



SUMMARY RECORD OF THE 43rd MEETING

Chairman: Mrs. MAIR (Jamaica)

CONTENTS

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued)

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The meeting was called to order at 11.05 a.m.

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued) (A/10235, A/32/61, A/32/178, A/32/179; A/C.3/32/L.17 and L.25)

1. Mr. ALFONSO (Cuba) said that the Committee was taking up item 76 at a very appropriate time. The United Nations had now become a virtually universal Organization, since it included as its Members many States which in 1945 had still been under colonial or neo-colonial domination. Moreover, the thirtieth anniversary of the adoption of the Universal Declaration of Human Rights and the tenth anniversary of the Proclamation of Teheran would be celebrated very soon, giving the international community an opportunity to draw up a balance-sheet of its activities since the establishment of the United Nations and, most important, to consider all pending problems and determine the criteria and the means at its disposal for ensuring the enjoyment of human rights and fundamental freedoms. The purpose in doing so was not to engage in partisan recriminations but, on the contrary, to bring to light the points of agreement in order to tackle the thorny problems that remained unresolved and to avoid, in so far as possible, anything that could divide the international community and endanger co-operation in the field of human rights. He wished to assure the members of the Committee of his delegation's full support in that respect.

2. The balance-sheet of United Nations activities in the field of human rights was undoubtedly a very favourable one; the quality, effectiveness and scope of United Nations action had improved and expanded considerably during the past 30 years. That was not surprising, for it must be borne in mind that the fundamental principles governing the activities of the United Nations during the period immediately following its establishment had been based on the experience of a group of countries with a very high degree of economic development and wielding a predominant influence in the Organization. Moreover, considerations totally foreign to humanitarian concerns had left their mark on United Nations activities during the so-called cold-war period. It was not surprising, therefore, that for many years the Organization's capacity for action had been severely limited in the field under consideration. The admission of many newly independent countries to the United Nations had given a much-needed new impetus and a more universal dimension to the consideration of human rights problems.

3. In the 1960s that innovative trend had been manifested in the recognition of the right of peoples to self-determination. That right, recognized in the San Francisco Charter, was not even mentioned in the Universal Declaration of Human Rights, adopted in 1948 by the 58 States Members of the United Nations. It was not until 14 December 1960 that the General Assembly had adopted its historic resolution 1514 (XV), thus endeavouring to rectify that inexcusable omission. In 1966 the General Assembly, which at that time had numbered 122 Member States, had enshrined that principle in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

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Another example of that change in orientation could be found in paragraph 10 of the Proclamation of Teheran, adopted in 1968, in which it was recognized that acts of aggression constituted an absolute negation of human rights. It should be noted that the Proclamation of Teheran, like the 1960 Declaration, considered human rights in their entirety.

4. Another positive aspect of United Nations activities was the establishment of the international norms contained in such international instruments as the International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973), the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975), the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding among Peoples (1965), to mention only a few.

5. The fact that the United Nations was considering certain questions such as, for example, torture, or flagrant violations of human rights, in particular in the Arab territories occupied by Israel or in Chile, or the violation of the principle of self-determination in southern Africa, was also to the credit of the Organization. Those violations were quite properly attracting a great deal of attention, firstly because of the large number of victims, and secondly because existing institutions were incapable of guaranteeing or restoring the enjoying of human rights in the territories concerned. Another item on the credit side of the ledger was that the United Nations had established the existing machinery designed to promote and safeguard human rights. In that connexion, however, his delegation believed that the United Nations had not yet exhausted all of the possibilities afforded by that machinery - for example, those provided under Chapter VII of the Charter, which dealt with flagrant violations such as those committed in southern Africa. But it must be recognized that the existing system was flexible enough for the creation of new machinery adapted to the circumstances, with a view to dealing with particularly shocking cases, as for example that of Chile, even though all existing means obviously must first be brought to bear.

6. Turning to the more controversial aspects of United Nations activities, he felt it necessary to mention the persistence of certain tendencies which still had a subtle but very real influence on the work of the Organization, and he therefore wished to state certain notions clearly. Civil and political rights and economic, social and cultural rights were closely interrelated, and their order of importance was quite clear, as indicated in the Proclamation of Teheran: the exercise of civil and political rights was impossible without the effective enjoyment of economic, social and cultural rights. It was therefore essential to ensure economic development in order that all citizens might exercise not only their economic, social and cultural rights, but also, and at the same time, their civil and political rights. Some countries which had contributed appreciably to the underdevelopment of other countries had interpreted that position as an excuse to gloss over violations of the latter category of rights.

(Mr. Alfonso, Cuba)

That was obviously a self-interested, fallacious and tendentious argument. To claim that it should be possible to exercise civil and political rights immediately, while the enjoyment of economic, social and cultural rights should be the culmination of a long process reflected a concept that denied the interdependence of those rights and a totally negative attitude.

7. It was because of that attitude that the United Nations had failed to give adequate attention to the analysis and solution of the problems which made impossible the exercise of economic rights both in developed societies and in developing countries. It was particularly important for the latter to ask to what extent the persistence of an unjust international economic order affected human rights and to analyse the causes which prevented many people living in developed countries from exercising their economic rights, such as the right to work. Lastly, another negative item was that the United Nations, in the preparation of its various reports, drew too little on the experience, personnel and institutions of the developing countries in the field of human rights.

8. The need was greater than ever for a detailed study of the way in which the United Nations should deal with medium-term and long-term problems involving human rights, in the light of the experience acquired since the adoption of the Universal Declaration of Human Rights and the Proclamation of Teheran. In that connexion, the General Assembly should give the Commission on Human Rights - which was shortly to consider its future programme of work - a clearer idea of the problems which were causing it concern, as well as some precise guidelines. His delegation believed that when those problems were reanalysed, care should be taken not to distort the general concept of human rights and not to give undue attention to any specific category of fundamental rights. The development of society as a whole and the promotion of the dignity of the individual should also be taken into account.

9. It should not be forgotten that any State which violated the purposes and principles of the Charter was responsible for depriving millions of persons of the enjoyment of their basic rights. It was therefore necessary to continue to give priority attention to the violation of such principles as the obligation not to use force or to threaten to use force, respect for the sovereign equality of States, non-intervention in the internal affairs of States, and the self-determination of peoples, together with other flagrant violations, including those arising from colonialism, apartheid, racism or the military occupation of a territory by alien forces.

10. During the new phase which the Committee was about to enter, the competent organs of the United Nations responsible for human rights questions should give priority attention to the causes which made the enjoyment of economic, social and cultural rights impossible, and especially to issues connected with the prompt establishment of a new international economic order. His delegation considered that, before any new bodies were set up, it was necessary to consider how to make the best possible use of existing United Nations machinery and to induce all Member States to take steps to universalize the adoption and implementation of existing

international instruments on human rights. His delegation emphasized the need to find common ground, since only genuine and sincere co-operation would enable the international community to attain its goals.

11. Mr. SAARIO (Finland) said that the Finnish Government took the view that observance of human rights was of extreme importance for peace and friendly relations between States. The problems in southern Africa and the Middle East were very good examples.

12. Human rights had always been at the very core of United Nations activities. Indeed, one of the main purposes of the United Nations, according to its Charter, was to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion. The Universal Declaration of Human Rights set forth, on the one hand, civil and political rights, which were aimed at regulating relations between the individual and the State and guaranteeing the enjoyment of fundamental rights and freedoms, and, on the other, economic, social and cultural rights, which required the adoption of specific measures by the State. The United Nations had adopted many other international human rights instruments - including the two International Covenants on Human Rights and the Optional Protocol to the International Covenant on Civil and Political Rights - which together constituted an international code of human rights and fundamental freedoms and reflected the aspirations of mankind and its faith in the dignity and worth of the human person.

13. Mention should be made in that regard of the Final Act of the Conference on Security and Co-operation in Europe, adopted at Helsinki in 1975. That document again reaffirmed the conviction of the signatories that there was a close relationship between the full enjoyment of human rights and the maintenance of peace and security and their belief in the need for a code of international conduct relating to human rights. Civil and political rights and economic, social and cultural rights had been the subject of two separate Covenants for practical reasons, because civil and political rights had an exact content and were legally enforceable, whereas economic, social and cultural rights could be achieved only over a period of time and required adequate material resources: yet, the rights in both categories were indivisible and interdependent and should be given equal attention. However, the instruments adopted had yet to be applied universally and effectively. It was therefore necessary to study ways and means of making them fully effective, bearing in mind that States alone were in a position to take the necessary legislative, administrative and other measures in that respect.

14. It was essential that the various human rights conventions, especially the two International Covenants, should be ratified by the widest possible number of States, if they were to become truly universal. Furthermore, States parties to the International Covenant on Civil and Political Rights should be encouraged to make the declaration envisaged in article 41 and to ratify the Optional Protocol to that Covenant. The working methods of the Commission on Human Rights and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities should be rationalized in order to enable those bodies to accomplish their work more

Mr. Saario, Finland)

effectively and to assume new tasks related to the international protection of human rights. Rationalization could best be undertaken in the context of the current restructuring of the economic and social sectors of the United Nations system. New fact-finding procedures, to be used in co-operation with the Governments concerned, might also be developed. Furthermore, the Secretary-General could be asked to use his good offices in special cases. Finally, well-informed public opinion could serve as a valuable instrument in persuading Governments to fulfil their obligations under the Charter of the United Nations and other international instruments to which they were parties.

15. The activities of the United Nations in the field of human rights demonstrated that, despite States' different political systems and levels of development, the international community had always been able to set standards applicable to all. His delegation considered that draft resolution A/C.3/32/L.17 provided a constructive basis for the Organization's future work on human rights. However, it would have welcomed a better balance between individual rights and collective rights and between the responsibilities and obligations of Governments and those of the international community. Some of the sponsors of the draft resolution had indicated informally their readiness to review the draft resolution with a view to finding common ground. His delegation was ready to participate constructively in such a review. With regard to draft resolution A/C.3/32/L.25 concerning the establishment of the post of a High Commissioner for Human Rights, his delegation considered that although the proposal was highly controversial, it had apparently gained enough support to merit consideration. His delegation reserved the right to make more detailed comments on the subject at a subsequent time.

16. Mr. NAIR (Fiji) said that respect for human rights and fundamental freedoms had been, from the outset, one of the major concerns of the United Nations and was one of the basic purposes set forth in Article 1 of the Charter. The Universal Declaration of Human Rights and the two important Covenants adopted subsequently - the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights - set standards of behaviour and imposed on States a number of obligations, starting with the universally recognized principle that individual human dignity must be respected.

17. It must be accepted, however, that human rights matters were extremely complex and reflected the diversity of traditions, practices and codes of behaviour prevailing in different countries and regions. Because of its universality, the United Nations was the best forum in which to discuss human rights issues. International human rights law was fairly well developed and there were 19 major human rights instruments; the problem was now to induce States to accede to those instruments in order to ensure effective compliance with the legal rules established.

18. The duty to protect human rights fell primarily on the State. It was for the State to set up effective machinery for the implementation of legislation to protect human rights. Although most States could rightly be proud of the action they had taken in that respect, it must be recognized that gross violations of human rights continued to occur. The international community must therefore give further consideration to the matter.

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(Mr. Wair, Fiji)

19. In accordance with the Charter, the political organs of the United Nations, particularly the Security Council, the General Assembly and the Economic and Social Council, were authorized to conduct investigations in the field of human rights, but the results had not always been satisfactory, since discussions in those organs were inevitably of a political nature. Several specialized agencies also played prominent roles in the field of human rights. The International Labour Organisation in particular had always done a great deal to give practical expression to a number of rights and establish standards of treatment. States members of ILO were required to submit annual reports on measures taken by them to give effect to conventions adopted by ILO, and ILO was empowered to hear the complaints of member States about each other; such complaints, after being examined by a commission of inquiry, could be referred to the International Court of Justice. The machinery for supervision was therefore quite effective.

20. However, it had apparently still not been possible to set up satisfactory machinery for the supervision of the International Covenants and the Optional Protocol related to the second of those Covenants. With regard to the International Covenant on Economic, Social and Cultural Rights, States Parties were simply required to submit reports on measures they had taken, and nothing else was expected of them. The machinery for the supervision of the International Covenant on Civil and Political Rights was perhaps slightly more effective, although the Human Rights Committee would not express an opinion on alleged violations and there was no provision for referring disputes to any tribunal. In the case of the Optional Protocol related to that Covenant, the procedures provided for were even more sketchy. The meetings of the Human Rights Committee were closed, the complainant could not appear before the Committee, and neither non-governmental organizations nor groups of individuals had any right of petition. Yet it was often the case that wronged individuals could not bring a complaint before the Committee without outside assistance. It was not enough to recognize the rights of individuals; steps must be taken to ensure that individuals could exercise those rights, for otherwise all the institutions being set up would serve no useful purpose. The Commission on Human Rights was to be commended for its efforts to promote the cause of human rights, but its choice of cases for consideration and the action it took were all too often determined by political considerations. The Commission would perhaps be more effective if, as happened in ILO, the reports and cases submitted to it were examined by independent experts.

21. His Government was ready to discuss any proposal for the effective strengthening of existing procedures or the establishment of new ones. It would perhaps be useful to take a regional approach to the protection of human rights. In recent years, that possibility had been examined quite closely, particularly in Europe and Latin America. Regional organizations had a distinct advantage over world-wide organizations in that they included countries with common characteristics in respect of language, culture and legal, political and economic systems. That factor was particularly important in a field which States had traditionally regarded as a domestic matter.

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(Mr. Fair, Fiji)

22. His delegation had followed with interest the various attempts of Member States to strengthen the procedure provided for in Economic and Social Council resolution 1503 (XLVIII) with respect to the Commission on Human Rights; those attempts were to be commended. It was to be hoped that the current debate would provide an opportunity for further action in that respect. His delegation had also followed with interest the proposal to establish an Office of the United Nations High Commissioner for Human Rights. There could be no doubt that, in view of the proliferation of instruments, organs and procedures, a High Commissioner could play a very important role with respect to co-ordination. The High Commissioner could also assist the Secretary-General when the latter was asked to use his good offices in the field of human rights. The High Commissioner would be completely independent and would thus be free from any kind of pressure. However, such a post could be established only with the co-operation and support of all Member States. It was therefore important to hold more extensive consultations in order to reach a consensus on the issue. In that connexion, it would be useful to ask the Commission on Human Rights to undertake an over-all analysis of alternative means of improving the effective enjoyment of human rights on the basis of the principle that all fundamental rights and freedoms were indivisible and interdependent. The possible role of a United Nations High Commissioner could then be considered in the context of that analysis.

23. In conclusion, his delegation paid a tribute to international non-governmental organizations, particularly Amnesty International, which, disregarding all political considerations, played such a commendable role with respect to promoting human rights. He also paid a tribute to the numerous world, regional, governmental and other organizations which had taken up the problem of poverty in various parts of the world, a problem which was inseparable from the question of human rights. In the field of human rights, as in other fields of international law, it was not enough merely to draw up texts; the texts must above all be implemented.

24. Princess Ashraf PAHLAVI (Iran) said that 30 years had passed since the adoption of the Universal Declaration of Human Rights, 10 years had passed since the Conference at Teheran and the International Covenants had just entered into force; it therefore seemed appropriate to evaluate all that had been done in the field of human rights in order to ensure that the measures taken by the international community in the future were more effective.

25. Through the Charter and the Universal Declaration of Human Rights, the international community had undertaken to realize ideals which must necessarily be regarded as Utopian as long as certain conditions had not been fulfilled and whole nations still subject to colonial domination were deprived of the right to speak. Even the right to self-determination was not clearly established in the Universal Declaration, which concerned only individual rights and dealt with the concept of human rights in a very limited context. The two International Covenants and a number of other international instruments had subsequently been established to complement the Universal Declaration; in their first article, those instruments established the right of peoples to self-determination, the right freely to pursue their economic, social and cultural development and the right freely to

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(Princess Ashraf Pahlavi, Iran)

dispose of their own wealth and natural resources. Finally, the sixth and seventh special sessions of the General Assembly had demonstrated clearly that the perpetuation of an unjust international economic order had adverse consequences for the effective enjoyment of human rights; as recognized in the Proclamation of Teheran issued at the International Conference on Human Rights in 1968, without the enjoyment of economic, social and cultural rights, the realization of civil and political rights was impossible.

26. Clearly, all rights were interdependent and indivisible. No one contested that fact: but when the question of human rights was raised in the United Nations it met with an abysmal lack of understanding of the problems of different States. The developed and the developing countries need not necessarily follow parallel paths, with little chance of ever meeting, where that question was concerned. Certain countries which had a tendency to lecture on civil and political rights had apparently forgotten the realities of a universe which did not belong to them. She cited Mr. Jan Tinbergen who, in a report drawn up for the Club of Rome, had written that the injustices of the international system had given birth to two worlds separated by growing differences; a curtain of poverty divided those worlds materially and philosophically, for one was educated, the other largely illiterate; one was industrial and urban, the other essentially agricultural and rural; one was oriented towards consumption, the other was struggling for survival. In the rich world people were concerned about the quality of life, whereas in the poor world their concern was life itself, threatened by disease, hunger and malnutrition. Thus, while the Western countries stressed the rights of the individual, the developing countries were thinking of the rights of entire peoples. The former spoke of the immediate implementation of civil and political rights, while the latter strove to establish economic ones. It was important, therefore, to find an area of agreement and to avoid planning new machinery solely on the basis of a narrow interpretation of concepts that were understood differently in a world which was divided by such great differences and in which inequality and injustice reigned.

27. To begin with, therefore, it was essential to redefine those concepts, broadening them so as to create the conditions of confidence and co-operation required for effective action to promote all human rights throughout the world. For that purpose, it was necessary first of all to avoid treating questions concerning human rights in isolation from all other human problems, in particular economic ones. The internationalization of those questions went hand in hand with the increasingly close interdependence between nations. There could be no real co-operation in the implementation of individual rights and civil and political rights if no such co-operation was forthcoming for the implementation of the rights of peoples and economic, social and cultural rights. Secondly, while it was true that swift action had to be taken in the case of massive and flagrant violations, human rights could not be effectively promoted if people considered only the effects and refused to ponder the underlying causes of the problems involved, causes which should be considered in their true - international as well as national - perspective.

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(Princess Ashraf Pahlavi, Iran)

28. At the international level, the developed countries had to assume an essential responsibility, for the promotion of individual rights throughout the world required an atmosphere of confidence and a will to co-operate, which would depend closely on the results of action to put an end to the difficulties experienced by the developing countries. Only then would developing countries cease to fear that certain parties saw in the human rights cause a subtle way of interfering in their internal affairs.

29. Her delegation did not mean that people should wait until there was a perfect world before taking action against certain impermissible practices, in particular torture and other cruel and inhuman treatment, which absolutely nothing could justify: that was shown by the fact that it had co-sponsored draft resolutions A/C.3/32/L.13 and A/C.3/32/L.15. But the question of human rights was seen to be very complex when one began to deal with other aspects of the rights of the individual. On the one hand, those rights implied duties towards society, and on the other, because they were all closely interdependent, the efforts made by Governments to implement them had to be assessed from an over-all perspective. There, the developing countries had an extremely arduous task. What the developed countries had taken several centuries to accomplish, without being subjected to the various forms of economic and political pressures exerted on the developing countries, the latter had to achieve in record time: apart from the action they had to take at the economic level, they must at the same time strive to acquire the means to educate peoples emerging from several centuries of lethargy, while technical progress and the information media, which no longer recognized frontiers, created in the people hopes and needs which in many cases were not commensurate with existing institutional, structural and economic possibilities. It could not, therefore, be claimed that there was a true desire to co-operate unless the enormous efforts required of the developing countries and the immense problems they faced were taken into account.

30. In spite of their contribution to the struggle against apartheid, and their untiring efforts to promote the realization of economic, social and cultural rights, they had sometimes been reproached with a lack of initiative on questions of the rights of the individual and fundamental freedoms. The fact was that the developing countries were very willing to co-operate with regard to all aspects of human rights, on condition that nobody claimed an exclusive monopoly on the definition of those rights, for that was a task belonging to the international community as a whole.

31. The cause of human rights and fundamental freedoms was common to all peoples, in both the developed and the developing countries, and their ideas deserved to be taken into account. Sincere international co-operation was indispensable if that cause was to be served everywhere. It was in that light that her delegation, with a number of others, had prepared draft resolution A/C.3/32/L.17, which, in its view, represented a positive and constructive attempt to eliminate the divisions too long existing between Member States on the question of the action to be taken in that field and which, if both sides were willing to make the necessary efforts, should reshape United Nations action so as to make it as effective as possible in the future.

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32. Mr. BAROODY (Saudi Arabia) said with reference to the question of the establishment of an Office of the United Nations High Commissioner for Human Rights that he did not doubt the good intentions of countries such as Costa Rica and a number of European ones which had proposed the establishment of such an office and continued to press the idea, although the Committee had frequently indicated that such a step was not desirable - an opinion he shared, feeling that, far from serving the cause of human rights, it would only irritate national susceptibilities.

33. In his view, cultural values were largely responsible for a country's concept of human rights. The Western countries seemed to want to impose a concept of those rights shaped according to their own norms of civilization. Those norms had no place in many countries where the concept of human rights was based on age-old customs and traditions. He acknowledged that there existed a common denominator with respect to human rights valid for all societies, which could be summed up in the word "humanism", although difficulties arose even there when people tried to give the word a universal meaning.

34. Those difficulties had become apparent during the drafting of the Universal Declaration of Human Rights in Paris in 1948. Yet at that time the Members of the United Nations had numbered little more than 50. Even so, some delegations, including that of Saudi Arabia, had clearly seen the danger of an exclusively Western approach to the human rights question. In that connexion, he mentioned article 18 of the Declaration, dealing with freedom of religion. The question did not arise for Muslims, who were bound by the formal precept set forth in the Koran: "No coercion in religious matters". In the West it was traditional to send missionaries out into the world to make converts everywhere to the religion they represented. In the East, people were content to preach by example, which showed the relativity of cultural values, and hence of the concepts of human rights they engendered.

35. Those comments in no way detracted from the Universal Declaration of Human Rights, which, like the Charter, he saw as a sort of constitution. It was illusory to expect that all persons would strictly abide by a constitution. If they did, there would be no need anywhere for police or courts. On the other hand, the Charter itself stated, in Article 2, paragraph 7, that nothing authorized the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State or required the Members to submit such matters to settlement.

36. Turning to the question of human rights in the economic sphere, he noted that during the preparation of the Covenants on Human Rights, in Paris he had insisted that political, economic, social and cultural rights were closely linked and had therefore called for the preparation of a single instrument. The Western Powers had argued at that time that it was not realistic to adopt an omnibus instrument, since they were not able, after the Second World War, even to guarantee the economic rights of their own nationals, much less those of the colonial peoples under their domination. He had yielded to their arguments. He paid a tribute to the Scandinavian countries, in particular Sweden, for the zeal which they had shown in the area of human rights, but wondered if those countries were not guilty, like his own, of an excess of idealism. After all, the Covenants, like the Charter and the Universal Declaration of Human Rights, had primarily an educational value.

(Dr. Baroccy, Saudi Arabia)

37. In the social sphere, he noted that the third world countries had their customs and traditions, some of which admittedly now served no purpose. But were not the Western countries suffering from industrialization and technical progress, with all of the resulting evils, such as the disintegration of the family, juvenile delinquency, the loneliness of women, to cite only a few examples? It was, to say the least, surprising that it was the Western countries which were preaching the establishment of a new social order.

38. There was, therefore, relativity in the cultural, social and economic spheres, just as in the political sphere. He cited the example of the democratic values of which the Western Powers were so proud. To be sure, the Western countries had elections, but they also had pressure groups which used that system to their own interests. In Saudi Arabia there were no elections but there were also no pressure groups. Nor were there any trade unions and the country was none the worse for it. Trade union leaders were nothing but political personalities who led the same sort of life as the heads of transnational corporations. Even slavery was a relative concept, if one pictured the crowds of people who stuffed themselves into the subway at certain hours. If life-styles were radically different among countries, why should the third world countries necessarily accept the interpretation given to human rights by Western countries? Why should there be a United Nations High Commissioner in a sphere which was essentially spiritual and educational?

39. He felt that it would be more appropriate to seek ways of ensuring increased respect for the most elementary human rights. He noted that only a few years earlier regional human rights commissions had been established whose role was to inform Governments of alleged cases of violations. That measure was not sufficient. He suggested, as he had done on many occasions, the establishment of national committees which would be made up of eminent personalities, notables and jurists who were above suspicion. In order to protect those persons against interference from their Governments, their names would be registered with the Secretariat of the United Nations. The committees would have responsibility for raising human rights matters with their Governments and if those Governments remained obdurate, the committees would refer the matter to the Secretary-General.

40. In that connexion, he noted that there was in the Division of Human Rights a section whose function was to receive complaints concerning alleged violations of human rights. Some years ago, that section had been receiving approximately 15,000 complaints a year. Letters had been sent to the Governments against which the complaints had been directed and the number of replies received from those Governments had scarcely exceeded 400. Now the number of complaints, like the number of replies, had increased considerably, without any corresponding change in the over-all situation. Governments found, and would always find, good reasons for explaining their conduct. For that reason, he felt that the establishment of co-ordination between the national committees which he was proposing and the regional committees which already existed would be of more benefit to the cause of human rights than any United Nations High Commissioner for Human Rights.

41. No High Commissioner, no matter how good his staff, would ever be able to familiarize himself with all the laws, traditions, codes and customs of all of the countries. Furthermore, it was to be feared that he would soon be swamped by a

(Mr. Baroody, Saudi Arabia)

truly astronomical number of complaints which would certainly come from all parts of the world. It would then become necessary to deal with those complaints by computer. He wondered if that was where the trend was leading. He urged all of those who were not religious "fundamentalists" to consider the moral precepts laid down by the great founders of religion: Moses, Jesus and Mohammed. He did not believe that it was really the role of the Western countries, some of which were still in their infancy, to teach others about human rights. Human rights could be taught only through education, and the Universal Declaration, for all its faults, would always have its place in school curricula.

42. Furthermore, one must bear in mind the considerable financial implications of establishing an Office of United Nations High Commissioner for Human Rights at a time when the United Nations was having difficulty balancing its budget and he recommended, for all of the reasons which he had discussed, that delegations should not support such a project, especially since some delegations had proposed, as he had - of which he was proud - other means of improving the effective enjoyment of human rights. He reserved his delegation's right to return to the matter at a later time and in greater detail.

The meeting rose at 1.10 p.m.

United Nations

**GENERAL
ASSEMBLY**

THIRTY-SECOND SESSION

Official Records*



NOV 28 1977

IN 5A

THIRD COMMITTEE
44th meeting
held on
Thursday, 10 November 1977
at 3 p.m.
New York

SUMMARY RECORD OF THE 44th MEETING

Chairman: Mrs. MAIR (Jamaica)

CONTENTS

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued)

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14 November 1977

ORIGINAL: ENGLISH

The meeting was called to order at 3.30 p.m.

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued) (A/10235; A/32/61, 178, 179; A/C.3/32/L.17 and L.25)

1. Mr. MERKEL (Federal Republic of Germany) said that his country welcomed the Committee's continuing consideration of the item. It regarded Articles 1 and 55 of the Charter as imposing an obligation to promote universal respect for human rights within the United Nations and outside it. It also welcomed the various declarations and conventions adopted by the United Nations, in the elaboration of which his country had taken an active part. It was necessary to consider, however, whether and to what extent human rights enjoyed protection under international law by virtue of those instruments. Unless overlapping and duplication were avoided, there was a risk of adopting contradictory provisions.
2. The United Nations had evolved a comprehensive reporting system, partly through binding conventions and partly through resolutions in such cases where no legal obligation to report had yet been established. In numerous individual cases, too, the Secretary-General and other United Nations officials such as the High Commissioner for Refugees had been able to remedy human rights violations.
3. United Nations debates unquestionably had an impact on the human rights situation in the world. There was a growing awareness among individual human beings that everyone was entitled to the exercise of his human rights and that the United Nations would help to safeguard that entitlement. However, time and again both specific and general violations of human rights were reported in United Nations debates. Peaceful demonstrations by people seeking the protection of their human rights took place outside the Headquarters building and delegations in the Committee were flooded with petitions and documentary material. It was thus clear that existing protection of the human rights of the individual was inadequate.
4. In the light of that situation, certain specific measures needed to be considered. First, existing United Nations legal instruments could be invoked more often, and conventions and covenants should be ratified world-wide. Government reports should indicate clearly the possibilities which were available for the realization of the human rights of the individual. The Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Economic and Social Council should be encouraged to raise critical questions and to refer in their reports to cases in which government response was unsatisfactory. Economic, cultural and social rights, on the one hand, and civil and political rights on the other, formed an inseparable whole. In that respect, draft resolution A/C.3/32/L.17 contained positive elements.
5. The procedure for dealing with communications relating to violations of human rights laid down in Economic and Social Council resolution 1503 (XLVIII)

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(Mr. Merkel, Federal Republic of Germany)

must be maintained and further developed as long as there were no alternative procedures. The very volume of communications received, on the order of 50,000 annually, gave reason to question whether the Human Rights Committee would be capable of coping with that task. His delegation noted with satisfaction that the implementation of that resolution had at least been thoroughly discussed by the Commission on Human Rights. The General Assembly now had before it a pertinent proposal by Belgium which his delegation could endorse.

6. There was a need for a more rational distribution of work among the various United Nations bodies concerned with human rights in order to avoid duplication and to enable each body to concentrate on areas where it could most effectively protect human rights.

7. There were good reasons to observe the confidential procedures devised for dealing with communications laid down in Economic and Social Council resolution 1503 (XLVIII) and the Optional Protocol to the International Covenant on Civil and Political Rights. Respect for human rights in cases of individuals could be more easily ensured through confidential treatment. Private talks between representatives outside the conference room also constituted a means of confidential discussion on the question of how to ensure greater respect for human rights.

8. The United Nations might also bear in mind regional means of promoting the realization of human rights. For example, in the Final Act of the Helsinki Conference on Security and Co-operation in Europe, currently being reviewed at Belgrade, the participating States had undertaken to respect human rights. While that Conference could not change the human rights situation overnight, there had been encouraging developments in areas such as the reunion of families. It was to be hoped that all the human rights principles proclaimed in the Final Act could ultimately be implemented. He expressed his Government's appreciation of the constructive efforts undertaken in that respect by numerous States. He regretted, however, that difficulties and even setbacks should continue to occur. He hoped that the current Conference at Belgrade would lead to positive results and that walls and barbed wire across Europe, if they could not be removed, would at least have less impact on the lives of individual human beings. Other examples of regional machinery were the European Commission for Human Rights and the European Court of Human Rights.

9. His country's Minister for Foreign Affairs had suggested during the debate in the plenary Assembly the establishment of an international human rights court. Discussions on that subject were continuing outside the United Nations.

10. His Government endorsed the proposal in draft resolution A/C.3/32/L.25 to appoint a United Nations High Commissioner for Human Rights, an office which could help to promote respect for human rights and fundamental freedoms in all parts of the world.

11. Finally, his delegation hoped that United Nations advisory services in the field of human rights would be maintained with a view to increasing the publicity given to human rights matters, and that greater emphasis would be placed on human rights subjects in schools, universities and the mass media.

12. Mr. KARUNATILAKA (Sri Lanka) emphasized that, as hopes for the fuller realization of human rights gathered momentum, it was essential to engage in a constructive debate, according proper weight to each view and avoiding a partisan approach aimed at dictating acceptance.

13. The correct national and international environment could be created only through greater understanding and international co-operation, the removal of threats to national sovereignty, unity and integrity, the establishment of non-exploitative international economic co-operation and the elimination of the aggressive approach to solving problems. As an example of the need to foster a more favourable environment, he cited the use in the West of the image of Buddha to exploit for commercial purposes the growing fascination with the Orient. That thoughtless attitude, while representing the free exercise of a right, ignored the religious susceptibilities of all Buddhists. By creating more understanding, a better framework could be established for the enjoyment of human rights. His delegation therefore supported, as a prerequisite for internationally acceptable machinery for monitoring the Universal Declaration of Human Rights, the promotion of human rights studies and information and education activities.

14. The investigation of human rights violations rested on two basic principles. First, it was necessary to ascertain that there was a consistent pattern of gross violations. His delegation felt that the established system of periodic reporting and the procedures applicable in the case of allegations of violations, if used properly, were adequate.

15. The second principle concerned international legal instruments, the ratification of which placed upon States parties specific obligations, including acceptance of the procedures laid down in those instruments. Such treaty-making was of major importance to the development of international co-operation in the human rights field, promoting essential dialogue and establishing areas of mutual acceptance by all States. Time and resources were wasted in acrimonious discussions on generalities, whereas what was needed was greater understanding and co-operation in specific matters.

16. It was in the light of the foregoing that consideration should be given to establishing the office of a High Commissioner for Human Rights. His delegation shared the view that a mere General Assembly resolution on the matter, subject to varying interpretations, would detract from the High Commissioner's effectiveness. The legal functions of such an office needed to be embodied in treaty provisions governing competence and procedures. It was essential that such a High Commissioner should function on the basis of the collective will of the Member States.

17. Mr. CHILUME (Botswana) announced that, following further consultations with the other sponsors, his delegation wished to withdraw its sponsorship of draft resolution A/C.3/32/L.25. That action would not, however, affect the way in which it would vote on the draft resolution.