

**United Nations**  
**GENERAL**  
**ASSEMBLY**

**THIRTY-EIGHTH SESSION**

**Official Records\***



THIRD COMMITTEE  
40th meeting  
held on  
Thursday, 10 November 1983  
at 3 p.m.  
New York

**SUMMARY RECORD OF THE 40th MEETING**

Chairman: Mr. CHAVANAVIRAJ (Thailand)

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Distr. GENERAL  
A/C.3/38/SR.40  
24 November 1983  
ENGLISH  
ORIGINAL: FRENCH

22 p.

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 100: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/38/203, 325, 529)

- (a) STUDY ON INTERNATIONAL CONDITIONS AND HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (continued) (A/38/511)
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (continued) (A/38/416)

1. Mr. HEGYI (Hungary) said that many rights such as the right to life, the right of peoples to self-determination, the right to development and the right to live in peace and security were recognized in the relevant United Nations instruments, but noted that they were far from always being put into practice. The right to self-determination, for example, continued to be denied to many peoples, and millions of individuals, especially in Africa, faced famine. Then again, it was difficult to secure the right to peace if peace initiatives were rejected one after the other. Yet peace was an indispensable condition for the right to development, without which human rights themselves were jeopardized.

2. The question of establishing a post of United Nations High Commissioner for Human Rights had been on the Committee's agenda for nearly 20 years, but had never obtained the support of the majority of Member States. In the circumstances, it might be wise to refrain from placing it on the agenda year after year. Unlike those who wondered whether it was advisable to entrust international organizations with the task of rectifying violations of fundamental freedoms and the most important human rights when those organizations had not yet succeeded in eradicating colonialism, racial discrimination and apartheid, Hungary believed that the United Nations system was perfectly capable of promoting human rights and that the best means of ensuring the enjoyment of those rights was not to establish new bodies or new posts but rather to strengthen existing bodies and to put into practice the concepts embodied in General Assembly resolution 32/130. The role of the Organization was to establish universally accepted norms which States were required to apply, thereby protecting human rights. The Organization being composed of 158 Member States having different political, social and economic structures, it was unacceptable that some of them should seek to impose their rules on others. The best way to further United Nations human rights activities was to show strict respect for the principles embodied in United Nations resolutions and to accede to existing human rights instruments.

3. For all those reasons, Hungary opposed any proposal to set up supranational bodies or posts such as the United Nations High Commissioner for Human Rights, which could provide a new opportunity for interfering in the internal affairs of States. It was clear from document A/38/511 that that was precisely what one State intended to do. Hungary opposed the use of the machinery of international organizations for propaganda purposes.

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4. Mr. FRAMBACH (German Democratic Republic) said that the most important prerequisite for the guarantee of human rights was peace. As a result of the arms race pursued by the imperialist countries and the ensuing danger of a world war, the search for peace must be the principal goal of co-operation among States in the human rights field. It was essential to avert the danger of nuclear war in order to ensure the right to life for the human race. In view of the planned deployment in Europe of United States medium-range missiles, which were first-strike weapons targeted on the USSR and the other socialist States, that was a vital and urgent necessity. In that regard, the German Democratic Republic attached great importance to General Assembly resolution 37/189 A. The arms race, because of the waste of resources it entailed, was a major reason why many global problems, including the shortage of energy and raw materials, hunger, poverty, epidemic diseases and illiteracy, were rapidly getting worse.

5. The democratic world public continued to face massive violations of human rights in a large number of States, ranging from murder and terror in certain Latin American countries to mass unemployment and cuts in social spending in leading capitalist industrial States. Furthermore, the systematic violation of the rights of citizens at home often went hand in hand with a policy of aggression against neighbouring countries or other States. Examples of that were the South African apartheid régime's illegal occupation of Namibia and its continued acts of aggression against neighbouring States, the genocide perpetrated in the Middle East against the Palestinian people, the occupation of Arab territories and the acts of aggression against Arab States, and again the latest United States aggression against Grenada. Those cases highlighted the need to give absolute priority to consideration of mass and systematic violations of human rights, in pursuance of General Assembly resolutions 32/130 and 37/199.

6. The economic difficulties confronting the developing countries, which resulted from their colonialist past and from the neo-colonialist exploitation to which they were currently subject, obstructed the full implementation of the human rights in those countries. All States should therefore contribute to the democratic restructuring of international economic relations. In that regard, the right to development, a universal right, should not be limited to social issues.

7. The proposal to establish a post of United Nations High Commissioner for Human Rights was entirely incompatible with the Charter. Moreover, the United Nations system was quite sufficient to ensure the co-operation of States in the promotion of human rights and, in any case, intergovernmental co-operation could not be replaced by an administrative body.

8. He reiterated the concern expressed by his country at the thirty-seventh session about the fact that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, an advisory body comprising independent experts, had been entrusted with the elaboration of a possible mandate for the High Commissioner and in so doing had attempted to carry out a fait accompli, a procedure which his country deemed unacceptable.

(Mr. Frambach, German Democratic Republic)

9. His delegation considered that the reply received from the United States in document A/38/511 should be viewed as an overt rejection of any practical co-operation among States for the promotion of human rights. That communication furnished further proof that the United States was pursuing a hostile policy of confrontation and slander. Indeed, a State which constantly violated the norms and principles of international law could scarcely arrogate to itself the right to act as the guardian of human rights and to judge other States.

10. Mr. LUNSKEN (Federal Republic of Germany) said his country regarded the promotion of human rights and fundamental freedoms as one of the most important issues before the United Nations. His delegation therefore fully agreed with the opinion of the Secretary-General, who had stated in his report on the work of the Organization (A/38/1) "... the ultimate *raison d'être* for all our activities [is] the individual human being ...".

11. Since the framing of the Charter of the United Nations, the signatories to which had pledged themselves to promote respect for human rights and fundamental freedoms, the United Nations had made considerable progress in the elaboration of international instruments in the field of human rights. Those instruments conferred upon every individual the status of a subject of international law. Legitimate concern about the promotion of the right of every human being continued to exist, even though it ran counter to the wishes of Governments which contended that such concern was tantamount to interference in the internal affairs of States.

12. Nevertheless, there seemed to be an increasing disparity between standard setting on the one hand and the actual facts concerning human rights violations in the world on the other. There were daily reports of large-scale violations of human rights in various regions. The international community must therefore focus its attention on the mechanisms designed to give effect to the human rights instruments it had adopted.

13. His country, which had been in the vanguard of countries committed to creating new types of machinery to ensure the effective observance of human rights, supported the proposal for the establishment of a post of United Nations High Commissioner for Human Rights, who would be responsible for carrying out systematic, non-political and continuous activities to promote the cause of human rights world-wide. It hoped that the specific proposals made in that regard by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 1983/36 would ultimately win the support of those delegations which thus far had resisted that initiative.

14. It was also necessary to review the functioning of the Commission on Human Rights. In particular, it should be possible for the Commission to continue monitoring cases of violations in the periods between its sessions. It was highly unfortunate that during more than 10 months of the year the Commission was unable to take any decisions. Urgent attention should therefore be given to the possibility of enabling the Bureau of the Commission to hold emergency meetings. It was a primary task of the Commission to take action on violations of the integrity of the individual whenever they occurred.

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(Mr. Lunscken, Federal Republic of Germany)

15. His delegation attached great importance to the confidential character of the procedure for the consideration of communications concerning violations of human rights and fundamental freedoms established in Economic and Social Council resolution 1503 (XLVIII). It would be desirable for the Commission to make full use of paragraph 6 (a) and (b) and paragraph 8 of that resolution.

16. It was likewise essential that the Sub-Commission on Prevention of Discrimination and Protection of Minorities should continue to operate as a group of independent experts. Fortunately, it would seem that resolution 1983/21 of the Commission on Human Rights would improve the situation in that regard.

17. His country, which had always been in favour of strengthening the role of the United Nations Secretariat in the field of human rights, welcomed the Secretary-General's intention, expressed in his annual report, to use his good offices with Governments in situations relating to human rights. In previous statements his delegation had described a number of means that would make it possible to undertake more effective action in the field of human rights, in particular the establishment of fact-finding bodies mentioned in General Assembly resolution 35/176, a reporting system that would provide for a detailed country-by-country examination of the human rights situation, the strengthening of human rights institutions at the regional level and the promotion of exchanges of information among countries concerning the protection of human rights. It was regrettable that the Working Group of the Commission, which had been instructed to make suggestions in that field, had made so little progress in its work.

18. As his country's Minister for Foreign Affairs had observed in his statement to the plenary Assembly, the Federal Republic of Germany supported the current work of the Commission on Human Rights with regard to the preparation of a draft declaration on the right to development. If there was to be a meaningful dialogue on that subject it was essential not to prejudge the outcome of the debate, as had unfortunately been the case when General Assembly resolutions 36/133 and 37/199 were adopted. In particular, it was essential to avoid giving the impression that the right to development or the establishment of a new international economic order were pre-conditions for the guaranteeing of human rights. General Assembly resolution 32/130 had been categorical on that point: equal attention should be given to civil and political rights and to economic, social and cultural rights.

19. His delegation was ready to join in consultations aimed at finding common ground concerning the important issue of the right to development and hoped that the spirit of co-operation that had emerged during the work on that issue would prevail both in the Commission on Human Rights and in the Third Committee.

20. Mr. ALBORNOZ (Ecuador) said his country had consistently affirmed the universal nature of all human rights - individual rights and collective rights, civil and political rights and economic, social and cultural rights. That was why his country had recommended that the United Nations should submit each year a report on the implementation of human rights throughout the world. That report would contain detailed information on all countries without exception, whether they

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(Mr. Alborno, Ecuador)

were Members of the Organization or not, and would be free of the usual bias which resulted in violations committed in some countries being highlighted while those perpetrated in others were ignored, thus jeopardizing the Organization's credibility. Ecuador had likewise suggested that any Member country which criticized the conduct of other countries should engage in self-criticism and inform the international community of the way which human rights were implemented in its own territory.

21. In Ecuador, all human rights without exception were scrupulously guaranteed and observed. The press, political parties, trade unions and professional and cultural associations were completely free and there were no political prisoners. Nationals and aliens enjoyed equal rights. It was significant, in that connection, that the 1982 report of Amnesty International mentioned no violations of human rights in Ecuador.

22. At the international level, Ecuador had signed all the international instruments on human rights, including the Convention on the Elimination of All Forms of Discrimination against Women, and had been the first country to submit to the Working Group of the Economic and Social Council its report on the exercise of economic, social and cultural rights. His Government had likewise transmitted information to the Secretary-General concerning the item under consideration. In that connection, his delegation attached great importance to the study on international conditions and human rights (A/38/511) submitted by the Secretary-General pursuant to paragraph 10 of General Assembly resolution 36/133. That was a very constructive document in so far as it encouraged international co-operation in the field of human rights, emphasized the dangers of the arms race in which the super-Powers were engaging to the detriment of the fundamental rights of other countries, highlighted the need to respect the freedom of the press and to organize free elections without the presence of foreign occupation forces, called for the establishment of a more equitable economic order that would replace the current chaos characterized by the excessive indebtedness of certain countries as a result of the deterioration in the terms of trade, and stressed the unacceptability of interference in a country's internal affairs including the formulation of its economic plans and priorities.

23. His delegation was pleased to learn that reports on those questions would henceforth be submitted every two years.

24. The development of the concept of the right to development was another aspect of the productive activities of the United Nations. Development and not weapons was the key to collective security and the guarantee of authentic international coexistence free from subversion, imperialism and bellicose alliances, as well as the religious intolerance whose violent manifestations verged on fanaticism.

25. It seemed that a consensus was beginning to emerge in that respect, and it was therefore essential to recall, as the Secretary-General had done in his report on the work of the Organization (A/38/1), that the ultimate *raison d'être* of co-operation among countries was the individual human being, for whom the Universal

(Mr. Albornoz, Ecuador)

Declaration of Human Rights proclaimed the right to a social and international order in which human rights and fundamental freedoms could be fully realized.

26. Mr. CHEN Shigui (China) said that, in discussions on the methods used by United Nations bodies to handle human rights questions, account must be taken of the concepts set out in General Assembly resolution 32/130. The international community must concentrate on the search for solutions to the mass and flagrant violations of human rights which continued to occur in South Africa, Namibia and the Middle East, as well as in Kampuchea and Afghanistan which were still occupied by foreign forces. Countless homeless people took refuge in camps in other countries, but they still could not escape from bombings, sudden attacks and massacres.

27. In its resolution 32/130, the General Assembly had also pointed out that the continuing existence of an unjust international economic order constituted a major obstacle to the realization of economic, social and cultural rights in developing countries. The Commission on Human Rights had established that the right to development was an inalienable human right and a logical extension of the right to self-determination, and it was in the process of preparing a draft declaration on that subject, the completion of which his country was awaiting with interest. Economic independence was the necessary pre-condition for the social and cultural development of a nation. A nation's right to development could be guaranteed only when the nation had extricated itself from all foreign aggression or occupation and had won its independence. Special emphasis should therefore be laid on the situation of the developing countries and the least developed countries, as well as those countries and peoples which were still under colonial rule or foreign occupation.

28. Mr. POLICHTCHOUK (Ukrainian Soviet Socialist Republic) said that his delegation considered that human rights were indivisible and that all human rights were important. There was, however, one right on which all the others depended: the right to life in conditions of peace. That was why the struggle for peace and the removal of the threat of nuclear war was a priority objective of Governments, international organizations and bodies and mankind as a whole.

29. The results of United Nations activities in all fields of international co-operation aimed at ensuring universal respect for human rights were significant. That co-operation had expanded considerably in recent years, and there had been a rise in the number of representative bodies and other bodies established in accordance with international agreements dealing with human rights questions. Given such a complex system, it was clear that efforts must be concentrated on improving the activities and increasing the effectiveness of existing bodies and not creating new bodies, posts or procedures.

30. His delegation therefore had very serious reservations concerning the proposals to establish supranational posts such as that of United Nations High Commissioner for Human Rights. That proposal, like the proposal concerning procedures for the consideration of complaints by private individuals against

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(Mr. Polichtchouk, Ukrainian SSR)

States, was contrary to the Charter of the United Nations and was designed to undermine the system of representative bodies and weaken international co-operation in the field of human rights. Just as unacceptable and unjustified were the attempts of certain representatives to give the Secretary-General of the United Nations "good offices" functions in the human rights field (functions not provided for in the Charter) to enable him to carry out certain investigations. International law was based on the generally accepted principle of the sovereignty of States, and agreements imposing legal obligations on all States parties to them therefore represented the best legal form for the defence of human rights.

31. The current structure and possibilities of the United Nations system were adequate to ensure the promotion and defence of human rights. The application of rules recognized by the great majority of Member States depended on the good will of each Member State, as well as on the efforts that would be made to improve the effectiveness of existing bodies and mechanisms. Those efforts must be designed to promote the effective enjoyment of the right to development, which depended on the establishment of a new international economic order. The Commission on Human Rights would have an important role to play in that respect.

32. His delegation had noted with satisfaction document A/38/416, but the same could not be said of document A/38/511, which did not correspond to the mandate which the General Assembly had given the Secretariat. His delegation could not of course refrain from making known its views on the fact that document A/38/511 contained part of the notorious Department of State report on the human rights situation in the world in 1982, which was merely another of the fabrications of the so-called "public diplomacy" initiated by President Reagan with a view to launching a "crusade" against the forces of peace and progress. Its presence in an official United Nations document reflected the United States' contempt for the United Nations and for the views and dignity of the great majority of States Members of the Organization and also represented a clear attempt to use the United Nations as a front for United States pretensions to the role of supreme judge in the field of human rights throughout the world.

33. The response of the United States constituted crude slander against States with socio-economic systems differing from its own and against those committed to radical socio-economic change. The Government of the United States had thus tried to justify, and not only that but to present as "legal", its patent interference in the internal affairs of States, interference which in recent times had more and more often taken the form of open military aggression, as in the case of Grenada and Lebanon, or the threat of aggression, as in the case of Nicaragua and other countries in Latin America. The Ukrainian SSR had unreservedly joined with the world community in condemning those acts of American imperialism.

34. Mrs. O'FLAHERTY (Ireland) said that her delegation attached great importance to the discussion on means for improving the effective enjoyment of human rights and fundamental freedoms. The realization of the potentialities of the human person in harmony with the community was the central purpose of development and must be at the centre of the Organization's concerns.

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(Mrs. O'Flaherty, Ireland)

35. The question of human rights was necessarily complex due to the complex nature of man's aspirations, both as an individual and as a member of the community. That was why the international community had progressively adopted the idea that human rights were indivisible and that the promotion of one category of rights should not exempt States from protecting the others. Her delegation had been pleased to see that view reflected in the Secretary-General's study on international conditions and human rights (A/38/511).

36. The assertion that the human being should be at the centre of any discussion of human rights and the recognition of the importance of collective rights such as the right to self-determination and the right to development were not incompatible. In that connection, her delegation was heartened to learn of the progress made at its latest session by the Working Group of the Commission on Human Rights entrusted with the elaboration of a declaration on that subject.

37. Ireland, which in 1983 had participated for the first time in the work of the Commission on Human Rights, was more than ever convinced of its value. It was to be hoped that the suggestions made with a view to ensuring an intersessional follow-up to the Commission's activities would receive the attention they merited. Her delegation was also encouraged to note the decision of the Commission on Human Rights to continue consideration of the establishment of a post of United Nations High Commissioner for Human Rights and hoped that the Commission would reach a decision on that matter as soon as possible. In 1982, the General Assembly had adopted two resolutions (37/200 and 37/199) designed to improve the effective enjoyment and protection of human rights and fundamental freedoms. Those two resolutions had been supported by most delegations. Her delegation hoped that that important question would be the subject of a consensus in the Committee at the current session also.

38. Ms. CAO-PINNA (Italy) said that the item under consideration had the broadest scope of all the items on the agenda, since it covered all the Organization's work relative to the setting of standards and their implementation, which included a supervisory role. The item had been included in the agenda because the Committee was conscious of the wide gap existing between the high principles proclaimed in the Universal Declaration of Human Rights and the gross violations of human rights in many parts of the world. Although the Third Committee had dealt with the question since 1975, there had been no real changes, due to the weakness of United Nations action in that field. Several factors seriously affected the work of the Organization, in particular the "time factor" both at the stage of standard-setting and that of implementation. For example, 10 years after the introduction of a draft resolution proposing the examination of the question of torture and other cruel, inhuman and degrading treatment or punishment, the Commission on Human Rights was still working on the elaboration of a draft convention on torture. The International Covenants on Human Rights had required 20 years of work and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had likewise needed lengthy efforts. Much time was also spent in considering ways of strengthening United Nations action in that field, without any tangible results. The report that the Commission on Human

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(Ms. Cao-Pinna, Italy)

Rights had been asked to undertake in 1977 on alternative ways and means for improving the effective enjoyment of human rights and fundamental freedoms had still not been submitted to the General Assembly. The establishment of a post of United Nations High Commissioner for Human Rights, first proposed in 1973, was to be reconsidered at the fortieth session of the Commission on Human Rights with, it was to be hoped, slightly greater chances of success.

39. The slowness of the action taken by the United Nations was also due to the lack of a common understanding of the principle of non-interference in the internal affairs of States. Italy had already had the opportunity of quoting various examples which revealed an excessively rigid application of that principle. Her delegation was firmly convinced that the concern for protection of human rights, especially in cases of violations of those rights, legitimately transcended national boundaries and became a concern of the United Nations, as stated clearly in General Assembly resolution 37/200. A number of delegations still held the view that the protection of human rights was an internal affair of States, but her delegation wished to draw their attention to the fact that a study on that subject was currently being undertaken by the Institute of International Law in Geneva.

40. Her delegation had noted with satisfaction the second biennial report on international conditions and human rights (A/38/511), which it had not been able to study with the attention it deserved because of its late distribution. It had, however, noted that the Secretary-General had emphasized the priorities which should guide all intergovernmental bodies concerned with human rights and the way in which the United Nations could take effective action to combat violations of human rights. The Third Committee should never lose sight of the principles proclaimed in the Universal Declaration of Human Rights and should resist the temptation to engage in political debates which were out of place. Lastly, instead of concentrating on what was being or had been achieved in the field of standard-setting, it would be better to move forward towards new means of reducing the gap between principles and deeds. As had been pointed out at the most recent session of the Commission on Human Rights, achievements in the field of standard-setting might widen the gap between theory and practice.

41. Mr. ZURITA (Spain) said that, as the Secretary-General had rightly observed in his study on international conditions and human rights (A/38/511), the rights of human beings were indivisible and interdependent, so that equal importance must be attached to the promotion of civil and political rights and the promotion of economic, social and cultural rights. The Spanish Minister for Foreign Affairs had expressed the same idea in his statement to the General Assembly. Full enjoyment of human rights implied the existence of social and economic conditions which guaranteed the quality of life. Hence the importance attached by Spain to the establishment of a more just international economic order.

42. It should not be forgotten that the right to life was primordial and that, as the Secretary-General had pointed out in his report on the work of the Organization (A/38/1), the individual human being was the *raison d'être* of all human activities. That was why the Spanish Government had abolished the death penalty.

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(Mr. Zurita, Spain)

However, life had no meaning unless it was lived with dignity, i.e. in a context of respect for all the rights of the individual. The Spanish Constitution proclaimed those rights and in article 10 provided that they should be interpreted in accordance with the Universal Declaration of Human Rights and the international instruments to which Spain had acceded. Spanish law was conceived in such a way as to protect the exercise of those rights and the Spanish legal institutions - constitutional courts, ordinary courts, Defender of the People (the Spanish version of the "Ombudsman") - guaranteed that protection. Since Spain had made the declaration referred to in article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Spaniards could appeal to the European Commission of Human Rights. The Spanish Government also intended to accede 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. His delegation was convinced that the United Nations had a major role to play in the area of human rights and considered that any measures designed to strengthen the current structure of the Organization in that regard were worthy of support. It therefore welcomed the conversion of the former Division of Human Rights into the Centre for Human Rights and would be in favour of having the Commission on Human Rights number among the principal organs of the Organization. It also considered that the establishment of a post of United Nations High Commissioner for Human Rights, envisaged in resolution 1983/49 of the Commission on Human Rights, would to a large extent simplify the work of the Secretary-General in that field.

44. His country, which had been elected a member of the Commission on Human Rights, considered that it was an honour to participate, with the other members of the Commission, in the promotion of universal respect for human rights and fundamental freedoms.

45. Mr. DORADO (Philippines), referring to the study on international conditions and human rights (A/38/511), which his delegation noted with satisfaction, said that, despite the progress made in recent years in enhancing the human condition, his country regretted that it had not always been possible to establish the basic international conditions necessary to free mankind from fear and want. The disquieting scale of armaments had indeed reached a point where it jeopardized the most fundamental of human rights, the right to life, which could not be effectively protected unless that threat was eliminated. It was incumbent on the countries possessing nuclear and other weapons of mass destruction to bring them under international control and gradually to reduce them. Moreover, mankind could not be freed from want unless the existing imbalance in the distribution of wealth was rectified, as emphasized in General Assembly resolution 36/133.

46. His delegation therefore considered that the exchange of views on that agenda item should in the future concentrate on the inequitable international economic order which had caused so much hardship, especially in the developing countries, and which threatened the basic rights of people to a decent standard of living.

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(Mr. Dorado, Philippines)

47. With regard to the report on national institutions for the promotion and protection of human rights (A/38/416), his delegation considered that it shed light on current trends towards embodying human rights guarantees in Constitutions and having the judiciary play an active role in that regard (the establishment of special courts and the institution of the Ombudsman).

48. The Philippine programme of democratization was geared towards attaining greater welfare and dignity for every member of society, particularly the poor and under-privileged, by protecting and promoting not only political rights but also social and economic rights. The four successive Constitutions of the Philippines (from 1898 to 1973) had guaranteed the basic rights of every citizen. The Ministry of Justice as well as other ministries and offices were involved in a programme of humanization and democratization of the administration of justice. For example, a legal assistance office had been established to help citizens to have access to the courts. The 1973 Constitution had set up two complementary bodies designed to protect citizens from the misuse of power by the bureaucracy. One of them, the Sandigan-Bayan, was a constitutional court made up of nine justices appointed by the President which heard cases submitted to it by the Tanod-Bayan (Ombudsman), an independent constitutional body which had become truly operative in 1978. It received and investigated complaints relating to State bodies, including Government-owned or Government-controlled enterprises, and handled criminal and civil cases (graft and corruption in particular).

49. His delegation drew the Committee's attention to the question of the protection of privacy, referred to in articles 12 and 19 of the Universal Declaration of Human Rights, which was seriously threatened by advances in data-processing that made it possible to collect, store and retrieve data on individuals, to use it in an unregulated manner and to transmit it across borders (as did transnational corporations), which could lead to adverse political, social and economic consequences for the well-being of individuals. His delegation therefore urged the United Nations to consider that question as a matter of high priority. His country was prepared to participate actively in finding a solution to that problem, preferably through the adoption of an appropriate convention.

50. Mrs. de BARISH (Costa Rica) said that the mandate of the United Nations with regard to the protection and promotion of human rights was defined in the Charter, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights. In that connection, the Secretary-General, in paragraph 7 of his report (A/38/416), had made a judicious distinction, which did not appear in the General Assembly resolutions or debates, between the institutions responsible for the promotion of human rights and those entrusted with their protection, and had drawn attention to their interdependence.

51. In view of the number of victims of discrimination and poverty and of the number of refugees fleeing political persecution, foreign occupation and armed conflict, the task incumbent on the United Nations seemed enormous. For the Organization to carry it out, international co-operation was essential and States would have to respect the principles and instruments adopted in that regard.

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(Mrs. de Barish, Costa Rica)

However, it was also important to be able to rely on some mechanisms to strengthen and accelerate the action of the United Nations. Her country had therefore proposed, 18 years previously, the establishment of an office of the United Nations High Commissioner for Human Rights, an institution the need for which was making itself increasingly felt.

52. During the debate on agenda item 100, delegations should be flexible and prepared to contribute their ideas to the series of proposals designed to improve the human rights situation. It was, of course, important to ratify the international instruments on human rights, but what was really essential was the political determination to apply them rigorously. When certain Governments wilfully disregarded the international legal standards set in the Covenants, they indicated that the obligations they had undertaken merely meant the absurd ritual of citing standards whose effective application was required only of certain States, and which they used to promote their own interests. It was therefore necessary to establish a mechanism flexible enough to allow for rapid intervention when the situation called for it. An office of the United Nations High Commissioner for Human Rights would fulfil that function perfectly. The idea of the office of the High Commissioner, which had initially been put forward by France and Uruguay after the adoption of the Universal Declaration of Human Rights and then set aside because it had been considered premature, had been taken up again by Costa Rica in 1965, when it had become apparent that the International Covenants drawn up since 1948 to specify the content of the Declaration would not be universally ratified. The office of the High Commissioner would be in a better position than other mechanisms to collect serious, objective and reliable information on the problems encountered in the application of the provisions on human rights and to recommend solutions. It would thereby strengthen the role and the credibility of the United Nations in that area.

53. In spite of the efforts of many countries belonging to various regions and having different levels of development and different political systems, that proposal was still in the drafting stage. The Commission on Human Rights would have before it at its fortieth session a revised text drawn up by the Sub-Commission on Prevention of Discrimination and Protection of Minorities which defined the High Commissioner's mandate and which had been adopted by 16 votes to 3. The constructive and independent work carried out by the Sub-Commission's experts, despite the restrictions and obstacles which some had wished to impose on it, should be decisive, and their recommendations deserved to be adopted by the Commission on Human Rights. In that connection, his country welcomed the initiatives intended to guarantee the independence of the Sub-Commission's experts, such as the United Kingdom's proposal to appoint substitutes in order to ensure that certain delegations did not continue to nominate representatives of their Governments in place of experts, or the idea that voting in future should be by secret ballot. The creation of a post of High Commissioner would enable the United Nations to perform its mission of protecting human rights and give the whole world a better understanding of the reason for the Organization's existence.

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54. Mrs. CAMARGO-VILLARREAL (United Nations Educational, Scientific and Cultural Organization) recalled that the act establishing UNESCO had called upon it to ensure universal respect for justice, the law, human rights and fundamental freedoms. By its resolution 11 C (XXVII), the Commission on Human Rights had requested UNESCO to consider the desirability of envisaging the systematic study and the development of an independent scientific discipline of human rights, taking into account the principal legal systems of the world, with a view to facilitating the understanding, comprehension, study and teaching of human rights at the university level and, subsequently, at other educational levels.

55. The twenty-second General Conference of UNESCO had before it a Plan for the Development of Human Rights Teaching (document 22 C/85), which complemented the report on UNESCO's Contribution to Peace and its Tasks with respect to the Promotion of Human Rights and the Elimination of Colonialism and Racism (document 22 C/14). The Plan was the outcome of recommendations made by the International Congress on Human Rights Teaching, organized at Vienna in 1978 under the auspices of UNESCO and the Austrian authorities, which had attracted more than 300 experts from 60 Member States and more than 50 observers from non-governmental organizations playing an active part in the field of human-rights teaching. It was also the logical complement to UNESCO's studies and research on human rights, to its consideration of communications on questions related to its activities, and to its general effort to educate people and increase their awareness about human rights. The activities envisaged with a view to implementing the Plan were aimed essentially at developing national, regional and international bodies concerned with human-rights teaching according to need, so as to promote exchanges of information on the subject and to improve the necessary instructional materials, educational programmes and teaching methods. Those activities would be undertaken as part of programmes XII, XIII and XIV of the proposed programme budget for the period 1984-1985.

56. At its one hundred and eighth session, the Executive Council of UNESCO had approved the establishment of a voluntary fund for the development of knowledge of human rights through teaching and training, which would serve to finance the Plan's implementation by supplementing the sums allocated for that purpose in UNESCO's regular budget with extrabudgetary resources.

57. Also in connection with the implementation of the Plan, it was proposed to establish an international documentation centre for teaching and research in the human-rights field, or even several regional centres of that kind, which would serve as bases for research and promotional activities relating to human rights.

58. She drew the Committee's attention to UNESCO's resolution 21 C/3/03, which invited the Director-General to study the possibility of organizing, in conjunction with the United Nations, an international congress on information in the field of human rights. It was contemplated that a meeting of experts would follow up the work undertaken by the International Congress on Human Rights Teaching organized at Vienna in 1978.

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(Mrs. Camargo-Villarreal, UNESCO)

59. Implementation of the Plan could not be successful without the support and co-operation of Member States, regional or international intergovernmental organizations and non-governmental organizations concerned with the protection and promotion of human rights. In that connection, she drew attention to paragraph 3 of UNESCO's resolution 21 C/3/03. For its part, UNESCO would continue to co-operate with the United Nations, and in particular with the United Nations Centre for Human Rights, as well as with other organizations of the United Nations system whose activities complemented those of UNESCO.

60. Miss ABU-LUGHOD (Observer, Palestine Liberation Organization) said it was not PLO policy to recognize the legitimacy of the Zionist entity or its institutions but that since document A/38/416 referred to the communication of 11 November 1982 sent by the Israeli Government concerning national institutions for the promotion and protection of human rights, some remarks were required.

61. It should not be forgotten that 35 years after its creation, the "State" of Israel still had no constitution wherein the basic rights of its citizens were clearly defined. No Palestinian living within the 1948 borders could know what his rights were in his own country. Protection of the human rights of all citizens and residents was entrusted principally to the Supreme Court when sitting as a High Court of Justice. One might wonder, first of all, whether it was legal to apply to the occupied territories a measure relevant to the State itself. One also wondered whether the Palestinian people had the material means to bring a case to the Supreme Court and whether a decision of that Court would be honoured by the lawless institutions and agencies of the State. To illustrate her remarks, she recalled the case of a Maronite village in northern Palestine which the Israeli army had occupied in 1948 to carry out manoeuvres, promising the villagers that they could return home once the manoeuvres had ended. In 1951, the villagers, who had meanwhile become Israeli citizens, had still been unable to return to their village and had taken the case to the Supreme Court. The latter upheld the villagers' right to return to their homes, but the military authorities had ignored the Court's ruling and had destroyed all the houses in the village on Christmas Day 1951. Another Maronite village had suffered a similar fate. Those cases - by no means isolated - had created controversy within Israel. The case of the Elon Moreh settlement in 1969 had been so controversial that the Supreme Court had decided that the High Court would not again intervene in any dispute over the ownership status of land. In effect, that meant that if the Military Governor should declare that certain land in the West Bank or Gaza was necessary for the establishment of settlements considered essential for "security" reasons, the Palestinians deprived of their lands would have no recourse. Moreover, before a case could be brought before the Supreme Court, it would have to pass through several Courts of Appeals; but many cases remained pending at that level, and what was more, the cost of cases was prohibitive. In addition, defence lawyers in the Supreme Court often did not have access to the evidence in cases because it was considered secret for reasons of security.

62. Her delegation had noted that the communiqué from the Zionist entity had also referred to a division within its Ministry of Justice specifically in charge of

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(Miss Abu-Lughod, Observer, PLO)

human rights. Such a division could only be cosmetic. It should not be forgotten that settlers had kidnapped and executed unarmed Palestinians with increasing frequency. Since settlers had been given M-16 rifles and other arms by the Government, many had decided that they themselves represented the law and were free to shoot at whomever they chose. A commission set up by the Ministry of Justice had been given the responsibility of investigating acts of violence committed by Jewish settlers but the Deputy Attorney-General heading the commission had subsequently resigned from that position because neither the Ministry of Justice, nor the police nor the army was willing to take any action on the Commission's recommendations.

63. The provisions made by the Israeli authorities for guaranteeing human rights were absolutely insignificant when viewed against the background of over 1,060 military orders of the Military Governor affecting every aspect of Palestinian life. In fact, the military orders impinged on every single basic human right. Thus, the provisions mentioned by the Zionist delegation were a legal mockery and represented an affront to justice-loving peoples.

64. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that energetic action for the maintenance of peace was the essential condition for the creation of a climate favourable to the development of international co-operation in the field of human rights. The elimination of the threat of nuclear war, the ending of the arms race, the achievement of disarmament and the establishment of a new international economic order were therefore of special importance today for the promotion of human rights.

65. By respecting the Charter of the United Nations both in letter and in spirit and by applying strictly the provisions of the international instruments concerning human rights which the United Nations and its agencies had adopted, States would inevitably help to strengthen international co-operation for the universal realization of human rights.

66. It was also essential that States should try to strengthen the activities of existing United Nations agencies with a view to translating into reality the basic principles set forth in General Assembly resolution 32/130, including the principle that all human rights and fundamental freedoms were indivisible and interdependent. International law had come to regard the human rights of peoples and those of individuals as a unified whole. It followed that social, economic and cultural rights were just as important as civil and political rights and, furthermore, that effective guarantees for human rights in a given country or in the world could exist only if all the citizens of that country and all the countries of the world enjoyed fundamental freedoms and exercised their human rights. That condition was not met so long as there existed any discrimination based on race, sex, language or religion or any class society. Furthermore, the illiterate, the unemployed, the disinherited and the ordinary citizen lacking the financial means for an electoral campaign were condemned to regard as utopian the rights of participation in the public affairs of their country, such as the right to be elected or to express themselves freely. In the Byelorussian Soviet

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(Mr. Ogurtsov, Byelorussian SSR)

Socialist Republic, it was possible for all workers to participate in public and social affairs and in the consideration and adoption of laws of interest to the nation and the regions; that was in itself a guarantee that workers could exercise their rights to work, rest, health, housing and training. The greater the degree of their active participation, the more the social and economic action of the State would be oriented towards the enhancement of the material and spiritual well-being of each individual.

67. In the view of his delegation, the Committee should adopt a draft resolution requesting the Commission on Human Rights to continue its work in the field of the international legal protection of human rights in the case of persons who were not citizens of the country in which they lived; such a draft resolution should be based on the provisions of General Assembly resolution 34/46, and especially on the principles enunciated in General Assembly resolution 32/130, including in particular paragraph 1.

68. He reminded the Committee that it was the responsibility of States, not that of the United Nations, to guarantee the human rights and fundamental freedoms of their citizens and to adopt legislative or other measures to ensure their realization. It was therefore essential that decisions on co-operation between States in the field of human rights should be taken by organs made up of the representatives of States. For those reasons, he could not accept proposals to create a supranational institution to safeguard human rights, such as a United Nations High Commissioner for Human Rights; a proposal of that kind would open the way to interference in the internal affairs of States and would therefore be contrary to the provisions of Article 2, paragraph 1, of the Charter. Furthermore, such proposals represented attempts to avoid participation in international co-operation for the realization of human rights and would only serve to divert the attention of the international community from the struggle against violations of human rights resulting from colonialism, foreign aggression and racist policies.

69. Certain States failed to recognize in their legislation the fundamental human rights of their citizens or were not parties to the International Covenants on Human Rights and other human-rights instruments or, through their co-operation with the racist régime of South Africa, for example, were sabotaging the implementation of a number of resolutions adopted by the Organization with a view to eliminating mass and flagrant violations of human rights. Clearly such States were doing nothing to promote international co-operation for the realization of human rights through the existing machinery but were using the question of human rights for discreditable purposes.

70. The study on international conditions and human rights (A/38/511) did not, in his view, respond to the intent of the General Assembly as expressed in its resolutions 36/133 and 37/200. Indeed, a document which contained no more than an introduction to replies received from Governments and non-governmental organizations, together with the texts of those replies and of two statements by the Secretary-General, could not be regarded as a study.

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(Mr. Ogurtsov, Byelorussian SSR)

71. The United States of America had used that document to lecture other countries on "American democracy" - a "democracy" whose meaning in practice for small defenceless States it had made quite clear by its actions - and to spread gross slanders, which seemed to be Washington's main propaganda weapon.

72. Miss BROSNKOVA (Czechoslovakia) said that it was regrettable that every year certain delegations were trying to narrow down the scope of agenda item 100 to the establishment of a United Nations High Commissioner for Human Rights. Her delegation had repeatedly explained why it believed that the establishment of a supranational institution, directed by a single individual, was not only unrealistic but also likely to jeopardize the progress already achieved in the international protection of human rights. It was unrealistic to establish an institution with such extensive powers in a field as complex and sensitive as that of human rights when no comparable body existed to take up the most urgent issues such as the safeguarding of peace. It was thus surprising that certain States were trying by all possible means to impose the establishment of that institution on the international community, despite the serious objections of the majority of States.

73. The first study entrusted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, concerning possible terms of reference for the mandate of a High Commissioner, was supposed to have taken into account desirability that major decisions concerning the organization and operation of the United Nations system for the promotion and protection of human rights be adopted on the basis of a consensus which took account of different views expressed by Member States. Yet the Sub-Commission, had attempted to go beyond its mandate by formulating a proposal designed to advance the establishment of the post in a covert manner.

74. It was illusory to believe that the establishment of a post of High Commissioner would bring about a miraculous change in the behaviour of States with regard to respect for human rights. Even if it was naively believed that the High Commissioner would operate discreetly and tactfully, that he would enjoy the confidence of all States and that he would avoid any politicization of the issues under his consideration, it was hard to see how an individual could work better than all the competent bodies and would not interfere with their functioning.

75. The establishment of any new institution had the result of diverting attention from the fundamental issues which the Committee should deal with such as massive and gross violations of human rights throughout the world. Efforts should be channelled primarily towards limiting and then eliminating such violations. Moreover, the sincerity of those States which advocated the establishment of the new post should be judged on the basis of their actions and their practical efforts to combat those violations. Indeed, those States included some which tolerated, or even actively supported, régimes which were violating the human rights of millions of people on a daily basis.

76. Czechoslovakia was not opposed to the adoption of partial measures to improve the work of the existing bodies of the United Nations in the field of human

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(Miss Brosnakova, Czechoslovakia)

rights. However, consensus had by no means been reached on the establishment of a new supranational body. She therefore called upon those delegations which were in favour of the establishment of that body to reconsider their positions in the light of the position adopted from the outset by other delegations and thus allow the Committee to devote its time to other questions before it.

77. Czechoslovakia opposed the manner in which the United States had used the study on international conditions and human rights (A/38/511) to make arrogant attacks against the socialist countries, including Czechoslovakia. There was no point in responding to those attacks since the example of the United States' intervention in Grenada sufficed to prove that the United States was using the theme of human rights to justify its imperialist policy.

78. Miss EMARA (Egypt) said that the ultimate objective of all nations should be to better ensure the effective enjoyment of human rights and fundamental freedoms at the national, regional and international levels. Since human rights, including the right to development, were indivisible and interdependent, efforts should be made to promote and protect all human rights, whether civil, political, economic, social or cultural.

79. Her delegation shared the view expressed by the Secretary-General in his report (A/38/511) that human beings were at the heart of the international order envisaged by the United Nations Charter. Respect for human rights and fundamental freedoms was the essential element on which human societies and all social organizations should be based. The concept of human rights should be incorporated in political, economic, social and cultural guidelines and programmes at the international, regional, national and local levels.

80. Egypt believed that international co-operation in the field of the promotion of and respect for human rights was crucial. Any progress towards disarmament, the establishment of a new international economic order, the abolition of foreign occupation, colonialism, neo-colonialism, apartheid, all forms of racial discrimination and all massive violations of human rights, and towards the realization of the right of the peoples to self-determination, constituted progress in respect for human rights and fundamental freedoms. It was clear that the United Nations had played and was continuing to play an important role in all those fields.

81. Her delegation had studied the various proposals submitted in recent years to the Committee, the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and had also reviewed the various means available to the United Nations to confront the problems which arose in the field of human rights, particularly in the case of the occupied Arab territories and southern Africa. It believed that the current means were sufficient, on condition that their effectiveness was increased, particularly by ensuring better co-operation on the part of those who were responsible for violations of human rights, without which any existing or new body would encounter often insurmountable obstacles.

(Miss Emara, Egypt)

82. The establishment of a new permanent post could be useful for a certain category of problems but of no use for others. The specific features of each situation should be taken into account and an adequate procedure established, for example through a resolution of the General Assembly conferring a specific mandate on the Secretary-General.

83. Egypt, which like many other delegations had voted in favour of the two resolutions adopted under the item under consideration in the previous year, hoped that at the current session the Committee would be able to formulate a draft resolution which could be adopted by consensus.

84. Ms. FAWTHORPE (New Zealand) said that the promotion and protection of human rights was a fundamental purpose of the United Nations. Several international instruments, in particular the Universal Declaration of Human Rights and the two International Covenants, had established standards for all Member States. There were close links between the activities of the United Nations in the human rights field and its efforts to promote peace and development, and at the heart of all those activities was respect for the dignity of the human person. The Committee had for some years been discussing ways and means of ensuring progress in achieving universal observance of human rights and there were differing opinions on the question. The debate had its origins in a proposal for the establishment of a post of United Nations High Commissioner for Human Rights. New Zealand had consistently supported that proposal. Alternative measures also merited attention, in particular the ratification of international instruments. New Zealand was a party to the two International Covenants on Human Rights as well as to the International Convention on the Elimination of All Forms of Racial Discrimination, and had established national institutions to ensure their fullest possible implementation, as detailed in the Secretary-General's report on national institutions (A/38/416). New Zealand also favoured closer regional co-operation on human rights.

85. In recent years the Committee had been occupied increasingly with discussion of more abstract principles. Everyone was aware of the different priorities that delegations ascribed to the enjoyment of economic rights and of civil and political rights. Some considered that Governments must concentrate first on guaranteeing their citizens an adequate standard of living before turning to more abstract notions such as freedom of speech or movement. Others considered that such freedoms could even be temporarily suspended in the interests of economic development. Others again insisted that Governments must never set aside fundamental freedoms, regardless of a country's level of development, since the ultimate goal of development was to improve the quality of life of members of society, and freedom was a key element in that regard. New Zealand shared the latter view, but at the same time believed that the promotion of human rights at the international level required a recognition of the different cultural and social values existing in different countries and regions. Debating the relative priorities of economic and social rights, on the one hand, and civil and political rights on the other, was a sterile exercise. Both categories of rights were fundamental and should be promoted with equal vigour. Those rights were interdependent and indivisible. At the thirty-seventh session the Committee had

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(Ms. Fawthorpe, New Zealand)

adopted two separate resolutions, one emphasizing economic rights and the other stressing the equal importance of civil and political rights. Her delegation hoped that at the current session it would be possible to draft a single resolution which could be adopted by consensus.

86. Mr. GEZER (Turkey) said that he did not propose to expound the views of his Government on the question of the enjoyment of human rights and fundamental freedoms, which were fully and effectively guaranteed in the Constitution and the laws of the Republic of Turkey on the basis of equality for all Turkish citizens, but rather to convey the views of the Turkish Cypriot community regarding the situation in Cyprus. That had become necessary because of the observations of the Greek Cypriot authorities contained in the Secretary-General's report (A/38/511), which grossly distorted the situation.

87. Since 1974, particularly after the voluntary exchange of populations in 1975 under United Nations supervision, the members of the Turkish Cypriot community had lived in peace in the north of Cyprus. The few Greek Cypriots - less than a thousand - still living in the north enjoyed the same rights and freedoms as the other inhabitants, under the protection of the Constitution and the law. That situation contrasted sharply with the situation prior to 1974, when the Turkish Cypriots had been deprived of their fundamental rights and freedoms and subjected to oppression. That was why the constant repetition of the allegation that there were 200,000 Greek Cypriot refugees in Cyprus today was designed to mislead the international community. The only discrimination in Cyprus today was the total economic embargo imposed on the Turkish Cypriots by the Greek Cypriot administration.

88. The question of missing persons had long pre-dated the events of 1974 and had for several decades been a source of intense suffering for many Turkish Cypriot families. The Turkish Cypriot authorities had always called for the expeditious settlement of that sensitive humanitarian problem and had expressed their readiness to work with the Committee on Missing Persons, the only competent body established with the agreement of the two communities. What was required was that the Greek Cypriots should cease their political exploitation of the issue. With regard to the issue of certificates of final possession by the Turkish Cypriot authorities, referred to in paragraph 7 of the Cypriot reply (A/38/511), he said that document A/37/793-S/15620 of 23 February 1983, from which he quoted, clearly stated the Turkish Cypriot position. He added that his statement would not have been necessary had it not been for the inclusion of a series of misrepresentations by the Greek Cypriot authorities in document A/38/511 in the reply from Cyprus. Everyone should make an effort to resist the temptation to use every opportunity, every agenda item, to promote narrow and selfish interests and thus waste valuable time.

89. Mrs. KOZAKOU-MARCOULLIS (Cyprus) said that she reserved her delegation's right to reply at a later stage to the representative of the Turkish military régime, whose statement had been nothing but a tissue of lies.

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90. Mrs. de BARISH (Costa Rica), said that she wished to elaborate on the proposal to establish a post of High Commissioner for Human Rights, since Costa Rica, like every other Member, was entitled to make any proposals it saw fit in order to reflect its views. If the delegations that were so afraid of the establishment of a post of High Commissioner would take the trouble to look at the terms of the proposal as they had evolved from the time it had originated up to the time of the present study by the Sub-Commission, they would not be raising the same objections as in 1965. Costa Rica accepted serious and constructive criticisms of the proposal but was indignant at being accused by some people of insincerity in its efforts to promote the proposal. It would be more helpful if those delegations proposed concrete and practicable alternative solutions.

91. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) asked by what right the representative of Costa Rica was speaking, since she was not on the list of speakers.

92. Mrs. de BARISH (Costa Rica) said that she had pointed out at the beginning of her statement that she wished to elaborate on Costa Rica's proposal and that she considered that she had an absolute right to do so. For the benefit of delegations that had not listened to her, she repeated the objectives and the advantages of establishing a post of United Nations High Commissioner for Human Rights. It would be recalled that the delegations which today opposed the establishment of such a post had strongly opposed the establishment of the Office of the United Nations High Commissioner for Refugees, fortunately without success, since the democratic decision-making process in force in the United Nations had made it possible to establish an agency which assisted millions of refugees throughout the world as well as the countries which received them. That was why Costa Rica would continue to fight, as was its duty and its right, for the establishment of a post of United Nations High Commissioner for Human Rights.

The meeting rose at 6.50 p.m.