that the present terms of reference provided the Commission with a sufficiently flexible enough mandate, but its work could benefit from a more specific enumeration of its tasks.

33. As to the creation of a post of High Commissioner for Human Rights, the view had been expressed that the Sub-Commission had not carried out its task, under Commission resolution 1982/22, of preparing a first study and it should therefore be asked to engage in a thorough examination of the question. Other members of the Group, however, had disagreed with that appraisal. Finally, it would be seen from paragraph 17 of the report that there had been some disagreement about the utility of maintaining the Group in existence.

34. The draft resolution recommended by the Working Group represented a laboriously worked-out and delicate compromise. In the sixth preambular paragraph, the word "consensus" was to be replaced by "the widest possible agreement". In operative paragraph 2, the square brackets should be removed, the phrase "the work of the Working Group" was to be amended to "and the usefulness of the Working Group", and the latter part of that sentence was to be deleted. Operative paragraph 6 would now read:

"Decides to consider at its fortieth session the amount of time to be allotted to the Working Group, giving priority in this respect to those issues which appear to offer the best prospects of early agreement".

35. Lastly, in keeping with the Working Group's own recommendation to impose time limits on statements in order to streamline the work of the Commission, a new paragraph should be inserted between operative paragraphs 3 and 4, to read: "Considers on the basis of the experience at this session, that time limits for interventions have a useful role to play in facilitating the conduct and completion of the work of the Commission". She hoped that the new paragraph would form part of the consensus and that the Commission would adopt the draft resolution without a vote.

36. Mr. O'DONOVAN (Ireland), Chairman-Rapporteur of the Informal Working Group of 10 members, introducing the report of the Working Group (E/CN.4/1983/L.4), said that the Group had been established under Commission resolution 1982/40 but had originally been suggested by the delegation of Brazil, which had put forward useful principles for consideration by the Commission with regard to rationalization of its agenda.

37. The first problem had been that delegations attached not only different degrees of importance to different agenda items but also to the actual wording of the items themselves. Consequently, the Group had found itself operating under a constraint in considering suggestions for deleting or altering items on the present agenda. Annex II of the report contained a note summarizing all of the proposals before the Group at its five meetings, and they could be considered if it was decided to maintain the Group in existence.

38. A further constraint had been that, as the Working Group had been meeting, the Commission had been adopting resolutions and decisions which affected the agenda for the fortieth session. The proposals for the rationalization of that agenda contained in paragraph 12 of the report included deletion of item 24 (Communications concerning human rights), since it could be discussed under item 12, and the consideration of items 15 and 17 on a biennial basis in order to reduce the workload of the Commission. In that connection, he had submitted a draft decision (E/CN.4/1983/L.80), in which the word "decided", in the first sentence, should read "decides". In subparagraph (b), "its forty-first session" should be replaced by "its fortieth session" and in subparagraph (c) "its forty-second session" should be replaced by "its forty-first session".

39. The Working Group had encountered difficulty because of the interrelation between the agendas of the Commission and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in connection with the biennial consideration of items 15 and 17 which were also examined by the Sub-Commission. Thought should also be given to the relationship between the agenda of the Commission and the agendas of its higher organs, the Economic and Social Council and the General Assembly.

40. In his opinion, more progress could possibly be made on the rationalization of the agenda at future sessions of the Commission and it would be wiser to decide at the beginning of the next session whether the Working Group should be retained and whether it should perhaps be assigned a wider mandate. In that case, some time-saving could be effected by using the extensive facilities as afforded to the Group at the present session, since it was a small body.

41. Lastly, the proposals submitted by the delegation of Australia on the rationalization of the agenda were set out in annex I of the report.

42. Mr. THWAITES (Australia), introducing draft resolution E/CN.4/1983/L.73, on the development of public information activities in the field of human rights, said that his Government took particular interest in the action of the Commission in that regard, for it firmly believed that public knowledge of human rights was critical to the fulfilment of the purposes of the United Nations as established in the Charter. It was widely accepted that human rights were indivisible and interdependent, yet it was agreed that they were of little value to their possessors if they were insufficiently known. Hence, the efforts of the United Nations in that field, in conjunction with the efforts of Governments and non-governmental organizations, were fundamental to the enjoyment of all human rights. The draft resolution built on resolutions adopted on the same subject under the present item at recent sessions of the Commission.

43. Drawing attention to elements that represented changes or additions to texts adopted in the past, he pointed out that the final preambular paragraph and operative paragraph 2 sought to take into account the need for special efforts to enhance public knowledge of human rights in observing the thirty-fifth anniversary of the adoption of the Universal Declaration of Human Rights during 1983. Again, the seventh preambular paragraph endeavoured to reflect the importance of a wider geographical focus for those efforts and to place some stress on the need to enhance United Nations promotional activities in all regions. Operative paragraph 8 requested the Secretary-General to report on such activities at the fortieth session of the Commission and to suggest ways and means for enhancing them. In making that request the sponsors had in mind not only the work carried out through the Centre for Human Rights but also relevant activities by the regional commissions of the United Nations.

44. Operative paragraph 7 requested the Secretary-General to take appropriate measures to enhance the public activities of the Centre for Human Rights in order to enable it better to carry out its functions as a lead agency and operative paragraph 9 requested the Secretary-General to submit to the Commission at its next session a report providing fuller information on the activities of the United Nations information centres in respect of human rights. The secretariat should, in preparing the final text of the draft resolution, insert a subtitle after the list of sponsors, namely, "The development of public information activities in the field of human rights".

45. The sponsors were agreed that the modest steps envisaged in the text would be of genuine value in seeking more effective enjoyment of human rights and fundamental freedoms for people everywhere, and they hoped that the draft resolution would commend a consensus.

46. Ms. CASTRO de BARISH (Costa Rica), introducing draft resolution E/CN.4/1983/L.61, said that, for 18 years, her delegation had been working with others, particularly the Italian delegation, in the search for a suitable mechanism to fill a vacuum by establishing a post of a High Commissioner for Human Rights, which would enable the United Nations to respond rapidly and effectively in cases of massive violations of human rights.

47. The preamble gave a short account of the resolutions that had led to the work on the topic by the Sub-Commission, as set forth in resolution 1982/27, which outlined the terms of reference for a possible mandate for a High Commissioner. The sponsors considered that violations of human rights and fundamental freedoms in any part of the world were of concern to the United Nations, as had been amply confirmed in the consideration of agenda item 12. They also thought that it was pertinent to stress in the last preambular paragraph that the seriousness of violations of human rights often called for a more timely and effective response by the United Nations.

48. The operative part of the draft resolution took note of resolution 1982/27 of the Sub-Commission in which that body submitted its proposals on the matter. Indeed those proposals were a very useful basis for further consideration of such an important question. It was obvious that, as in operative paragraph 3, the Sub-Commission must be invited to present to the Commission at its fortieth session "any further comments and recommendations that it deemed appropriate". That paragraph contained all the elements required to fulfil the conditions indicated by the resolutions mentioned earlier. Lastly, the draft resolution indicated the willingness of the Commission to consider in depth the question of the establishment of the United Nations High Commissioner for Human Rights with a view to reaching a decision on the matter. It was the sponsors' hope that the Commission would be disposed to adopt that idea at its fortieth session.

49. Mr. CALERO RODRIGUES (Brazil) said that the question of the post of a High Commissioner for Human Rights had engaged the attention of the Commission for several years and a number of draft resolutions had been submitted in that regard. Draft resolution E/CN.4/1983/L.61, however, was not in line with his own views on the subject and he had drafted some amendments which were contained in document E/CN.4/1983/L.92.

50. The draft resolution took the proposals of the Sub-Commission as a valuable basis for further consideration and decided to consider the establishment of a post of High Commissioner at the fortieth session of the Commission with a view to reaching a decision. On the other hand, it implied that if the Sub-Commission had no further comments and recommendations to submit at the next session, a decision could still be taken on the question. The Sub-Commission's proposals were of some value, but they did not meet the Commission's expectations when it had adopted resolution 1982/22. Many questions still remained unanswered and it was essential for the Sub-Commission to indicate what lay behind its proposals.

51. In the preamble to the draft resolution it was of course useful to recall the resolution 1982/22, but it was also desirable to state that major decisions such as the one involved should be taken on the basis of consensus; otherwise they would not be effective.

52. The reason for his proposed addition to operative paragraph 2 was that, in order to provide a more viable basis, the proposals should take fuller account of the elements indicated in Commission resolution 1982/22. In operative paragraph 3, the invitation to the Sub-Commission to present any further comments and recommendations was too vague and left it to the Sub-Commission to decide what additional comments it should present. In his redrafted paragraph 3, the Sub-Commission should look again at the proposals and present the Commission with a more complete text.

53. Operative paragraph 4 seemed to suggest that a decision would be taken at the fortieth session of the Commission, something that seemed unwise, since it was too important a decision to be taken on a majority basis. To avoid requiring the Commission to take the decision at its fortieth session, it would be better to "continue consideration of the question" instead of considering it "in depth" and to add at the end of the paragraph the phrase "at the earliest appropriate time".

54. It was to be hoped that the common sense underlying those proposed amendments would be sufficient to enlist the support of other delegations.

55. Ms. CAO PINNA (Italy) said that her delegation had held consultations with the delegation of Brazil in a spirit of mutual understanding, although its position with regard to the Sub-Commission was different. The Sub-Commission had given priority to considering the mandate entrusted to it by the Commission and, as a result of the deliberations of a working group, had adopted resolution 1982/27. Despite the importance of the question, it was difficult in the last few days of the session to reach any decision on substance and, for that reason, her delegation was sponsoring a procedural draft resolution (E/CN.4/1983/L.61). The consultations with the delegation of Brazil had proved fruitful, since it had been possible to merge and reword two of the amendments to take into account concerns expressed by that delegation, while some wording had also been agreed upon in the other two amendments.

56. With regard to the more general subject under discussion, the long title of the item was an example of the elaborate language used by the United Nations when dealing with very elementary principles of international action in the field of human rights. Since 1970, the divergence of views among Member States on structural issues was leading to a dangerous ultra-conservatism because of an unfounded fear that changes in present United Nations procedures would not make for a prompt response to urgent situations.

57. In that respect, the report of the Working Group (E/CN.4/1983/L.3) was highly indicative of the impasse in which the Commission found itself because of the established practice that working groups of the Commission could take their decisions only on the basis of consensus. It was significant that several members of the Group questioned the usefulness of continuing the Group's work if no progress could be made. The Working Group had concentrated its attention on structural issues but had not reached a consensus on any of those considered, particularly a possible intersessional role for the Bureau, the question of holding short emergency sessions of the Commission, or the outcome of the Sub-Commission's work on possible terms of reference for the mandate of a High Commissioner for Human Rights. No consensus had evolved within the Working Group on other issues included by its Chairman in an indicative listing of new issues arising from General Assembly and Commission on Human Rights resolutions. In her opinion, there were grounds for simplifying the title of the present item by adopting a new one that would be more comprehensible to people outside the United Nations, for discussing that item in the Commission and for requesting the Working Group to consider only one or two well-defined issues instead of a long list on which no decision could be taken because of the consensus rule.

58. It was generally recognized that the standard-setting activities of the United Nations were far advanced and also that United Nations vigilance over the implementation of established standards by Member States which were parties to international conventions on human rights was developing progressively. The elimination of gross violations of human rights therefore remained a file of action which called for high priority in the Commission's programme of work. The urgent need for the international community to provide an adequate response to gross violations of human rights had been recognized in 1981 by the Secretary-General in his report on "Present international conditions and human rights" (A/36/492). Her delegation looked forward to the next report by the Secretary-General on the same subject with the hope that it would be a source of inspiration for all Member States, leading them to a broader political will and commitment to act jointly on all types of gross violations, regardless of their own socio-political systems.

59. Mr. KONATE (Senegal) said that promotion of human rights and their indivisible nature had always been a cause of concern to countries which, like his own, were devoted to the cause of justice. The increase in the membership of the Commission, together with longer sessions, were useful improvements, but they were not enough to fulfil the mission assigned to the Commission under the Charter. Hence, rationalization of the agenda was one of the first measures to be taken.

60. The establishment of the Working Group of 10 members had proved valuable and its task could be to remove certain items from the agenda or regroup a number of interrelated issues under a single heading. Again, the headings of certain agenda items should be reformulated as concisely as possible, but care should be taken not to miss the real point of existing formulations. Certain questions could be allocated to the Sub-Commission or considered by the Commission alone if the Sub-Commission so requested. Moreover, certain questions should only be considered every two or three years and the annotated agenda should give details of the exact dates involved.

61. It had to be recognized that human rights transcended national frontiers, and differences of race and belief. Pressure from international opinion was required if international responsibility was to be assumed for protecting human rights. His delegation had always considered that dissemination of information should be developed on the basis of activities directed at questions of racism, racial discrimination, development and self-determination. Teaching, education and information programmes on human rights could contribute a great deal in that regard and the responsibility for such activities should devolve on States.

62. The human rights situation in the world could not be said to have improved to any great extent, for it was characterized by systematic violations in many countries. Special attention should be paid to measures to strengthen the intersessional role of the Commission with regard to flagrant violations, and particularly the role of the Bureau, which was very limited at present. Through its Bureau the Commission must be able to pursue its activities throughout the year, so as to be in a position to take urgent action when required.

63. Establishment of the post of a United Nations High Commissioner was justified by the number and wide range of human rights violations. Such an official would be impartial, would make no distinction between States, and would seek the co-operation of Member States and assist and advise them in finding appropriate means to deal with the sufferings of innocent people. His delegation wished to express its satisfaction with

regard to the Sub-Commission's report on the possible mandate for a High Commissioner, which constituted an important step in the work of the Commission. Similarly, the upgrading of the Division of Human Rights to the status of Centre for Human Rights was a step towards the creation of a post of High Commissioner.

64. Mr. SOLEY SOLER (Costa Rica) said that his Government attached special importance to the item under discussion. In order for the Commission's analysis to be of practical value and for it to have a lasting effect on the furtherance of human rights, all delegations must show flexibility and call on their great experience and knowledge in order to enhance the proposals made.

65. The present situation regarding the observance of human rights revealed how ineffectual the present machinery was in protecting the enjoyment of those rights. The behaviour of Member States with regard to the ratification of the international human rights instruments displayed their lack of will to enforce those instruments, and the fact that the confidential procedures adopted for considering communications on violations of human rights had been adopted without a consensus showed that the international principles enunciated in the Universal Declaration of Human Rights and the standards laid down by the Covenants were merely recognized in theory.

66. There was a clear need to seek sufficiently flexible procedures to be used expeditiously when necessary. In that regard, his delegation once again expressed its support for the establishment of a post of a High Commissioner for Human Rights, something it had proposed in 1965 on the grounds, on that occasion, that the protection of basic human rights was an inescapable obligation of the international community and that all States had a collective responsibility to ensure their enjoyment for all individuals. No country could take the view that it was not affected by human rights problems. That was as true in 1983 as it had been in 1965. Furthermore, a High Commissioner with a permanent position would, in his objectiveness, make for less discriminatory, ambiguous and politicized treatment in the selective consideration of grave violations of human rights.

67. It was gratifying that the Sub-Commission had adopted resolution 1982/27, recommending possible terms of reference for the mandate of a High Commissioner. If a group of independent and experienced experts like the members of the Sub-Commission had developed such valuable ideas, it was indeed worth adopting them for the cause of human rights. His delegation also appreciated the studies prepared by Mrs. Daes on human rights and scientific and technological developments and the protection of the mentally ill.

68. On 12 October 1982, his country's Minister for Foreign Affairs had said experience showed that the more flexible United Nations procedures were in the discharge of its mandate to promote and protect human rights, the better that mandate would be fulfilled, and consequently, more people throughout the world would understand the raison d'être of the Organization.

69. Mr. BHAGAT (India) said that the present item called for self-knowledge on the part of the Commission. Unfortunately, discussion of the item had been used by different groups to promote certain projects and had little to do with the protection and promotion of human rights. It was his delegation's belief that every organization needed a review and re-assessment mechanism, without which the entire human rights infrastructure would find itself unable to cope with new situations and realities and would become a tool in the hands of those who viewed the Commission as a battlefield

for political polemics. Otherwise, it would become redundant in the view of the majority of countries and peoples. The members could not call themselves the protectors and promoters of human rights if all they wanted was to use the Commission for their narrow political ends.

70. In the present instance, the focus of the discussion should be on how to improve the efficacy of existing mechanisms in relation to their terms of reference, the rights they protected and the ways and means they utilized, without of course excluding the creation of new mechanisms. The emphasis must continue to be on innovation for the sake of effectiveness and not on duplication through the creation of new institutions.

71. His delegation strongly opposed the move to create a post of a High Commissioner for Human Rights when seen in the context of the attempt being made to devalue the role of the Commission if it did not sufficiently serve the political ends pursued by some groups. However imperfect the mechanisms of the Commission, they did provide a basis for an objective assessment of human rights and situations in various parts of the world and a means of bringing moral pressure to bear on Governments and peoples. The United Nations procedures and the mechanisms of the international instruments were an added institutional safeguard for the protection and promotion of human rights. The proponents of the creation of a post of High Commissioner, however, were seeking to place consideration of human rights situations outside the well-defined system of checks and balances against politicization and put it in the hands of a single individual who would function as a roving ambassador of human rights, interfering in the internal affairs of States according to his own whims.

72. In response to the Commission's request to carry out a first study on possible terms of reference for a High Commissioner for Human Rights, the Sub-Commission had produced only a bare outline, without elaborating on the rationale of each aspect of those terms of reference. Clearly, there was considerable disagreement among the members of the Sub-Commission as to the desirability of creating the post and also the possible terms of reference. The functions outlined for a High Commissioner were of a very general nature and his delegation considered that there was no point in yet another organization engaging in functions that all other organizations in the United Nations system were supposed to be mandated to perform. For example, the direct contact function of the proposed High Commissioner lay at the core of the functions envisaged for him by the proponents of the post, but even that function was not new to the existing United Nations human rights infrastructure. Direct contacts with Governments had been established by special representatives or special rapporteurs for the purpose of fact finding or rendering assistance in situations of massive violations.

73. Ms. CAO PINNA (Italy), speaking to a point of order, said that the representative of India had made continual reference to resolution 1982/27 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, while the draft resolution before the Commission (E/CN.4/1983/L.61) was procedural. Her delegation had refused a request for a specific reference in the draft resolution to the post of a possible High Commissioner for Human Rights because it would have meant dealing with the substance of the Sub-Commission's study. Any mention of the substantive aspects of the draft resolution should therefore be avoided.

74. Mr. BHAGAT (India) said that he considered his remarks pertinent in the context of a general debate.

75. What new functions had been envisaged for the proposed High Commissioner for which provision had not already been made? The Centre for Human Rights was already providing advisory services in an effective manner. If an inter-agency task force was to be created, a High Commissioner was not needed for that purpose, since the Commission, with the assistance of the Centre, could perform that function effectively. An office of such a kind should perform tasks specifically assigned to it and not act on its own initiative. If the intention was to create an office which could fulfil the functions of the special representatives, special envoys and special rapporteurs appointed by the Secretary-General or the Commission, it would be more appropriate for such an office to have those clearly-defined duties and for the High Commissioner to be asked to perform specific tasks. It was not possible to proceed on the assumption that the proposed High Commissioner was above the balancing influences of the General Assembly, the Economic and Social Council or the Commission on Human Rights in sensitive areas of national or international policies relating to human rights.

76. One question raised by the proposed terms of reference remained unanswered in the Sub-Commission's resolution, namely, the role and function of the newly-designated Centre for Human Rights, headed by the Assistant Secretary-General. Perhaps it was an attempt to devalue, along with the Commission, the role of the Centre, which had not only been providing excellent back-up logistical and administrative support for the activities of United Nations organs dealing with human rights but also carrying out many other tasks, including the provision of advisory services. His delegation wondered whether it was the intention of the proponents of the post of a High Commissioner to convert the Centre into that of the Office for the High Commissioner, in disregard of the Centre's existing functions.

77. Many delegations were not yet prepared to take a decision on the matter of a High Commissioner for Human Rights, since the full contours of the post had not emerged from the Sub-Commission. Serious doubts remained and if an attempt was made to force the pace on that issue without general agreement, the post would be conceived in discord and would be doomed to failure. Those who wished to have the post recommended by the Commission should not prejudice their chances by depriving it of a consensus backing, something which, with time, good will and hard work, would not be impossible. His delegation looked on the creation of bodies parallel to the Commission with an open mind, but could not agree to follow the path of self-knowledge simply for the purpose of self-negation.

The meeting rose at 9.30 p.m.