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at 10.30 a.m.

New York

SUMMARY RECORD OF THE 59th MEETING

Chairman: Mr. CALERO RODRIGUES (Brazil)

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The meeting was called to order at 11.20 a.m.

AGENDA ITEM 90: OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES  
(continued)

- (a) REPORT OF THE HIGH COMMISSIONER (A/C.3/37/L.44)
- (b) QUESTION OF THE CONTINUATION OF THE OFFICE OF THE HIGH COMMISSIONER  
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Draft resolution A/C.3/37/L.43

1. Mr. DABASE (Libyan Arab Jamahiriya), referring to draft resolution A/C.3/37/L.43, said that certain delegations were holding consultations with regard to some paragraphs of the draft with a view to arriving at a text which would be acceptable to all. The countries of the African group had not been fully informed regarding all the consultations held thus far. As the outgoing Chairman of the group, a member of the Kenyan delegation, was still holding consultations to harmonize points of view and arrive at a consensus text, he requested that the decision on draft resolution A/C.3/37/L.43 should be postponed to the next meeting, when the consultations would have been completed.
2. Mrs. OLENDE (Kenya), speaking in her capacity as outgoing Chairman of the African group, supported the suggestion of the representative of the Libyan Arab Jamahiriya and asked the Committee to take up draft resolution A/C.3/37/L.43 at the following meeting, so that the consultations could be completed.
3. The CHAIRMAN agreed to the suggestion that the decision on the draft resolution in question should be put off until the next meeting, but reminded the Committee that, in accordance with document A/37/250, that day was the time-limit for the submission of all draft resolutions having financial implications.

Draft resolution A/C.3/37/L.44

4. Mrs. DOWNING (Secretary of the Committee) announced that Madagascar had joined the sponsors of draft resolution A/C.3/37/L.44.
5. Mr. DERESSA (Ethiopia) recalled that his delegation had suggested to the sponsors of draft resolution A/C.3/37/L.44 that they should incorporate in their text two ideas which, in its view, would strengthen the draft and allay some of the principal misgivings to which the sponsors had referred. The sponsors had held consultations with his delegation after the appeal made to him by the representative of Sweden, who was the principal sponsor of the draft. His delegation had consequently agreed not to press its suggestion, and it hoped that its observations would be duly reflected in the record of the current meeting. His delegation was joining the consensus so that the draft resolution could be adopted without a vote.

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

7. Draft resolution A/C.3/37/L.44 was adopted without a vote.

8. Mr. GERSHMAN (United States of America) said that his delegation had not wished to block a consensus on draft resolution A/C.3/37/L.44, but had certain comments to make with regard to it.

9. It was regrettable that in the eighth preambular paragraph and operative paragraph 3 of the draft resolution there were references to "military attacks on refugee camps in southern Africa and elsewhere". That reference was anachronistic and deceptive, and was not conducive to promoting the humanitarian and apolitical efforts of the High Commissioner.

10. He noted with satisfaction the great efforts which had been made to reduce the number of cases of cruelty and physical attacks on persons who put out to sea in search of asylum. His delegation would have liked the Committee to press for continuous monitoring of the way that problem was dealt with and for durable solutions to the problem of piracy.

11. With regard to operative paragraph 8, the United States Government felt that, in addition to maintaining relief efforts and the resettlement momentum, more attention should be paid to other appropriate durable solutions, such as voluntary repatriation and resettlement in situ.

12. Lastly, he said with regard to operative paragraph 13 that all Governments were in a position to support or contribute to the High Commissioner's humanitarian programmes in one way or another. Some countries which lacked resources and infrastructure had given refuge to victims of persecution. His delegation would like to see that expression of human solidarity continued and emulated by those countries which had not yet been involved in it.

13. Mr. PHEDONOS VADET (Cyprus) said with reference to operative paragraph 4 that it made no mention whatever of displaced persons; he wished it to be noted in the record of the current meeting that the sponsors were thinking of situations other than that of Cyprus.

Draft resolution A/C.3/37/L.45

14. Mrs. DOWNING (Secretary of the Committee) announced that Bangladesh, Malaysia and the United Republic of Cameroon had joined the list of sponsors of the draft resolution. She also printed out that in the last line of operative paragraph 2 the word "other" should be replaced by "the".

15. Mr. DERESSA (Ethiopia) requested that his country should be added to the list of sponsors of draft resolution A/C.3/37/L.45.

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

17. Draft resolution A/C.3/37/L.45 was adopted without a vote.

AGENDA ITEM 94: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/C.3/37/L.31/Rev.1, L.41, L.42)

Draft resolution A/C.3/37/L.31/Rev.1

18. Mrs. FLOREZ (Cuba) announced that the delegations of Bangladesh, Cape Verde, the Libyan Arab Jamahiriya, Zimbabwe, Uganda, Viet Nam, and Romania had joined the sponsors of the draft resolution.

19. For a number of weeks intensive consultations and negotiations with the representatives of France, Ireland, Australia, Italy and others had been under way. The sponsors had prepared a revised version of the draft in which they had incorporated certain amendments submitted by those countries. The latter had indicated that they could not vote in favour of the text prepared by the sponsors because the proposed changes still did not seem to them sufficient.

20. Those countries had insisted on the addition to the draft resolution of four other elements which were of fundamental importance for them. First of all, they had requested that the draft should incorporate the eleventh preambular paragraph of resolution 1982/117 of the Commission on Human Rights, the content of which, in the view of the sponsors, was implicit in the sixth preambular paragraph of draft resolution A/C.3/37/L.31. In the Commission on Human Rights that compromise paragraph had been included because certain Western countries were among the sponsors of the text and because of the desire to reach a consensus, which, in the end, it had not been possible to obtain.

21. Secondly, the Western countries proposed the addition of the following paragraph: "Bearing in mind that mass and flagrant violations of human rights in one State may threaten the peace and development of neighbouring States of a region or of the international community as a whole,". That paragraph was completely new and presented difficulties for some delegations. The sponsors had not accepted it because, in addition, it was not contained in any other reference text relating to international human rights instruments.

22. Thirdly, the Western countries had proposed the inclusion of the following paragraph: "Urges all States to co-operate with the Commission on Human Rights in the study of the violation of human rights and fundamental freedoms in any part of the world;". The sponsors of the draft resolution had felt that that proposal was more appropriate for a text of the Commission on Human Rights than for a text of the Third Committee. Accordingly, they had been unable to accept it. In its place they had proposed a more general formulation, but it too had failed to win acceptance.

(Mrs. Florez, Cuba)

23. Finally, the fourth amendment proposed by one of the Western countries would reformulate the first preambular paragraph of draft resolution A/C.3/37/L.31, or second paragraph of the revised version, which consisted of an exact quotation of the third preambular paragraph of the United Nations Charter. Since the matter involved something as delicate as reformulating a paragraph of the Charter, the co-sponsors of the draft resolution had been unable to accept such a proposal. Consequently, the co-sponsors of the draft resolution had decided, in a spirit of compromise and with a view to facilitating the Committee's work, to submit a revised version of this text, which was the one appearing in document A/C.3/37/L.31/Rev.1. That text embodied the following changes.

24. A new preambular paragraph contained a reference to the second preambular paragraph of the United Nations Charter, and, in its final part, a reference to the final preambular paragraph of the Charter. It should therefore not present any problem to delegations.

25. The eighth preambular paragraph of draft resolution A/C.3/37/L.31 had been deleted in the revised version. Also, the final words of the tenth preambular paragraph had been deleted, so that the revised version read: "Underlining that the right to development is an inalienable human right". Thus, the paragraph remained exactly the same as the version adopted the previous year, which appeared in resolution 36/133.

26. A slight change had also been made in the final part of the eleventh preambular paragraph, which now read: "Recognizing that international peace and security are essential elements for the full realization of human rights including the right to development". The previous version of that paragraph had been: "are essential elements for the full realization of the right to development".

27. The preamble of the revised version of draft resolution A/C.3/37/L.31 therefore contained two new paragraphs which would become the fifteenth and sixteenth paragraphs. The fifteenth paragraph was taken from the Universal Declaration of Human Rights, and the sixteenth paragraph was a new paragraph which had been included at the request of the previously mentioned delegations.

28. It should also be noted that two new paragraphs had been included in the operative part and would be numbered 2 and 4. They did not actually embody any new material, for they had been adopted the previous year as part of resolution 36/133.

29. In operative paragraph 7 just as in the tenth preambular paragraph, the final words had been omitted. Operative paragraph 12 had also been redrafted without altering the original idea.

30. He would like to point out once again that in the opinion of the co-sponsors of draft resolution A/C.3/37/L.31/Rev.1, a proper balance was maintained by reiterating the indivisibility and interdependence of all human rights. He stressed that the right to development was an inalienable human right, that international peace and security were essential for the full realization of the right to development, and that there was a need for the release of resources by

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(Mrs. Florez, Cuba)

disarmament as a contribution to the development of all States. Those elements, together with those declaring the achievement of the objectives and goals for establishing the new international economic order as necessary for the full realization of human rights and in particular the right to development, combined to produce a balanced text on that item.

31. He concluded by asking the countries that had submitted amendments to the co-sponsors' text not to press new amendments which the co-sponsors would be unable to accept.

32. Mr. O'DONOVAN (Ireland) said that he did not agree with the Cuban representative's version of the conversations which the Irish delegation, along with others, had held with the co-sponsors of draft resolution A/C.3/37/L.31/Rev.1. The conversations had been amicable even though they had not produced any satisfactory result.

33. While he realized that the existing international order must be changed and that development was closely linked with the question of human rights, he considered that the concept of development had both an individual and a collective aspect and that the right to development was also individual. However, the co-sponsors of draft resolution L.31/Rev.1 appeared to think differently. In one of the amendments they had rejected, it had been stated that the right to development should be recognized in respect of individuals as well as of peoples.

34. There was discernable a steadily growing trend to stress collective rights at the expense of individual rights, and economic and social rights at the expense of civil and political rights. In that regard, there were notable differences between the Universal Declaration of Human Rights and draft resolution L.31/Rev.1. While almost all the paragraphs of the Declaration laid stress on the person through the use of terms such as "everyone" and "all human beings" there were only one or two paragraphs in the draft resolution containing any reference to persons.

35. His delegation did not deny the existence of collective rights. It wished merely to point out that in draft resolution L.31/Rev.1, which was essentially the same as resolution 36/133, those rights were clearly being promoted to the detriment of individual rights, and social and economic rights were being promoted to the detriment of civil and political rights. That, in essence, was the fundamental difference of opinion between his delegation and the co-sponsors of the draft.

36. Mrs. WARZAZI (Morocco) said that, in her opinion, the contents of document A/C.3/37/L.42 did not in any way justify the title "draft decision". It was simply the confirmation of a fact and ought perhaps to be included after paragraph 12 of draft resolution A/C.3/37/L.41, which was followed by another paragraph in which the Secretary-General was requested to take appropriate measures to strengthen the Centre. Document A/C.3/37/L.42 was not in the proper form for a draft decision and could not be justified from a legal point of view.

(Mrs. Warzazi, Morocco)

37. With regard to draft resolutions L.31/Rev.1 and L.41, which had been the subject of considerable debate between two groups of countries, she was gratified that both groups had made an effort to arrive at a middle ground and had moderated their respective stands.

38. Although her delegation would find no problem in voting for both draft resolutions, it proposed that operative paragraph 12 of draft resolution L.41 should be modified to reflect the true state of affairs. The Sub-Commission had not drawn up terms of reference, but rather draft terms of reference. Also, the wording of operative paragraph 10 of draft resolution L.31/Rev.1 seemed odd. While she realized that it was possible to ensure economic stability at the national and international levels, it was difficult to understand how political stability could be ensured or who would ensure it. As it would be difficult for her delegation to vote for that paragraph, she would be grateful if the representative of Cuba would clarify the matter.

39. Mr. RANGACHARI (India) suggested that draft resolutions A/C.3/37/L.31/Rev.1 and A/C.3/37/L.41 should be considered and voted upon separately so that as soon as the Committee had voted on the first one, it would have an opportunity to consider draft resolution L.41 in the light of the text of L.31/Rev.1 as adopted. Since draft resolution L.41 contained a number of paragraphs bearing no relation to any international instrument or any resolution adopted by the General Assembly, it would be reasonable for delegations to have an opportunity to vote on it after hearing the explanations of the sponsors.

40. The statement by the representative of Ireland that draft resolution L.31/Rev.1 was basically the same as resolution 36/133 was correct. It was therefore hard to understand how a number of delegations had voted in favour of resolution 36/133 the previous year but were unable to accept the text of that resolution in the current year.

41. With regard to the question of collective and individual rights, no one had stated in the Third Committee or the Commission on Human Rights or in any other body that some rights were unimportant, and no attempt had been made to establish priorities between some rights and others. A discussion ought to be held in that regard so that each country would have an opportunity to examine in the context of its own national policy the opinions expressed at the international level.

42. The question of the relationship between individual and society and between society and the State was a fundamental one, and hasty judgements should be avoided along with the labelling of one text as collectivist and another as individualistic. One of the arguments advanced by the Irish delegation was that the text of draft resolution A/C.3/37/L.31/Rev.1 differed considerably from the text of the Universal Declaration of Human Rights. The sponsors of the draft resolution had not, of course, intended to reproduce or rewrite the Declaration, but an examination of the second, sixth, seventh, eighth and fifteenth preambular paragraphs of that draft would show that there were more references to the human being and the individual in it than in draft resolution A/C.3/37/L.41.

(Mr. Rangachari, India)

43. Some delegations might base their position regarding a text not on its actual content but on the sponsors. In India, neither the individual nor society was favoured over the other, both being recognized as having a role to fulfil. Society without the individual, or the individual without society, would be meaningless.

44. The CHAIRMAN said that draft resolutions A/C.3/37/L.31 and L.41 had so many points in common that they should be considered together, although that would not preclude consideration of draft resolution L.41 before it was voted on, once a vote had been taken on draft resolution L.31.

45. Mr. O'DONOVAN (Ireland), with a view to meeting the legal objections put forward in respect of draft decision A/C.3/37/L.42, proposed an oral amendment so that the draft decision could be adopted without a vote. The amended text would read: "The General Assembly, recalling its resolution 35/194, in which it requested the Secretary-General to keep under consideration the question of the services of the Secretariat concerned with human rights with a view to redesignating the Division of Human Rights as a Centre for Human Rights when he deemed it appropriate, takes note of the decision of the Secretary-General to redesignate the Division of Human Rights as the the Centre for Human Rights."

46. Mr. DERESSA (Ethiopia) said that for nearly four weeks Ethiopia and the other sponsors of draft resolution A/C.3/37/L.31 had engaged in extensive consultations and negotiations with the Western group to ensure that the draft resolution embodied the points of view of all interested parties. Unfortunately, all that had come out of those consultations was a bold proposal advocating nothing less than amendment of the United Nations Charter. A satisfactory balance had been struck in draft resolution A/C.3/37/L.31/Rev.1 and the present debate should therefore be focused on that document.

47. As a developing country, Ethiopia attached special importance to social development as a whole, but without losing sight of the notion of the individual as a constituent part of the whole. Indeed, Ethiopia concentrated on social development and collective rights precisely because it was genuinely concerned about the rights and well-being of the individual. The representative of Ireland had pointed out the importance of the Universal Declaration of Human Rights and no one could disagree with them. But neither must the importance of collective rights be ignored. It was precisely that which had motivated the General Assembly in adopting the Declaration on the Granting of Independence to Colonial Countries and Peoples almost simultaneously with the Universal Declaration of Human Rights.

48. He supported the proposal of India that draft resolutions L.31 and L.41 should be debated separately. He had also listened carefully to the oral amendment to draft decision L.42 just submitted by the delegation of Ireland and considered that it was a positive proposal.



49. Mrs. WARZAZI (Morocco) expressed surprise at the proposal of the representative of India, since she could not understand why the procedure in respect of draft resolutions L.31 and L.41 should be different from that followed hitherto. In any case, the Committee would obviously have to vote on draft resolution L.31 first for the simple reason that it had been submitted before draft resolution L.41. Moreover, she fully understood that the representative of India did not support either individual rights or collective rights exclusively. Precisely for that reason her delegation would support both draft resolutions.

50. Mr. CORTI (Argentina), while not wishing to disregard the opinion of the Chairman that both draft resolutions should be taken together, said that draft resolution L.31 had been thoroughly debated during four weeks of negotiations, whereas draft resolution L.41 had been submitted at the last moment by certain delegations which had drafted it on the basis of the amendments proposed to draft resolution L.31. Moreover, draft resolution L.41, which contained a number of vague ideas and elements relating to other agenda items, needed more detailed study. He therefore supported the suggestion of the representative of India and considered that there was no point in continuing a fruitless debate.

51. Mr. DIAGNE (Senegal), referring to document L.42, said that, while it might not be correct to call it a "draft decision", the proposal to make it operative paragraph 13 of draft resolution L.41 might raise more problems than it would solve. Perhaps the sponsors of draft decision L.42 could convert it into a draft resolution comprising a preamble and an operative part each consisting of a single paragraph. The first part of the proposal just read out by the representative of Ireland would be the preambular paragraph and the second part the operative paragraph. The latter would read: "Takes note of the decision of the Secretary-General to change the name of the Division of Human Rights to the Centre for Human Rights."

52. The purpose of the Irish representative's amendment to draft resolution L.32 was to make it possible for the draft resolution to be adopted by consensus, since it was not customary for a resolution of congratulation or approval to be voted upon, but the new draft would remove most of the content. In any case, his delegation wished to express its entire satisfaction at the redesignation of the Division of Human Rights as a Centre and trusted that it would be followed by the establishment of a post of high commissioner for human rights.

53. No State could prevent the United Nations from concerning itself with the infringement of human rights wherever it might occur, or from setting up the appropriate machinery to protect those rights. Human rights were sacrosanct and it was accepted throughout the world that their protection was not exclusively an internal affair of States.

54. The CHAIRMAN said that he had no objection to document L.42 being accepted as a draft decision, either in its original form or as revised. He suggested that the representatives of Ireland, Italy and Senegal, as sponsors of the draft text, should meet to decide on the final version.

55. Mrs. FLORES (Cuba), referring to the statement by the representative of Ireland, said that the changes proposed by the Western countries during the negotiations on draft resolution L.31 had not been reconcilable with the sponsors' text. Those countries had thought that draft resolution L.31 should concentrate on individual rights, whereas the sponsors had wished the emphasis to be on social and cultural rights, since, for the developing countries those rights would ensure enjoyment of the other rights.

56. Mr. HUSAIN (Pakistan) said that in the opinion of the sponsors there were no grounds for the view expressed by some delegations that draft resolution L.31/Rev.1 placed greater emphasis on collective rights than on individual rights.

57. Mrs. WARZAZI (Morocco) said that she wished to rectify a mistake she had made in 1981 in voting for resolution 36/133 without realizing that the words "and political" could justify invasion by a neighbouring country whose undeclared purpose was to bolster an unpopular régime or promote the coming to power of a régime more in keeping with its own interests. If the sponsors of the draft resolution were not prepared to delete the words in question, the delegation of Morocco would therefore have to ask for a separate vote on them.

58. Mr. THWAITES (Australia) said that draft resolution A/C.3/37/L.31/Rev.1 deserved particular attention because it covered the right to development, an extremely important concept for the promotion of human rights. His delegation would have been satisfied if the sponsors of the draft resolution had accepted two of the four recommendations, namely, the inclusion in the draft resolution of paragraph 11 of resolution 1982/17 of the Commission on Human Rights, and acceptance of the idea that the Commission should urge all States to collaborate with it in the human rights field. Those ideas would make the draft resolution more balanced.

59. With regard to draft resolution A/C.3/37/L.41, it must be borne in mind that the discussion on the present item must above all be open-minded as was clear from the title of the item. The sponsors of the draft resolution, including Australia had therefore tried to convey in it a broad view of the basic questions under consideration, so that it should not be considered in opposition to draft resolution A/C.3/37/L.31/Rev.1, but rather as being drafted so as to obtain the widest possible support of delegations.

60. Mr. ZUCCONI (Italy) said that, during the prolonged negotiations which had taken place on draft resolution A/C.3/37/L.31/Rev.1, the delegations which tended to attach greater importance to collective rights than to individual rights had only hardened their attitude, as was clear from the fact that the draft resolution under consideration was less acceptable for delegations as a whole than resolution 36/133. That was why it had been found necessary to sponsor draft resolution A/C.3/37/L.41, in order to restore the necessary balance between the two kinds of rights.

The meeting rose at 1.05 p. m.