



SUMMARY RECORD OF THE 38th MEETING

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later: Mr. O'DONOVAN (Ireland)

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

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 (continued) (A/36/3/Add.23 (Part I) and A/36/116 and Corr.1 (English, French and Spanish only); A/C.3/36/2)

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(b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL

1. Mr. GRESHMAN (United States of America) said that the development of all the peoples of the world was one of the great moral, political and economic causes of the modern era. His delegation believed that it was necessary to attach high moral, political and economic priority to the acceleration of the development process, especially among the poorest nations.

2. Secondly, the concept of development was complex; it went far beyond material and economic matters and included the full flowering of spiritual life and the growth of liberty. The paths of development were many and depended on national cultures and traditions. For that reason, development did not mean homogenization, but rather included rich possibilities for diversity. What

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mattered was that citizens consented to the form of development through which such choices were made. In that connexion, emphasis should be placed on the role of diversity within development. One of the advantages of democracy as a form of government and of capitalism as a form of economy was that both allowed great scope to cultural pluralism, both within and among nations.

3. Thirdly, there was a practical question: since the Second World War, more than 100 new nations had come into existence. That meant that the world had seen more than 100 different experiments in political economy. Every nation wished to develop, and development was not a matter of ideology but of experiment. In that context, the importance of a relatively independent market economy should be stressed. From an economic point of view, development increased the quantity of goods and services available to the peoples of the world. The greater the number of economically active persons in the world, the larger the markets of the world became and, in that sense, the growing prosperity of each poor nation benefited all nations. Development could not be achieved by State officials, only by the people, and if people were given the opportunity, then development would follow.

4. Mr. SMYK (Poland) said that the problem of improving effective enjoyment of human rights and fundamental freedoms should be viewed from a historical perspective. Since the establishment of the Commission on Human Rights in 1946 and the adoption of the Universal Declaration of Human Rights in 1948, the increase in the importance attached to human rights had become evident. However, the situation in that respect was far from satisfactory. International action could not be effective if human rights questions were the subject of propaganda and political campaigns to the detriment of the spirit of international co-operation for the promotion and implementation of human rights. It was necessary to strike a balance between commitment to the ideals of human rights and scrupulous avoidance of any violation of the sovereign rights of States. That was a delicate area of United Nations responsibility.

5. Obviously, the United Nations had an important role to play in the protection and promotion of human rights as it was the unique international forum for the formulation of international instruments and the reflection of the human rights situation in different parts of the world. It should be emphasized that a simplification of the work of the international organizations concerned with human rights would suffice to ensure that present procedures functioned more effectively.

6. Another important element of the items under consideration was that the United Nations could not replace States in the promotion and protection of human rights. However, it could and should harmonize future actions with a

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view to establishing, adopting and giving global effect to international instruments in the field of human rights, which should be treated in an integrated manner because they were indivisible. In that connexion, recent years had witnessed the birth of a new generation of human rights, referred to as solidarity rights, such as the right to peace and the right to development. Poland was following with keen interest the work of the Commission on Human Rights on the right to development.

7. The obligation of all States to observe the principles of the Charter of the United Nations was fundamental for achieving international co-operation in promoting universal respect for human rights. Such co-operation should be based on a profound understanding of the variety of problems existing in different societies and on full respect for their respective political, economic, social and cultural situations. The most important thing was for Member States to ratify or accede to international instruments in the field of human rights. If that was achieved, there would be no need to search for alternative approaches or mechanisms, but only to ensure the proper functioning of the present international mechanisms in the field of human rights.

8. Mr. TRUCCO (Chile) said that his delegation attached special importance to items 73 and 79 because they underlined the need to find more effective means for improving the enjoyment and exercise of human rights, and he had already drawn attention to the shortcomings in the United Nations system in that field. The General Assembly had been formulating various declarations and conventions which, in addition to codifying substantive standards, had also laid down procedures of a legal character for their implementation. Difficulties had arisen in connexion with the procedures which impaired the effectiveness and prestige of the systems that had been established. The proliferation of substantive principles and provisions had not been accompanied by a parallel systematization of the procedures, with the result that there were gaps in the current regulations. The reason for those shortcomings was that a dozen or so international agencies and subsidiary bodies of the United Nations had been given responsibilities in the field of human rights. Some countries, such as Chile, had found themselves subjected to the simultaneous jurisdiction of several different bodies.

9. That situation was aggravated by the lack of general rules of procedure owing to political motivations. As a result, today the procedures were chaotic; bodies were given overlapping responsibilities and had different general procedures, as could be seen from Economic and Social Council resolution 1503 (XLVIII). That was all due to the growing politicization of the bodies responsible for ensuring the enjoyment of human rights which were concerned

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about the situation in some parts of the world and unconcerned about what took place in others. Latin America had been selected as the central area for United Nations concern about human rights while the serious violations occurred in other regions of the world. That might be contributing to the United Nations' increasing loss of prestige and to the distrust felt for the existing systems for the protection of human rights.

10. He wished to emphasize the need to purge the question of human rights from all the factors which were not related to it, and in order to do so, all that was needed was to go back to the origins of the United Nations, to its basic principles and to its Charter. When revisions were made to existing procedures, due consideration must be given to fundamental principles such as the equality of States before the law, non-intervention in the internal affairs of States and co-operation between States and the United Nations, the last-named essential for the effective enjoyment of human rights. However, if that was to be achieved, States must not be accused or harassed, but should feel that there was effective international co-operation to ensure the effective enjoyment of human rights.

11. The United Nations system for the protection of human rights required a radical overhaul and not simple changes such as those under study in the Commission on Human Rights. His delegation did not believe that there could be an efficient and just procedure to regulate the observance of human rights that was not subject to the basic rules governing a just process. Every procedure relating to human rights should consider the following points: (1) Well-defined areas of competence must be established; (2) there must be rules that determine the agency competent in each area; (3) a matter must not be raised in one body when it had already been decided in another; (4) all organs must impose the same requirements for the admission of complaints; (5) there must be precise rules governing the action of States, non-governmental organizations and individuals; (6) references to the fundamental principles of the United Nations Charter and general principles of law must be precisely formulated; (7) consideration must be given to the desirability of including rules for dealing rapidly and effectively with cases of grave violations, such as the armed invasion of territories, or genocide; and (8) rules for reaching a decision on matters that had already been dealt with must be established or improved.

12. Such sensitive questions as those he had mentioned could not be left to the judgment of a political organ such as the Commission on Human Rights. His delegation therefore supported the Costa Rican initiative for establishing a post of High Commissioner for Human Rights on the basis solely of humanitarian considerations. The example of the United Nations High Commissioner for Refugees was worthy of imitation.

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13. Mr. O'Donovan (Ireland) resumed the Chair.

14. Mr. MARTINI URDANETA (Venezuela) reaffirmed his delgation's support for United Nations efforts to promote the observance of human rights. As was made clear in the United Nations Charter itself, the Organization had been given a universal mandate to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. That support had been declared by the President of Venezuela in a statement at the current thirty-sixth session of the General Assembly.

15. Venezuela maintained two basic principles in its foreign policy: respect for human rights and fundamental freedoms, and their full realization under democratic Governments. Those two principles gave Venezuela confidence in the task assigned to the United Nations. That task of protecting human rights was one of the most important tasks of the United Nations, especially when flagrant violations of human rights could be observed every day, a fact which had prompted the President of Venezuela to affirm that political persecution, racial discrimination, religious intolerance and genocide were increasing and that there was no effective means for putting a stop to them.

16. In document A/36/462 it was stated that many of the problems confronting the United Nations, such as disarmament, peace, the establishment of a new international economic order and development were directly related to the effective enjoyment of human rights. But, as was observed in the medium-term plan for the period 1980-1983, together with a new international economic order, United Nations must work in a "new social and humanitarian order" in which human rights and the rights of peoples were respected.

17. It was disturbing that some countries considered the problem of international peace and security not from the standpoint of mankind but from the standpoint of the arms race. Human beings must be made the principal subject of relations between States, and in that way it would be possible to build a more just, equitable, dignified and humane society. Venezuela agreed with the idea of creating new types of machinery which would help to ensure the effective observance of human rights and fundamental freedoms, as well as the idea of improving the existing machinery. He expressed satisfaction at the work being done by the Commission on Human Rights but felt concern at its adaptation to the problems of the new rights and freedoms that had arisen, such as trade-union freedom, the right to peace, the right to development and the right to a healthy environment and their application to new types of violation of human rights and fundamental freedoms, such as the drug traffic. It was an inescapable imperative that the Commission on Human Rights must restructure its operating machinery at the institutional level and should study the

possibility of holding special sessions. It did not seem rational that the Commission should meet only once a year. There was a six-month gap between the session of the Commission on Human Rights and the convening of the General Assembly, and that gap must be filled by means of a mechanism that would guarantee monitoring of the violations of human rights. His delegation considered it a useful idea to hold regular meetings of the Bureau between sessions. Similarly, Venezuela welcomed the proposal to create a post of High Commissioner for Human Rights and hoped that the General Assembly would take positive steps in that direction during its current session.

18. The tasks of information and dissemination of facts relating to human rights should be reviewed in depth. Furthermore, the United Nations should increase its efforts to educate people about human rights. Lastly, international co-operation aimed at promoting and intensifying the international exchange of experience acquired in the realization of human rights was a fundamental factor for the attainment of the effective exercise of human rights and fundamental freedoms.

19. Mr. GIUSTETTI (France) recalled that General Assembly resolution 35/174 contained two provisions relating to the right to development and to the overall analysis with a view to further promoting and improving human rights and fundamental freedoms. Although those two provisions were of equal importance, the consequences they had produced had been unequal.

20. With regard to the right to development, the results achieved could be considered reasonably satisfactory. The Commission on Human Rights had recognized the right to development as a human right and had established a working group to prepare a declaration on that right.

21. With regard to other ways and means for improving the effective enjoyment of human rights and fundamental freedoms, the results were meagre. Perhaps the fact that the working group created to consider those ways and means had not been able to submit any proposals to the Commission was due precisely to the abundance of proposals and ideas put forth by delegations. In his delegation's view, that working group should concern itself with defining the main lines of those proposals and ideas at the very beginning of its next session. He expressed interest in the Australian delegation's suggestion that the working group should begin with an exchange of views. After that, the Chairman could submit a document stating the questions of greatest interest, in order to fix priorities. That document should not contain merely an enumeration of possible measures but a methodical recapitulation of the various sectors in which an investigation of new ways and means should be conducted: the Secretariat, the mandate of the Commission on Human Rights, its operation, and lastly, its actual work of promoting and protecting human rights and coordinating functions in that sphere.

22. With regard to the improvement of the Commission's operation, he suggested that instead of holding an single long session, the Commission should hold two regular sessions every year. That would help to ease and simplify the work of the Commission's Bureau during the period between sessions.

23. The Commission's programme of work should relate basically to the protection of human rights and the co-ordination of human activity in that sphere. In matters relating to the protection of those rights, it was desirable, first of all, that the Commission should make full use of the procedures referred to in Economic and Social Council resolution 1503 (XLVIII) and, above all, apply the provisions of paragraph 6 of that document to cases of systematic violation of human rights. That would make it possible to conduct a public investigation when the confidential procedure had proved fruitless. In that connexion, it would also be desirable for the Commission to make a precise determination of the requisites for directly submitting to public investigation a situation of systematic violation of human rights.

24. The protection of human rights required that competent international authorities should be able to monitor the observance of international instruments by States. To make those measures effective, it was necessary to establish a set of rules which were flexible, precise and accepted by all States and which could be applied to any of them.

25. With regard to the harmonization of the human-rights functions of the various organs of the United Nations, he said that the Commission on Human Rights should be able to take initiatives for the protection of those rights. In that case, the General Assembly and the Economic and Social Council would exercise the functions of supervision over and general guidance of the Commission's work.

27. There were various independent procedures for the protection of human rights, and their purpose was identical. There was a need to consider the possibility of co-operation among the various bodies in order to avoid duplication of effort through the exchange of information. The Secretary-General's report provided the basis for the broad study needed. In that study, it would be necessary to determine whether a question entailed duplication through having previously been the subject of a decision by a competent international organ. In addition, an order of priority should be established among the various organs having competence in the same case.

27. In his delegation's view, establishment of the post of High Commissioner for Human Rights would be an appropriate step, although the person who occupied such a post could fully discharge his functions only if he enjoyed the broad

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support of the international community. As to the question of establishing bodies entrusted with fact-finding missions, to which General Assembly resolution 35/176 referred, his delegation considered that it might be useful to establish a similar procedure to that laid down in Economic and Social Council resolution 1503 (XLVIII), in order to avoid unwarranted selectivity. Lastly, his delegation supported any international measure aimed at stimulating public interest in the promotion and protection of human rights, in accordance with resolution 24 (XXXVII) of the Commission on Human Rights.

28. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that the promotion of and respect for human rights and fundamental freedoms could be achieved only if the purposes for which the United Nations had been founded, as embodied in Article 1 of the Charter, were fulfilled.

29. Significant advances had been made in that field, owing to the overthrow of the colonial system and consolidation of freedom-loving forces. If all Member States respected the Charter and strictly implemented all international legal instruments adopted by the United Nations and its competent bodies in the field of human rights, the enjoyment of human rights could be enhanced to the appropriate level. In that regard, his country played an active part in the furtherance of human rights at the international level.

30. The new measures for enhancing United Nations human rights activities included the broadening of the powers of the Commission on Human Rights, as provided for in Economic and Social Council resolution 1979/36. He also noted that the working group of the Commission was conducting a general analysis of activities and was co-ordinating them, while at the same time preparing a long-term programme of work. In resolution 23 (XXXVII), the Commission on Human Rights had decided to continue its ongoing work with the view to further promotion and encouragement of human rights, including the question of its programme and methods of work and the question of alternative approaches. In that regard it should be pointed out that the Commission's work was in full swing and that it would be inappropriate to entrust the Commission with new tasks until it had concluded those in which it was currently engaged, particularly the preparation of its long-term programme.

31. That did not mean that the elaboration of new international instruments was confined to the Commission on Human Rights. For example, at the thirty-fourth session, the General Assembly had adopted the Convention on the Elimination of All Forms of Discrimination against Women. At the current session, the Third Committee alone had two working groups each of which was drafting a human rights instrument. However, participation in the drafting of new legal instruments did not provide exemption from the need to accede to or

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ratify existing human rights instruments. In that regard, there would be no grounds for requesting the United Nations to adopt the necessary specific measures for the realization of human rights, a matter which was the exclusive responsibility of Member States.

32. In the activities related to human rights, priority should be given to measures aimed at eliminating massive and flagrant violations of human rights and at creating the conditions necessary for the realization of human rights. He noted that the Secretary-General's report (A/36/462) enumerated some of the main obstacles to the realization of human rights, which included, in addition to apartheid, racism and colonialism, the unjust systems of international relations and the escalating arms race. It was necessary to reiterate the need to eliminate massive and flagrant violations if human rights agreements and covenants were to be fully implemented. More attention should also be given to the activities of transnational corporations and international monopolies in the context of economic, social and cultural rights and to the consequences of scientific and technological developments.

33. Effective enjoyment of human rights was possible only in conditions of lasting peace and international security and, in that context, the right to life and to peace was the most important right. The existing international system of co-operation among States for promoting respect for human rights conformed in general to what was needed, but the structure of United Nations human rights organs was characterized by unnecessary links and by an increase in the setting up of new working groups, groups of experts, and other bodies which hampered the operation of the system originally envisaged by the Organization in the human rights field. In order to improve that situation, it was necessary to remove the superfluous links in the chain. The correct system would be for the violations of human rights to be dealt with by organs or forums consisting of representatives of Member States.

34. He regretted the question of the post of United Nations High Commissioner for Human Rights had been raised. It was necessary to repeat that, in addition to diverting attention from really important problems, the proposal High Commissioner could not promote the strengthening of international co-operation in the human rights field. On the contrary, his existence would benefit only those who intervened in the internal affairs of Member States which had different political concepts and social systems, and those States which had not signed or at least had not ratified United Nations human rights instruments. Questions arose as to which rules would govern relations between the High Commissioner and such bodies and the Commission on Human Rights and the General Assembly, which organs would supply information, how his activities

will be controlled, the role that he would play in the struggle against human right violations arising from racism, apartheid, colonialism, and so on. In that regard, it was somewhat strange that, among the possible activities of the High Commissioner, no mention was made of southern Africa.

35. The Byelorussian SSR supported international co-operation in the field of human rights, which were upheld in its own Constitution, with a view to ensuring co-operation among States and guaranteeing the fundamental rights of mankind so that such measures could be applied in the promotion of international peace and security.

36. Mr. BA (Mauritania) said that the right of peoples to freedom and self-determination and to be masters of their own destiny was a sacred and inalienable principle. It was clear that the South African racist regime and the Zionist entity did not hold that view, since they continued to deny to the South African, Namibian and Palestinian peoples the most elementary rights to life and human dignity. His delegation therefore wished to reiterate its appeal that those regimes should be fought by all means available to the international community.

37. Economic and social development, international peace and security and human rights were all interdependent. Consequently, any positive or negative action taken with regard to one of those aspects had inevitable repercussions on the others. The African Charter on Human and Peoples' Rights, adopted by the Assembly of Heads of State and Government of the Organization of African Unity in June 1981, reflected the importance which the African peoples had always attached to that question. More than a century of colonial rule, added to the negative consequences now arising from an unbalanced international economic system, had provided Africans with a practical understanding of the concept of human rights.

38. His delegation stressed the importance of individual and fundamental freedoms and of freedom of expression and of information for both the political and the military activities of Governments. The arms race, the militarization of the economy in some countries, preparations for war, and regional and inter-regional conflicts were greatly hampering the social and economic development of peoples and were conducive to the violation of human rights and fundamental freedoms. Therefore, limitation of armaments and the settlement of world conflicts would be bound to contribute to respect for human rights. In that context, the role played by the United Nations and its specialized agencies in those areas was of fundamental importance. In Mauritania the State guaranteed fundamental freedoms, attached the greatest importance to the question, and was prepared to consider any aid that would help the international community to combat the economic consequences of social disparities.

39. Mr. FRAMBACH (German Democratic Republic) in connexion with the Secretary-General's report in document A/36/462 recalled that during the general debate in the Assembly his country's Minister for Foreign Affairs had said that it was necessary to intensify the struggle against the mass violation of human rights by imperialism, colonialism and fascism. That was in accordance with resolution 32/130, which was fundamental to the furthering of activities by the United Nations in the field of human rights. His country had always stressed that the preservation of peace was an indispensable prerequisite for effective respect for human rights and vice versa. The Socialist States acted in accordance with that political principle and had incorporated the question of human rights into the policy of peaceful co-existence and international co-operation. In the international arena, however, the peoples were confronted with positions taken by certain sectors of monopolist capital which used questions relating to human rights for the purposes of a foreign policy oriented towards confrontation, intervention and the arms race.

40. His delegation deemed it timely and urgent to discuss, in relation to agenda item 79, the factors which were hampering the observance of human rights and fundamental freedoms. Such a discussion would also be a step forward in the implementation of resolution 32/130. The report prepared by the Secretariat met the requirements of resolution 34/146 and had many positive aspects, but it also had its shortcomings: insufficient use was made of documents submitted by Member States and intergovernmental organizations, and the presentation of facts and interrelationships was not always balanced.

41. The arms race entailed negative consequences for the enjoyment of human rights, and it was therefore necessary to investigate its causes and determine who were its initiators in order to bring it to a halt. The arms race being promoted by imperialists was accompanied by a substantial reduction in social services in the countries concerned. The competent United Nations bodies, particularly the Commission on Human Rights, should give maximum priority to an analysis of the disastrous consequences of the arms race for the implementation of human rights and include it in a permanent agenda item. With reference to chapter V, sections D and E, of document A/36/462, he wished to add that owing to the intensification of the economic crisis of the capitalist system, the situation in the developing countries was becoming worse. At the same time, the profits of transnational corporations operating in the developing countries had risen to more than \$100 billion. In other words, for every dollar invested in the economies of those countries the corporations in question had made a net profit of \$2.40. The abolition of an unjust international economic order would be an important factor in the effective promotion of human rights, and in that connexion he welcomed the results of the Seminar on the Relations that Exist between Human Rights, Peace and Development held in August 1981.

42. With reference to the proposals made in the last part of document A/36/462, he wondered why mention had not been made of all the legal possibilities afforded by the United Nations Charter and the Human Rights Conventions for combatting violations of such rights. The solution lay not in searching for new procedures but in utilizing the possibilities already existing within the United Nations system. A number of existing conventions were aimed specifically at combating violations of human rights, among them the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on Suppression and Punishment of the Crime of Apartheid. Those Conventions must be implemented more effectively. It was likewise necessary to establish unambiguous criteria as to what was meant by systematic and mass violations of human rights. Resolution 32/130 could provide a basis for that exercise. In conclusion, he stated his opposition to proposals for the establishment of new bodies or instruments, such as a post of United Nations High Commissioner for Human Rights, which would undermine time-tested mechanisms and could be used for interfering in the internal affairs of States.

43. Mr. SAIF (United Arab Emirates) said he wondered to what extent it could be said that the existing human rights instruments had been implemented. For example, despite the efforts of the international community there were still racist groups which were convinced that they could oppress the rest of society.

44. Man was far from having achieved the realization of human rights and thereby asserting his true dignity and freedom. That would not be possible until all countries had won self-determination and national independence and until every country had been guaranteed the right to its natural resources.

45. Perhaps the gravest threat to human rights was the arms race being carried on by certain countries in an effort to gain military supremacy. The countries of the third world were devoting too much of their resources to the purchase of armaments at the expense of their economic and social development.

46. Situations characterized by flagrant violations of human rights, such as those in southern Africa and Palestine, persisted despite the innumerable condemnatory resolutions of the General Assembly. Those situations likewise violated the resolutions of the Commission on Human Rights and even the provisions of the United Nations Charter. In the view of his delegation, if the United Nations did not take decisive measures to put an end to such violations, the human rights policy of the United Nations would become a dead letter and would consist of nothing but the all too familiar condemnations that were reiterated year after year.

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AGENDA ITEM 85: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS;
REPORT OF THE SECRETARY-GENERAL (A/C.3/36/L.31, L.35 and L.40) (continued)
Draft resolution A/C.3/36/L.31

47. Mrs. DOWNING (Secretary of the Committee) announced that Chad, Colombia, Congo, Cuba, Granada, Mali, Mozambique, Nicaragua and Sierra Leone had joined the sponsors of the draft resolution.
48. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) proposed on behalf of the sponsors that in operative paragraph 2 of the draft resolution the words "in order to ensure the right to work and right to development" should be replaced by the words "in order to promote economic and social development and progress". That revision was the result of consultations among the delegations concerned.
49. Mrs. WARZAZI (Morocco) said that her delegation wished to join the sponsors of the draft resolution, taking into account both the original text and the revision presented orally by the representative of the Byelorussian SSR.
50. Mr. YUSUF (Somalia) said that the sponsors' revised text included many of the amendments which his delegation would have wished to propose. Therefore, he suggested only two minor changes: (a) that the end of paragraph 2 should read "to promote the over-all peaceful social, economic and cultural development of all countries"; and (b) that, in the penultimate preambular paragraph, the words "and social" should be inserted between the words "economic" and "development". Since a great deal had been said about peace in the relevant discussions, and since peace was to be mentioned in the preamble of the draft, the inclusion of the word "peaceful" in paragraph 2 would make the text more consistent. The insertion of the word "social" in the preamble would indicate that the objective of the draft was not limited to economic development.
51. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that the delegations sponsoring the draft would have no objection to accepting the suggestion made by the representative of Somalia in connexion with the penultimate preambular paragraph and the reference to "cultural development" in paragraph 2. As to the other suggestions made by the representative of Somalia, he appealed to him to display good will and to accept the sponsors' wording, since it reflected the consensus reached by the delegations that had participated in the relevant consultations.
52. Mr. YUSUF (Somalia) expressed appreciation for the acceptance of his suggestion concerning the penultimate preambular paragraph. As to paragraph 2 of the draft, as he understood it, only the inclusion of the word "cultural"

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had been accepted, and the other suggestions had been omitted. He stressed that at least the reference to peace should be accepted, mainly so that there would be no doubt that scientific and technological progress should be used exclusively for peaceful purposes.

53. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that, in his opinion, the idea to which the representative of Somalia was referring was implicit in the draft. However, the sponsors had no difficulty in accepting the insertion of the word "peaceful" in paragraph 2 of the draft resolution.

54. The CHAIRMAN said that there appeared to be agreement on the following wording of paragraph 2 of the draft: "Calls upon all States to make every effort to use the achievements of science and technology in order to promote peaceful social, economic and cultural development and progress;".

55. A vote was taken on draft resolution A/C.3/36/L.31, as orally revised.

56. Draft resolution A/C.3/36/L.31, as orally revised, was adopted by 116 votes to none, with 25 abstentions.

Draft resolution A/C.3/36/L.32

57. Mr. RANGASHARI (India) thanked the sponsors of the draft for the far-reaching consultations held in that connexion and for having included in the text several of the suggestions put forward by delegations. However, he felt that the wording of the third preambular paragraph as it now stood could create problems because of the very general reference to reports from several parts of the world. He therefore suggested that the text of that paragraph should be replaced by the following: "Convinced that detention of persons in mental institutions or account of their political views and on other non-medical grounds is a violation of their human rights". He added that the purpose of the revised text was to formulate a declaration of principles and, accordingly, there was no reason why the Committee could not adopt the text without a vote.

58. Mr. FURSLAND (United Kingdom) stressed that the formulation of the draft was the result of lengthy consultations in which a marked spirit of co-operation had prevailed, and said that the sponsors were willing to accept the amendment put forward by the delegation of India.

59. Mrs. DOWNING (Secretary of the Committee) announced that the Gambia had joined the list of sponsors of the draft resolution.

60. The CHAIRMAN said that, if he heard no objections, he would take it that the Committee wished to adopt draft resolution A/C.3/36/L.32, as revised, without a vote.

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61. It was so decided.

Draft decision A/C.3/36/L.35

62. Mr. GIUSTETTI (France), recalling that his delegation had submitted draft decision A/C.3/36/L.35, said that the financial implications of that decision were set forth in document A/C.3/36/L.40. He would like to make a minor revision in the operative paragraph of the draft, (a) inserting the words "using the available resources" between the words "to prepare" and the words "In the various working languages"; and (b) inserting the words "and other pertinent resolutions" after the words "resolution 2450 (XXIII)" (penultimate line).

63. Mr. WALKATE (Netherlands) requested a clarification in connexion with document A/C.3/36/L.40, since it was difficult to understand why, according to the English version, translation and publication were to be limited to three languages. Even if fewer copies were published in other languages, his delegation felt that United Nations documents should be issued in all the languages of the Organization.

64. Mrs. DOWNING (Secretary of the Committee) said that, in the light of the revision made by the representative of France, the financial services responsible for the preparation of document A/C.3/36/L.40 had been consulted. Accordingly, she informed the Committee that the Secretary-General would try to absorb the costs entailed by the implementation of draft decision A/C.3/36/L.35, as revised, and that, the Committee therefore no longer needed to consider document A/C.3/36/L.40.

65. Mr. OBADI (Democratic Yemen) supported the statement made by the representative of the Netherlands and asked whether the booklet would be published in all the languages of the United Nations, including Arabic.

66. Mr. GONZALEZ de LEON (Mexico) said that, as he understood it, the words "in the various working languages of the United Nations" were not deleted in the first revision of the draft decision.

67. Mrs. WARZAZI (Morocco) said she trusted that the necessary resources would be available. In addition, she felt that a distinction should be made between "working languages" and "official languages".

68. Mr. NYAMEKE (Deputy Director, Division of Human Rights) pointed out that document A/C.3/36/L.40, containing the administrative and financial implications of the draft decision in document A/C.3/36/L.35, provided for the publication

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of the booklet in only three languages; however, if the Committee wanted it to be published in all languages, the decisions adopted should so indicate.

69. The CHAIRMAN said that, if he heard no objections, he would take it that the Committee wished to adopt the draft resolution, as revised, without a vote.

70. It was so decided.

AGENDA ITEM 86: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

Draft resolution A/C.3/36/L.14.

71. Mrs. DOWNING (Secretary of the Committee) announced that Angola, Bolivia, Chad, Democratic Yemen, the Dominican Republic, El Salvador, Equatorial Guinea, Ethiopia, the Gambia, Guinea, Guinea-Bissau, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Mali, Mozambique, Nicaragua, Rwanda, Saint Lucia, Sao Tome and Principe, Somalia, the Upper Volta, Yemen and Zimbabwe had become sponsors of the draft resolution.

72. Mr. SMYK (Poland) said that there was an omission in the first line of operational paragraph 2 of the English text of the draft. The word "the" should be included by the words "highest priority".

73. The CHAIRMAN said that the English text would be revised according to the suggestion of the representative of Poland. If there was no objection, he would take it that the Committee wished to adopt the draft resolution without a vote.

74. It was so decided.

AGENDA ITEM 87: INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Draft resolution A/C.3/36/L.36

75. Mrs. DOWNING (Secretary of the Committee) announced that Australia and Nicaragua had become sponsors of the draft resolution.

76. Mrs. WARZAZI (Morocco) said that if any delegation requested a vote on the draft resolution, her delegation would request a separate vote on operative paragraph 3 and would vote against it.

77. The CHAIRMAN said that if there was no objection, he would take it that the Committee wished to adopt the draft resolution without a vote.

78. It was so decided.

(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

Draft resolution A/C.3/36/L.33/Rev.1

79. Mrs. DOWNING (Secretary of the Committee) announced that Norway and Uruguay had become sponsors of the draft resolution.

80. Mrs. WARZAZI (Morocco) said that she hoped the draft would not be put to a vote. Moreover, the participation of her delegation in a consensus on draft resolution A/C.3/36/L.33/Rev.1 did not reflect any commitment in its part with respect to the substance of the matter.

81. Mr. BORCHARD (Federal Republic of Germany) expressed the hope that the draft resolution would be adopted without a vote.

82. The CHAIRMAN said that if there was no objection, he would take that the Committee wished to adopt the draft resolution without a vote.

83. It was so decided.

AGENDA ITEM 91: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Draft resolution A/C.3/36/L.34

84. Mrs. DOWNING (Secretary of the Committee) announced that Canada and Nicaragua had become sponsors of the draft resolution.

85. The CHAIRMAN said that if there was no objection, he would take it that the Committee wished to adopt the draft resolution without a vote.

85a. It was so decided.

(b) DRAFT CODE OF MEDICAL ETHICS; REPORT OF THE SECRETARY-GENERAL

Draft resolution A/C.3/36/L.38

86. Mrs. DOWNING (Secretary of the Committee) announced that Nicaragua had become a sponsor of the draft resolution. The foot-note on page 2 of the text of the draft resolution, indicated by an asterisk, should read: "See documents A/35/372 and Add.1 and 2 and A/36/140 and Add.1, 2 and 3".

87. Mr. BYKOV (Union of Soviet Socialist Republics) said that in general, draft resolution A/C.3/36/L.38 did not raise any problems. Nevertheless, there were some considerations which the sponsors might wish to take into account.

88. Such was the case with certain provisions of the Draft Code of Medical Ethics which departed from the usual practice in the work of the United Nations. For example, in the third preambular paragraph, it was not clear whether the WHO Executive Board had endorsed the principles set forth in the report or the draft body of principles itself. The involved wording of that paragraph raised unnecessary complications.

89. The fifth preambular paragraph mentioned the World Medical Assembly, which was a non-governmental organization. In its usual practice, the United Nations generally referred to decisions of intergovernmental organizations. In many cases, the proposal to mention non-governmental organizations in resolution had raised difficulties, and perhaps it would be better not to mention that Assembly so as not to set a precedent.

90. Operative paragraph 2 mentioned draft principles revised in the light of the replies received by the Secretary-General. Apparently it had been the sponsors of the draft themselves who had revised it, but it should be remembered that that task no longer fell to them, since the earlier draft had already appeared in annex II of the relevant General Assembly resolution. The revision of the present draft principles and the elaboration of the final text would therefore be a task for the representatives of all States, since all States had sent in comments.

91. Lastly, since the draft principles referred to a very specific question, it should be pointed out that the initial preparation of that type of document was usually undertaken in bodies which had ready access to the services of experts, such as the Commission on Human Rights, the Sub-Commission on Crime Prevention and Control.

92. Mr. WALKATE (Netherlands), seeking to reflect the views of the sponsors of draft resolution A/C.3/36/L.38, said that the fact that the Soviet delegation had no difficulties with the draft was to be welcomed and took note of the remarks he had made.

93. First of all, the draft resolution was a procedural one in which nothing was adopted; it simply took note with appreciation, made a request and decided to consider the question at the next session. The Annex contained a proposal prepared by the 15 sponsors of the draft resolution on the basis of comments received, and in fact comments submitted by the Union of Soviet Socialist Republics, the Byelorussian Soviet Socialist Republic and the Ukrainian Soviet Socialist Republic had been taken into account and an effort had been made to reflect those comments as far as possible in the text.

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94. As for the possibility of entrusting the text of the draft principles to a team of experts, the sponsors felt that an urgent question was involved and that by its very nature it deserved not only the attention of experts but also and especially the attention of a political body such as the General Assembly. The Third Committee was also authorized to adopt a decision on a text drafted by experts under the auspices of WHO and revised by the sponsors. The latter felt that a political decision was needed, rather than a debate among experts. It was for the Member States to determine the final version of the principles. That was why the Secretary-General had been requested to circulate the draft principles among Member States so that in the coming year Governments could submit their comments, like those submitted by the delegation of the Soviet Union, which would be circulated and would serve as a basis for preparing a definitive text.

95. Mrs. WARZAZI (Morocco) said that she saw no great difficulty in voting in favour of draft resolution A.C.3/36/L.38, since it provided that the final consideration of the draft principles of medical ethics would take place the following year after the comments of Governments had been received. Nevertheless, her delegation wished to point out, in order for it to appear in the Committee's report, that the draft principles of medical ethics, apparently endorsed by the Executive Board of WHO and virtually approved by the Sixth United Nations Congress on the Prevention of Crime and the Treatment of the Offenders were somewhat anomalous. For example, in the second sentence of the footnote relating to paragraph II of the annex to the draft resolution, it was stated that torture "does not include pain or suffering arising only from lawful sanctions ---". The question arose as to whether the international community could endorse lawful sanctions which could cause pain and suffering to a detainee. Her delegation wished to express serious reservations regarding that sentence.

96. Mr. WALKATE (Netherlands) said that the definition in the second sentence of the footnote of the annex had been approved in 1975 in the Declaration of the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As for the observations of the delegation of the Soviet Union, perhaps draft resolution A/C.3/36/L.38 should be regarded as a different approach. After all, the United Nations objective was to defend fundamental rights and freedoms.

97. Mr. GONZALEZ de LEON (Mexico) said he believed that some of the concerns expressed regarding the definition in the footnote to the draft principles on medical ethics might be met if the word "severe" was deleted from the second line, which referred to severe pain or suffering being intentionally inflicted on a person. In the second sentence, which stated that torture "does not include

pain or suffering arising only from ... lawful sanctions", the words "or suffering" might be deleted, since it appeared to be inappropriate to refer to suffering as being a consequence of lawful sanctions.

98. Mr. BYKOV (Union of Soviet Socialist Republics) said that he had repeatedly noted that the sponsors of draft resolution A/C.3/36/L.38 had departed from the usual method of work followed in the United Nations; the correct approach would have been to abide by the already established and accepted practice. In paragraph 2 they had used the words "as revised" without saying by whom, and their insistence on retaining the words "in the light of the replies received by the Secretary-General" might result in misunderstanding among Governments which had already submitted their observations. The sponsors should therefore consider the possibility of deleting that part of paragraph 2 in order to facilitate adoption of the draft resolution.

99. The CHAIRMAN asked the delegation of the Netherlands if it could accept the proposal.

100. Mr. WALKATE (Netherlands) said that the phrase "in the light of" had been used in paragraph w in order to reflect what had actually happened, in order to avoid the impression that the new text now under consideration had appeared "out of the blue". Nevertheless, in order to facilitate adoption of the draft resolution, the sponsors proposed deletion of the phrase "in the light of the replies received by the Secretary-General", as requested by the delegation of the USSR. The paragraph would then read: "Requests the Secretary-General to circulate among Member States for their further comments the annexed revised draft principles of medical ethics".

101. The CHAIRMAN said that, if there were no objections, he would take it that the Committee wished to adopt draft resolution A/C.3/36/L.38 without a vote.

102. It was so decided.

Explanations of vote

103. Mrs. SAMPSON (Guyana) said that, if draft resolution A/C.3/36/L.33/Rev.1 had been put to vote, her delegation would have abstained, mainly because of the working of paragraph 2. Her Government was currently studying the problem of capital punishment, and the fact that Guyana had joined the consensus should in no way be interpreted to mean that it took a position regarding the abolition of capital punishment.

104. As for draft resolution A/C.3/36/L.38, Guyana supported the idea of a code of medical ethics. Nevertheless, it believed that the draft principles in the

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annex should be improved and it would therefore have abstained had the draft resolution been put to a vote.

105. Mr. FURSLAND (United Kingdom), speaking on behalf of the Member States of the European Communities, said that they had abstained in the vote on draft resolution A/C.3/36/L.31 for the same reasons that had previously motivated their abstentions on similar resolutions. In the present case they had specific reservations regarding paragraph 5, and particularly regarding the validity of the request that the Commission on Human Rights should give special attention to the question of the implementation of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace for the Benefit of Mankind. In the view of the members of the European Communities, the Declaration did not provide sufficient guarantees for individual human rights.

106. Mr. CHAN (Singapore) said that, by participating in the consensus on draft resolution A/C.3/36/L.33/Rev.1, Singapore had in no way sought to imply any change in its position regarding the question of capital punishment.

107. Mrs. AKAMATSU (Japan) said that, despite having joined the consensus on draft resolution A/C.3/36/L.38, Japan had made certain observations regarding the draft code of medical ethics which it had submitted in good time to the Secretary-General. Those comments should be kept in mind when adoption of the code was being considered.

108. Mr. MOHAMMADI (Iran) observed that his delegation had joined the consensus on several draft resolutions on the understanding that their content did not contradict Islamic law.

109. The CHAIRMAN said that the Committee had concluded the consideration of items 85, 86 and 87.

110. It was so decided.

The meeting rose at 7 p.m.