



SUMMARY RECORD OF THE 37th MEETING

Chairman: Mr. O'DONOVAN (Ireland)

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

AGENDA ITEM 85: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS:
REPORT OF THE SECRETARY-GENERAL (continued) (A/C.3/36/L.31, L.32, L.35)

1. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic), introducing draft resolution A/C.3/36/L.31 on behalf of the sponsors, said that the purpose of the draft was to alert Member States and the specialized agencies to the importance of implementing the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, adopted by the General Assembly in its resolution 3384 (XXX). In drafting the text, the sponsors had worked on the basis of resolution 35/130 and had sought to improve on and broaden the scope of that resolution. The preamble to draft resolution A/C.3/36/L.31 pointed to the need for States to make a commitment to respect the principles embodied in the Declaration and promote human rights and fundamental freedoms under conditions of technological progress. Scientific and technological progress was a necessary prerequisite for accelerating social and economic development in all countries. It was essential to prevent the results of scientific and technological progress from being used to the detriment of human beings and human rights. Scientific activities should be used for the economic, social and cultural development of all countries and for the raising of the living standards of peoples. The establishment of the new international economic order called for an important contribution to be made by science and technology to economic and social progress. The exchange and transfer of scientific and technological knowledge represented one of the basic ways to accelerate economic development.
2. The operative part of the draft resolution reiterated how important it was for all Governments to implement the provisions and principles of the Declaration, and called upon all States to make every effort to use the achievements of science and technology in order to ensure the right to work and the right to development.
3. In preparing the draft resolution, the sponsors had sought to take into account the views of all delegations. The draft was far-reaching and well balanced, and reflected noble objectives. The international community must heed carefully and act in the most tangible way on the appeals contained in the aforementioned Declaration. His delegation hoped that the draft resolution would meet with the approval of all members of the Committee and requested the Secretariat to add the name of Mali to the list of sponsors.
4. Mr. FURLAND (United Kingdom) introduced draft resolution A/C.3/36/L.32 on behalf of the sponsors. In the statement made on 22 October on behalf of the States members of the European Community, his delegation had noted that scientific and technological developments produced both benefits and abuses, that it was the task of Governments and the international community to maximize the benefits and avert the abuses, and that the Third Committee should consider those two aspects together. On that occasion, his delegation had stated that the General Assembly had rightly focused on one particular abuse of scientific and technological developments, namely, the misuse of psychiatry in violation of human rights.

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(Mr. Fursland, United Kingdom)

5. Draft resolution A/C.3/36/L.32 was simple and procedural in nature. It referred to General Assembly resolution 33/53, in which the Assembly had requested the Commission on Human Rights to urge the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake, as a matter of priority, a study of the question of the protection of those detained on grounds of mental ill-health, with a view to formulating guidelines. The draft resolution also referred to the action taken by the Sub-Commission to implement General Assembly resolution 33/53.

6. The draft resolution expressed concern at reports of persons being detained in mental institutions on account of their political views and on other non-medical grounds. The preambular paragraph in question was formulated in the same terms as the corresponding paragraph of resolution 35/130 B, adopted at the thirty-fifth session.

7. The draft resolution had only one operative paragraph, which was entirely procedural in nature. It simply requested the Commission on Human Rights to continue its consideration of the question in the light of the action being taken by the Sub-Commission, with a view to submitting a report to the General Assembly at its thirty-eighth session through the Economic and Social Council.

8. His delegation was aware that certain elements of resolution 35/130 B caused some difficulties to certain delegations. In the course of consultations with a number of those delegations, every effort had been made to remove such elements. In particular, no reference to the resolution on the item adopted by the Sub-Commission in 1981 had been included, since that resolution was not formally before the General Assembly.

9. Draft resolution A/C.3/36/L.32 referred to no specific situation. Such references would be inappropriate in a draft resolution designed to support the study being prepared by the Sub-Commission with a view to formulating guidelines for the protection, on a world-wide basis, of those detained on grounds of mental ill-health. The concerns of the sponsors in submitting the draft resolution were strictly humanitarian. His delegation hoped that politics would not enter into the consideration of the draft resolution, that all delegations would view it from a strictly humanitarian point of view and that it would be adopted by consensus.

10. Mr. GIUSTETTI (France) introduced draft decision A/C.3/36/L.35. The studies prepared by the Secretary-General in pursuance of General Assembly resolution 2450 (XXIII) contained data which were not intended to be comprehensive, but which, to a great extent, covered the item and were objective and methodical. Delegations would be able to find in those studies thought-provoking ideas and a source of inspiration in submitting specific proposals. Accordingly, it would be useful to have those studies available in a more accessible form, so that they could be of benefit to those who were not experts in scientific and technological fields. That was the purpose of the draft decision, which was not seeking a further study from the Secretary-General, but was seeking to ensure that greater benefit was derived from the studies prepared at the request of the General Assembly. The proposed booklet would be useful to a broader audience and would

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(Mr. Giustetti, France)

help to inform the general public of the relationship between human rights and scientific and technological developments. His delegation hoped that draft decision A/C.3/36/L.35 would not pose problems to any delegation.

AGENDA ITEM 87: INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)
(A/C.3/36/L.36)

- (a) REPORT OF THE HUMAN RIGHTS COMMITTEE (continued)
- (b) STATUS OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS: REPORT OF THE SECRETARY-GENERAL (continued)
- (c) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY: REPORT OF THE SECRETARY-GENERAL (continued) (A/C.3/36/L.33)

11. Mr. DYRLUND (Denmark) introduced draft resolution A/C.3/36/L.36 on behalf of the sponsors, who had been joined by Australia. In the view of the sponsors, the international protection of human rights could best be achieved by legally binding treaties and by the establishment of suitable forms of international supervision and control.

12. In introducing the item, the Deputy Director of the Division of Human Rights had mentioned that additional countries had ratified or acceded to the International Covenants on Human Rights since the thirty-fifth session of the General Assembly. While the sponsors of draft resolution A/C.3/36/L.36 welcomed that development, they noted that there were, regrettably, still many countries which had not accepted those basic instruments. Universal application of the Covenants must continue to be the principal aim in the realization of the international protection of human rights. The sponsors therefore again invited all Member States which had not already done so to ratify or accede to the International Covenants on Human Rights and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights. They also invited States parties to that Covenant to consider making the declaration provided for in article 41 thereof.

13. He underlined the important role of the Economic and Social Council and the Human Rights Committee in the implementation of the Covenants and the Optional Protocol. Without effective implementation machinery, the provisions contained in the instruments would be of little value.

14. As could be seen from its report (A/36/40), the Human Rights Committee had been successful in establishing a constructive and continuing dialogue with the States parties to the Covenant on Civil and Political Rights. The Committee played a key role in assisting the States parties to promote the enjoyment of human rights. In paragraph 4 of the draft resolution, the sponsors stressed the importance of the reporting required under article 40 of the Covenant. They hoped that the Committee's decisions would assist States parties in fulfilling their reporting obligations.

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(Mr. Dyrland, Denmark)

15. The Human Rights Committee was also empowered to deal with communications from individuals about violations of the Covenant on Civil and Political Rights, provided the communication concerned a State party to the Covenant which was also a party to the Optional Protocol. The Committee's report reflected the results of its examination of those communications. Concern had been expressed in the Third Committee regarding situations found to be in violation of the Covenant. Consequently, the importance of the strictest compliance by States parties with their obligations under the Covenant was emphasized in paragraph 10 of the draft resolution.

16. With regard to the responsibilities of the Economic and Social Council under the International Covenant on Economic, Social and Cultural Rights, the sponsors commended in paragraph 5 the States parties that had submitted their reports under article 16 of the Covenant. In paragraph 6 of the draft resolution, note was taken of the decisions adopted by the Council on 8 May 1981. In the sponsor's view, those decisions represented a step forward in surmounting the difficulties which the sessional working group had encountered in discharging its responsibilities. However, further improvements were called for, hence the interest shown in achieving further results in that regard at the first regular session of the Council in 1982.

17. Public awareness of the Covenant and the work within the United Nations on human rights issues was important. In paragraph 13 of the draft resolution, the sponsors welcomed the measures taken by the Secretary-General to improve the publicity for the work of the Human Rights Committee. The sponsors hoped that, when the Secretary-General reported to the General Assembly at its next session, it would be possible to fulfil the wish of the Human Rights Committee that its documentation should be widely disseminated.

18. The substance of draft resolution A/C.3/36/L.36 was in line with previous resolutions on the same subject, although it took into account the new developments and the experience gained in the past year. The sponsors hoped that, as in previous years, the draft resolution would be adopted by consensus.

19. Mr. BORCHARD (Federal Republic of Germany), introducing draft resolution A/C.3/36/L.33, said that the title "Capital punishment" had been adopted because some delegations had objected to the previous, longer title. He recalled that on 15 December 1980 the General Assembly had decided to consider at its thirty-sixth session the idea of elaborating a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and had requested the Secretary-General to transmit the text of draft resolution A/C.3/35/L.75 to Governments for their comments and observations and to submit a report to the General Assembly at its thirty-sixth session (decision 35/437). That report, now before the Committee (A/36/441), contained 21 replies from Governments. Despite the interest aroused in the Committee in that subject, the small number of comments received suggested that the time had not yet come to take a decision on a draft second optional protocol. Nearly all delegations, including his own, felt that it would be better to seek more comments from Governments and to resume consideration of the item at the thirty-seventh session. That was the purpose of draft resolution A/C.3/36/L.33, and he hoped that it would be adopted by consensus.

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AGENDA ITEM 91: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued) (A/C.3/36/L.34, L.39/Rev.1)

- (a) UNILATERAL DECLARATIONS BY MEMBER STATES AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORT OF THE SECRETARY-GENERAL (continued)
- (b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL (continued) (A/C.3/36/L.38)

20. Mr. WALKATE (Netherlands), introducing draft resolution A/C.3/36/L.38 entitled "Draft Code of Medical Ethics", said that it was the outcome of a careful study by the sponsors of the principles of medical ethics formulated by WHO and of the replies received from Governments, specialized agencies and non-governmental organizations (A/36/140 and Add. 1-3) in response to requests by the Secretary-General in pursuance of General Assembly resolutions. The sponsors felt it was desirable that Member States should submit their comments on the annex to the draft resolution in order that it might be possible to adopt the draft principles in 1982, at the next session of the General Assembly.

21. In revising the WHO draft principles, the sponsors had had the following points in mind: the purpose was the elimination of all forms of torture and inhuman treatment; the principles of medical ethics should be applicable to both physicians and other health personnel; in general, the word "health" should be understood to cover both physical and mental health; there should be no escape clause for physicians who contravened the principles on the pretext of duress; and the principles should be clear in themselves and should not need an explanation.

22. Mr. NORDENFELT (Sweden), introducing draft resolution A/C.3/36/L.34 entitled "Torture and other cruel, inhuman or degrading treatment or punishment", said that, despite the divergent opinions expressed by the working group of the Commission on Human Rights, the sponsors felt that at the Commission's next session the working group could complete its work on the drafting of a convention on torture and other cruel, inhuman or degrading treatment or punishment. The sponsors hoped that the draft resolution would be adopted by consensus.

AGENDA ITEM 75: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued) (A/C.3/36/L.4, L.37)

23. Mr. WALKATE (Netherlands) introduced draft decision A/C.3/36/L.37 and said that Peru should be added to the list of sponsors. The draft had been prepared because of the interest in seeing what results would be produced by the adoption of the historic Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief".

AGENDA ITEM 73: 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 (A/36/3/Add.23 (part I); A/36/116 and Corr.1; A/C.3/36/2)

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AGENDA ITEM 79: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (A/36/3/Add.2 (part I); A/36/116 and Corr.1; A/36/482, 584)

- (a) IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTIONS 34/46 and 35/174: REPORT OF THE SECRETARY-GENERAL (A/36/462)
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (A/36/440)

24. Mr. GARVALOV (Bulgaria) said that item 79 had been much discussed in the Third Committee and the Commission on Human Rights, and that the basis for all discussions was to be found in Chapter I of the United Nations Charter, namely, "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". There was no more precise way of defining the function of the Organization, and experience showed that, if Member States had the necessary goodwill to comply with their undertakings, the United Nations could fulfil that function.

25. Some noteworthy results had been achieved in the struggle against human rights violations. Owing to the efforts carried out collectively, the United Nations had contributed to the recognition of the right of peoples under colonial régimes, as a result of which many countries had achieved self-determination. Assistance should therefore be given to the national liberation movements now struggling for the self-determination of their peoples, such as the peoples of Namibia and South Africa and the Palestinian people; on the other hand, there was need for an immediate halt to collaboration with the racist and colonial régimes.

26. Another way of attaining that objective was through the international codification of human rights. In addition, the United Nations should work towards the universalization of existing international instruments in the field of human rights. His delegation recognized the importance of an extensive system of international bodies dealing with the promotion of human rights in accordance with the Charter; that system included the Special Committee against Apartheid, the Special Committee on Decolonization and the United Nations Council for Namibia. The basis for the future work of the United Nations with respect to human rights questions was set forth in General Assembly resolution 32/130.

27. Although much remained to be done, a long list of rights had already been recognized, including the right of colonial countries and peoples to self-determination and independence, the right to development and the right to live in peace and security. A seminar on the relations existing between human rights, peace and development had been held in July 1981; it had been a most welcome event, since respect for human rights and fundamental freedoms was feasible only in conditions of peace, international security and understanding among peoples. The safeguarding of the right to life was particularly essential in times when international peace and security were endangered. All efforts aimed at the lessening of tension and the consolidation of peaceful coexistence promoted respect for human rights.

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(Mr. Garvalov, Bulgaria)

28. Since the adoption of General Assembly resolution 32/130, the Commission on Human Rights, whose members included the People's Republic of Bulgaria, had performed some extremely intensive work. In resolution 23 (XXXVII) the Commission noted with satisfaction the various interesting ideas which merited further study. The first referred to the role of the Commission itself, as the main intergovernmental organ in the field of human rights. An important precondition for the efficient work of that organ was its ability to focus on the basic questions relating to the promotion of the effective enjoyment of human rights and fundamental freedoms and not to be distracted by minor or secondary issues. One of the ways of solving that problem was to review and extend the mandate of the Commission, as established in 1946. An important first step in that direction was Economic and Social Council resolution 1979/36, which provided that the Commission, in addition to its existing terms of reference, would assist the Economic and Social Council in the co-ordination of activities concerning human rights in the United Nations system and reaffirmed that the Economic and Social Council, through the Commission on Human Rights, was the only United Nations organ for the co-ordination of human rights activities. By strengthening the Commission and giving it the necessary powers, the Council's decision improved the effectiveness of the United Nations system as a whole, since the Commission was composed of delegations representing Member States elected on the basis of equitable geographical distribution.

29. Commission resolution 22 (XXV) and Council resolution 1979/36 had provided for an improvement in the work of the Commission: its composition had been enlarged, its session extended and its mandate supplemented. Although there remained some interesting ideas to be discussed, such as the drafting of a long-term programme of work on the problems of using the results of scientific and technological progress in the interest of strengthening the peace and security and promoting respect for human rights and fundamental freedoms, the adverse consequences for human rights resulting from activities of transnational corporations, the international dimensions of the right to development, the rights of the child and of youth, and the right to education and work. An important point was the fact that resolution 22 (XXV) had been adopted by consensus, which had extremely important consequences for the effectiveness of treaty co-operation in the field of human rights in the United Nations system.

30. His delegation considered that the existing organizational structure for human rights was satisfactory, although measures to enable both the Economic and Social Council and the Commission on Human Rights to function more effectively should be contemplated. It was doubtful whether any new organ, especially an administrative one, could impart greater effectiveness to United Nations activities for the promotion of human rights.

31. In recent years there had been a great deal of discussion concerning the possibility of creating a post of United Nations High Commissioner for Human Rights. Such a post, which would be basically administrative in character, had not yet been established owing to a lack of consensus among Member States. His delegation had firmly opposed the idea and continued to do so.

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(Mr. Garvalov, Bulgaria)

32. In accordance with Article 1, paragraph 3 and Articles 55 and 56 of the United Nations Charter, international co-operation was necessary in order to promote and encourage respect for human rights and fundamental freedoms. However, it was obvious that the idea of a United Nations Commissioner for Human Rights did not meet that basic requirements, as was evidenced by the lack of consensus on that issue.

33. An administrative post of that type in the United Nations Secretariat could not be effective when many Member States considered that there was a contradiction between the ends for which the post would be created and the specifics of the mandate to be entrusted to it. The lack of effectiveness of such a post would stem not only from lack of co-operation on the part of Member States but also from the basic functions contemplated for the post. It was unrealistic to imagine that a single man could cope with the vast number of issues concerning human rights which at present were dealt with by various United Nations bodies composed of Member States or experts. As far as human rights were concerned, it was just not possible for one person to act on behalf of all States Members of the United Nations. The same was true of the problems raised by the right to development and the new category of human rights, which included the right to peace, the right to life and other rights closely linked to the international situation and the future of the world. The observance of those rights lay within the purview of sovereign States. Only if questions of that kind were discussed by the organs of the United Nations in which Member States were represented would the right of sovereignty of Member States remain unimpaired.

34. A High Commissioner for Human Rights such as the one envisaged could do no more than offer his good offices to help Member States in the implementation of their internal policies with respect to human rights. However, in the opinion of the Bulgarian delegation, good offices were an exclusive prerogative of the Secretary-General. Moreover, co-operation between Member States and the existing United Nations organs was the only truly effective co-operation in the field of human rights.

35. In recent times, different interpretations had been given of the type of functions to be assigned to the post. The functions proposed at first had been completely changed when it had become obvious that they would duplicate the functions performed by other United Nations organs. Subsequently, there had been new parameters and different interpretations of the functions. That appeared to confirm the legitimate apprehensions of Member States that, after all, the post was designed to perform other functions.

36. In theory, the post would serve as an instrument for evaluating the extent to which Member States observed and promoted human rights and fundamental freedoms. Many Member States suspected that such power would give rise to interference in the internal affairs of sovereign States. Prior to the establishment of the Human Rights Committee, the creation of a post of High Commissioner had been requested to review the extent to which States Parties were complying with the International Covenants on Human Rights. The Human Rights Committee was now well established and

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(Mr. Garvalov, Bulgaria)

was working. Consequently, the fact that the idea of a United Nations High Commissioner for Human Rights had not been abandoned appeared to confirm the apprehensions of some Member States.

37. He urged the Committee not to adopt measures that would constitute interference in the work of the Commission on Human Rights, which was engaged in an over-all analysis of the ways and means of improving the effective enjoyment of human rights and fundamental freedoms.

38. Ms. RASI (Finland) said that many of the problems of the modern world were basically human rights problems. Disregard of elementary human rights was the cause not only of intolerable human suffering but also of international tensions.

39. It was pertinent to recall that the United Nations Charter reaffirmed faith in fundamental human rights and in the dignity and worth of the human person and also defined a concept of peace which implicitly included the promotion of human rights. There was thus a direct relationship between peace, security and prosperity in the world and respect for human rights and fundamental freedoms. Full realization of human rights had also been recognized, in the Final Act of the Conference on Security and Co-operation in Europe, as an important part of international security.

40. Economic, social and cultural rights were just as important as civil and political rights, as recognized in the two International Covenants on Human Rights. Both categories of rights should be developed equally. As far as the right to development was concerned, true development could take place only when the human rights of all citizens were respected, without discrimination, and when all human rights, both civil and political and economic, social and cultural, were respected equally.

41. In recent decades, the States Members of the United Nations had in general reached a significant degree of agreement on the formulation of human rights norms so that, as a result, the codification and standard-setting process was already fairly advanced. However, further action was necessary to complement and strengthen existing instruments, and it was to be hoped that, at its next meeting, the Committee would adopt the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

42. Although there already existed a considerable body of international human rights instruments, the international machinery for the implementation of those rights and freedoms was inadequate; hence the need to create an effective system which would safeguard individuals against the violation of their human rights and fundamental freedoms. It was essential for all States which had not yet done so to become parties to the International Covenants on Human Rights as well as to the Optional Protocol to the International Covenant on Civil and Political Rights, and to make the declaration provided for in article 41 of that Covenant.

43. Her delegation believed that all States could undertake the obligations set out in the Covenants, regardless of the stage of economic development that they

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(Ms. Rasi, Finland)

had reached. However, even those countries which did not wish to ratify the Covenants and other human rights instruments should remember that they had, as Members of the United Nations, pledged themselves to promote the enjoyment of human rights and fundamental freedoms.

44. Lastly, the dissemination of information on human rights played an important role and, in that context, the active and constructive work of the non-governmental organizations at both national and international levels should not be forgotten.

45. Mr. TER HARK (Netherlands) said that the search for alternative approaches and ways and means should not distract attention from conventional approaches or, in other words, those based on the impressive list of human rights instruments. Those instruments should receive universal ratification. At the same time it was important to continue to elaborate general norms in more detailed conventions. The process of elaborating a separate chapter of international law, namely, international human rights law, should not be allowed to obscure the difficulties which the drafting of new human rights instruments would encounter, owing to the existence of divergent views on such instruments and to the fact that drafting took place in bodies which had also to deal with other problems. It would be more practical to entrust the task of drafting the preliminary text of a new human rights instrument to a small group of experts.

46. The suggestions which his delegation had made the previous year concerning the possibility that the Bureau of the Commission on Human Rights might deal with gross violations of human rights in intersessional meetings, and also that emergency sessions might be held were still valid. For a number of years, the United Nations had been discussing the establishment of a post of High Commissioner for Human Rights. Some delegations continued to oppose that idea on the grounds that views differed as to the mandate of the High Commissioner. However, once agreement had been reached on the principle of creating the post of High Commissioner, it should be possible to agree on the mandate. His delegation would be gratified to see the highest priority being given to the matter and hoped that a report on the establishment of such a post of High Commissioner would be submitted to the General Assembly at its thirty-seventh session.

47. In its resolution 12 (XXXIV) adopted in September 1981, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had informed the Commission on Human Rights that, in its view, the establishment of a post of High Commissioner for Human Rights would be highly valuable in advancing the promotion and protection of human rights in the world.

48. General Assembly resolution 35/174 requested the Secretary-General to hold a seminar on the relations that existed between human rights, peace and development. That Seminar had been held at Headquarters in August 1981 and its report was contained in document ST/HR/SER.A/10. His delegation had not participated in the Seminar, but would like to comment on some of its conclusions and recommendations. The first conclusion rightly stated that "the absence of peace, or the achievement of development by a people, could never exempt a State from its obligation to ensure respect for the human rights of its nationals and of the persons residing in its territory". In recent years the General Assembly had adopted resolutions

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(Mr. Ter Hark, Netherlands)

in which it was stated that the establishment of the new international economic order was an essential element for the effective promotion of human rights and fundamental freedoms. His country agreed with that principle, but did not accept that respect for human rights was dependent on the achievement of development. There were human rights and fundamental freedoms that could never be derogated from, even in situations of underdevelopment.

49. Conclusion 4, which stated that the promotion and protection of human rights ought to be clearly emphasized in the relevant international instruments dealing with development strategies and programmes, was also of great importance. Equally important were conclusion 8 (e), which requested that during the periodic assessments of the results of the Third Development Decade the human rights aspect should be given greater attention, and conclusion 6, which declared that people were entitled to information about the military policies and programmes of their Governments and their implications. Halting the arms race would release considerable resources which could be used for development purposes, and the protection of human rights would benefit thereby.

50. Mrs. MORRISON (Lesotho) said that she wished to make two observations on the relationship between human rights, peace and development. In the first place, the vision evoked by the term "development" was not that of a world order in which a tiny minority wallowed in affluence while much of the world's population struggled to scratch a living. In the second place, the word "peace" did not imply a world situation characterized by the absence of active hostilities, but none the less dominated by the arms race.

51. In the light of those observations, she fully endorsed the conclusion reached by the Seminar held at Headquarters (ST/HR/SER.A/10), that "human rights, peace and development were interdependent and the fostering of one promoted the enhancement of the others. The absence of peace, or the achievement of development by a people, could never exempt a State from its obligation to ensure respect for the human rights of its nationals and of the persons residing in its territory."

52. In June 1981, the Organization of African Unity had adopted a Charter on Human and Peoples' Rights, a landmark in Africa's contribution to human rights. Her country was happy to be associated with that Charter and wished to thank the Government of the Gambia for the assistance which it had rendered towards making the Charter a reality.

53. During the debate on agenda item 79 at previous sessions, a number of fears had been expressed with respect to the proposals to improve the effective enjoyment of human rights and fundamental freedoms, and especially the proposal to establish a post of High Commissioner for Human Rights. It had been said that the creation of the post would result in interference in the internal affairs of Member States. That did not seem possible, since the High Commissioner would be bound by the United Nations Charter. It had also been said that the High Commissioner would behave like a sort of "international policeman". Her country did not believe that the post of High Commissioner could be conceived of in such

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(Mrs. Morrison, Lesotho)

a way. Further, it had been said that the United Nations was already equipped to handle human rights problems. If that were so, why did the need to find alternative approaches and ways and means for improving the effective enjoyment of human rights continue to be felt?

54. The Seminar on the Relations that Exist Between Human Rights, Peace and Development had recognized, as one of the basic elements of the concept of development, that the human person must be able to participate fully in shaping his own reality. But that element had not materialized. Her delegation wanted to see it do so, and accordingly welcomed the Committee's work on agenda item 79. It also shared the conviction of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expressed in its resolution 12 (XXXIV), that the violations of human rights occurring in many parts of the world required urgent action by the United Nations, including the establishment of a post of High Commissioner for Human Rights, and also the conviction expressed by OAU in its African Charter on Human and Peoples' Rights that civil and political rights could not be dissociated from economic, social and cultural rights.

55. Mr. FURLAND (United Kingdom), speaking on behalf of the European Economic Community (EEC), said that the standards established by the United Nations would not suffice if there were not procedures to ensure that they were implemented. Some procedures already existed, notably within the framework of the International Covenants. Equal importance attached to the role of the Secretary-General and the Commission on Human Rights. But those procedures were not sufficient. He regretted that it had not been possible at the 1981 session of the Commission on Human Rights to establish new procedures to deal with violations of human rights.

56. One of the most serious deficiencies was the lack of procedures for intersessional action. The appointment of a High Commissioner for Human Rights would be an effective way of helping the Secretary-General in that area. The EEC member States welcomed the adoption by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities of a resolution informing the Commission that the establishment of a post of High Commissioner for Human Rights would advance the promotion and protection of human rights. The EEC member States had noted with interest the Secretary-General's report on the intersessional activities of the Commission on Human Rights and its Bureau.

57. One body which had an important role to play in the promotion and protection of human rights was the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities. The EEC member States welcomed the adoption of resolution 17 (XXXVII) by the Commission on Human Rights, deciding to allocate high priority to the Sub-Commission's reports, and particularly to its recommendations.

58. The States members of EEC also attached importance to the redesignation of the Division of Human Rights as a Centre, as requested in General Assembly resolutions 34/47 and 35/194. Lastly, as non-governmental organizations were not subject to the same constraints in their activities as Governments, or as the United Nations, the unique contribution of those organizations to the debate should be welcomed, and they should be helped to perform their role more effectively.

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59. Miss WELLS (Australia) said it was evident that there had been three different approaches to the subject: how to conceptualize human rights, what structural and procedural measures could be taken to ensure better implementation of human rights standards, and to what extent were changes in existing conditions necessary for the full realization of human rights.

60. In accordance with General Assembly resolution 32/130 on the indivisibility and interdependence of all human rights and fundamental freedoms, human rights questions should be examined globally, with regard for the over-all context of the societies in which they were present and the need for the promotion of the full dignity of the human person and the development and well-being of the society. Implicit in that proposition was the understanding that a dynamic relationship existed between the understanding of human rights standards and their implementation. In the years following the adoption of resolution 32/130, that implication had been reflected in the fact that the right to development had come to be regarded as a human right and that a working group on the subject had been established.

61. Another approach followed under the item was to advance proposals for strengthening United Nations programmes and procedures directed to dealing with widespread violations of human rights of individuals and peoples. Australia had supported various proposals to that end, including the establishment of a High Commissioner for Human Rights or a senior official in the United Nations system to work in that area, the promotion of the good offices of the Secretary-General, the establishment of an intersessional role for the Bureau of the Commission of Human Rights, the upgrading of the Division of Human Rights into a Centre, etc..

62. The third approach was to determine how far the existing international, regional and national conditions adversely affected the realization of human rights. The report in document A/36/462, on present international conditions and human rights, deserved careful study. Her delegation agreed with the comment in the report that consideration for human rights was at the core of the international order envisaged in the United Nations Charter. However, it would have been better if the document had reflected a keener appreciation of the ways in which specific situations could be adverse for the realization of the human rights of individuals or peoples. For example, it was stated in paragraphs 66 and 67 of the report that various forms of coercion directed against the sovereignty, political independence or territorial integrity of States had been used with increasing frequency, and that those manifestations prevented individuals and peoples that were their victims from participating on a basis of equality in the making of decisions that affected their daily lives, thus depriving them of their essential human dignity. If it was possible to study in greater detail the situations referred to in those two paragraphs, considerable progress might be made in understanding how human rights were violated. Further reports on the subject should be prepared.

63. She endorsed the general conclusion of the report that the General Assembly should consider ways in which awareness of the human rights dimensions of the great issues confronting the United Nations could be heightened. It would be appropriate to undertake periodic reviews of the world human rights situation; however, it should be emphasized that it was not sufficient in the context of human rights debates to talk about the need for a new international economic order, or

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(Miss Wells, Australia)

the need to curb the arms race, simply because those were important issues on the international agenda. What the Committee must do was to examine the human rights dimension of those issues and work to have those questions considered in other forums.

64. The three basic approaches referred to were duly reflected in the Seminar held in 1980 on human rights, development and peace. Her delegation, which had been represented at the Seminar, recognized the value of its conclusions and recommendations. She wished to underline the basic premise of the Seminar, that peace was a relationship, development a process, and human rights a normative entitlement derived from a set of norms found in the Universal Declaration of Human Rights. One important result of the Seminar, reflected in its conclusions and recommendations, was that it was possible to examine critically the meaning of the international human rights standards without detracting from their universality. To acknowledge that there were universal standards did not mean that those standards should be systematically implemented in the same way and always judged by the same criteria. The need was not to homogenize the political, economic and cultural diversity of the countries of the world, but to find ways of co-operating to alleviate human suffering.

The meeting rose at 5.30 p.m.