

United Nations

# GENERAL ASSEMBLY

THIRTY-SECOND SESSION

Official Records \*



THIRD COMMITTEE

51st meeting

held on

Friday, 18 November 1977

at 3 p.m.

New York

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## SUMMARY RECORD OF THE 51st MEETING

Chairman: Mr. PEDERSEN (Denmark)

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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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Distr. GENERAL  
A/C.3/32/SR.51  
23 November 1977

ORIGINAL: ENGLISH

The meeting was called to order at 3.35 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, L.25/Rev.1, L.28, L.32 and L.33)

1. Mr. LOPATKA (Poland) said that further progress in the development, universalization and protection of human rights was both necessary and possible, and that all the existing procedures within the United Nations system would continue to have a distinct role to play in that connexion. Further efforts to protect human rights were most meaningful when they reflected close co-operation among Member States and were based not on abstract notions but on the need to improve the lot of all human beings. In that process it was important to ensure that the needs of one people were not met at the expense of another. Such efforts should be co-ordinated rather than dispersed. Furthermore, experience had shown that solutions adopted at the regional level among States having the same socio-political system and bilateral political and economic ties could not be applied either at the international level or among States with basically different socio-economic systems.
2. All action to promote human rights must fall within the framework of the United Nations and in particular Article 2, paragraph 7, of the Charter, under which human rights were within the domestic jurisdiction of States. Human rights could fall within the jurisdiction of the United Nations only where there were gross violations of human rights on a mass scale, thereby constituting a threat to international peace and security, or where violations of human rights were the result of aggression, occupation or foreign domination. Further development of international co-operation on human rights was possible only when those principles were duly observed.
3. His delegation noted that such co-operation was already under way in efforts to elaborate a draft convention on the elimination of discrimination against women and a draft convention against torture. It was equally important for the United Nations to elaborate a draft convention on the universal right to work because that right created the material conditions for the enjoyment of all human rights. It enabled society to make broader use of all its potential and was urgent because only a few States guaranteed full and rational employment of their citizens. The time was also ripe for a draft resolution on the right of human beings to live in peace, which was of fundamental importance for all human beings and all nations. He also recalled that at the twenty-ninth session of the General Assembly Poland had called for the adoption of a declaration on the rights of youth, aimed at universal co-operation for the advancement of youth and co-operation among young people themselves at the international level.
4. In the struggle for human rights, importance should be attached not only to condemning such phenomena as racism, apartheid, torture and other cruel treatment, foreign occupation and neo-colonialism, but also to the promotion of economic, social and cultural rights such as the right to work, leisure, health protection,

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(Mr. Lopatka, Poland)

education, culture, and environmental protection. The United Nations system must assume greater responsibility for the implementation of such rights. The recent decisions of the Security Council pertaining to the elimination of apartheid and to the situation in Cyprus were encouraging in that connexion, as were the preparations for the World Conference to Combat Racism and Racial Discrimination and the Programme for the United Nations Decade for Women. The implementation and development of human rights would be given impetus by activities undertaken in connexion with the observance of the thirtieth anniversary of the adoption of the Universal Declaration of Human Rights.

5. His delegation attached importance to publicity efforts in the field of human rights, particularly the publication of materials which showed the close connexion between the promotion of human rights and the strengthening of peace, détente and disarmament, as well as the connexion between human rights and economic co-operation among States.

6. His delegation felt that draft resolution A/C.3/32/L.17 provided the proper guidelines for further United Nations activities in the field of human rights, especially in terms of the task it rightly conferred on the Commission on Human Rights. Draft resolution A/C.3/32/L.25/Rev.1, on the contrary, was aimed only at weakening the role of the United Nations in the development, universalization and protection of human rights, and, considering the tendency of some States to use human rights as a pretext for illegal interference in the internal affairs of other States, it gave rise to legitimate apprehension that the so-called High Commissioner might be used as a tool for that purpose. The establishment of a High Commissioner would also tend to undermine the existing machinery for the protection of human rights by creating a new and unnecessary institution of a supranational character. International organizations must not be given powers in the field of human rights which they did not have in accordance with their charters or statutes. He therefore appealed to the sponsors of that draft resolution to withdraw it.

7. Mrs. GEREB (Hungary) said that the socialist system itself was a guarantee of the effective enjoyment of human rights because it safeguarded the rights of everyone rather than those of favoured groups only, and because it recognized that economic rights, such as the right to work, were the prerequisites for all the others. Her delegation affirmed the indivisibility of civil, political, economic, social and cultural rights and was convinced that the international community must focus its attention primarily on the elimination of such violations of human rights as apartheid, racial discrimination, colonialism, neo-colonialism and foreign occupation. It therefore firmly supported draft resolution A/C.3/32/L.17, which provided satisfactory guidelines for improving the work of the entire United Nations system in the field of human rights. The establishment of a High Commissioner for Human Rights, on the other hand, as called for in draft resolution A/C.3/32/L.25/Rev.1, would only undermine that work. The international community had already established a very logical system for dealing with human rights - a system which was reflected in a number of important international instruments, the effectiveness of which must be enhanced by making them universal and ensuring their implementation. A number of commissions and committees set up in accordance with democratic principles approved by the General Assembly were also accomplishing

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(Mrs. Gereb, Hungary)

their task and her delegation recognized their competence. It would not, however, be able to recognize the competence of a single individual appointed by the Secretary-General. The draft resolution was in effect an attempt to undermine the existing system and open the way to interference in the internal affairs of Member States. It would assign to the High Commissioner no task which was not already covered under the existing system. For example, his advisory functions were already provided for in the system established by the Economic and Social Council, which should be used more effectively. A number of different bodies, including the Division of Human Rights, were also in existence and had never refused their assistance. It was hard to believe that anyone, including the sponsors of the draft resolution, could be so naïve as to believe that South Africa, for example, had persisted in its apartheid policy simply because there was no High Commissioner to advise it. Also, the kind of co-ordination provided for in paragraph 2 (c) was already being carried out through conventions, resolutions, world conferences, various specialized agencies, and various existing bodies, including the Division of Human Rights. What was needed was the official advice of competent bodies and of the international community, rather than the purely personal advice of a single individual, no matter what his personal qualities.

8. Furthermore, the provisions of paragraph 3 made it clear that the High Commissioner would in fact have nothing to do and her delegation therefore felt that it was improper to finance such an office from the regular budget just to please a very small number of States. A careful study of the text of the draft resolution showed that it was superfluous and would only appease the consciences of those who did not wish to meet their human rights obligations.

9. Finally, the restructuring of the organs of the Economic and Social Council was still under discussion and it made no sense to establish new bodies while efforts were under way to simplify the system and avoid duplication of efforts.

10. Mr. ULRICHSEN (Denmark) said that in the view of his delegation, the full development of a society could not be achieved unless both civil and political rights on the one hand and economic, social and cultural rights on the other had been secured. Calling the realization of one set of values a prerequisite for the realization of the other might become an excuse for societies not to make the effort to achieve both. Denmark's own experience showed that civil and political rights did not have to be compromised in order to promote economic and social development. His delegation therefore did not agree with the approach to human rights expressed in draft resolution A/C.3/32/L.17, which subordinated civil and political rights to economic and social rights in a manner contrary to the equal status accorded to both groups of rights in the Universal Declaration of Human Rights and in the International Covenants on Human Rights. Rather than redefining human rights, efforts should be made to implement what had already been decided and to elaborate on the provisions of the Universal Declaration in binding conventions. The drafting of a convention on torture, for example, would be a step in the right direction and its implementation would be a matter of moral urgency deserving top priority.

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(Mr. Ulrichsen, Denmark)

11. His delegation had co-sponsored draft resolution A/C.3/32/L.25/Rev.1 because it was convinced that existing procedures for dealing with human rights were inadequate and that the concept of a High Commissioner was a very important one. Recent extensive informal consultations had revealed that various regional groups failed to pay sufficient attention to the need for better co-ordination of human rights activities. During the discussions note had been taken of the increasing importance of the role of the Secretary-General in providing good offices and other assistance and services at the request of States and United Nations bodies. Recent experience had indicated that it would benefit all States if a permanent mechanism could be established, with the proper resources, to enhance the performance of those functions. What emerged was broad agreement that the functions of co-ordination and good offices could be usefully carried out within the structure of the United Nations by a single individual having the requisite expertise, integrity and prestige, after the pattern of the already existing High Commissioner for Refugees. The mandate of the institution being proposed was far more broadly defined than previously and included the protection of all human rights, not only civil and political ones.

12. Another procedure for promoting the protection of human rights was the one provided for in Economic and Social Council resolution 1503 (XLVIII), and his delegation wished to see it strengthened. It was therefore pleased to co-sponsor draft resolution A/C.3/32/L.28 and hoped that it would be adopted by a substantial majority.

13. Ten years after the adoption of the International Covenants on Human Rights only 16 States had ratified the Optional Protocol and even fewer had undertaken the commitment in article 41 of the Covenant on Civil and Political Rights. Alternative ways of monitoring human rights must therefore still be sought. Without a system of scrutiny, all efforts to promote international protection of human rights would result in mere promises the implementation of which rested entirely with the States themselves. Acceptance of such implementation procedures was the best proof of readiness on the part of Members to fulfil their obligations under the relevant human rights instruments.

14. Mr. FUENTES IBÁÑEZ (Bolivia) said that his delegation had welcomed the opportunity to become a sponsor of draft resolution A/C.3/32/L.25/Rev.1, which would provide for the establishment, under the authority of the Secretary-General, of a United Nations High Commissioner for Human Rights. He wished to take the opportunity to thank those delegations who had fought for that initiative for the past 11 years, particularly the delegations of Costa Rica and Italy.

15. Events had shown that brutal reality was in sharp contrast with the spirit of those who had drafted the various United Nations instruments on human rights. The implementation of those instruments had not proved to be an easy task. Doubts had arisen as to whether the rights specified were valid in themselves or whether they should be subordinated to other interests. At the current stage of social progress, it was difficult to differentiate humanitarian from economic problems. The problem of human rights and of the correct application of the instruments in that field

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(Mr. Fuentes Ibáñez, Bolivia)

could not be isolated from history; it was part of history. The establishment of a United Nations High Commissioner for Human Rights would involve the creation of permanent machinery which could more effectively defend human rights within a framework of norms already accepted by the international community.

16. The current system had led to conflicts because of different interpretations. The rights of individuals had often been subordinated to political trends and religious beliefs and violated by low-ranking officials who had no regard for human rights. The international community had therefore become pessimistic on the whole question. Human rights were specifically enunciated in international instruments but action to enforce them had been called interference.

17. The report of the Secretary-General (A/32/178) clearly indicated the need for the establishment of a United Nations High Commissioner for Human Rights. The task of the High Commissioner would be one of dissuasion; he would have no supranational powers or powers of compulsion. Such a mandate would open the way to the possibility of mutual co-operation between all parties. The qualifications of the High Commissioner would have to be such as to give him sufficient moral force for the purposes of his mandate. Discretion in the exercise of his functions would be important in that it would enable him to communicate better with the parties concerned.

18. His delegation therefore supported the establishment of a United Nations High Commissioner for Human Rights and had accordingly co-sponsored draft resolution A/C.3/32/L.25/Rev.1. He hoped that the moderation and balance of the draft would make it possible for the Committee to adopt it.

19. Mr. LIMA (Cape Verde) said that the human rights and fundamental freedoms enshrined in the Charter of the United Nations represented the result of a long struggle by the whole of humanity, but particularly by the workers and oppressed peoples, against a background of political upheaval and social change. Human rights and fundamental freedoms represented the foundation of the legitimacy of Governments. Immediately following his country's independence, a first act of the Government had been to guarantee political freedoms and fundamental rights to all citizens and to provide ways and means for their exercise. His Government had therefore implemented a broad informational and training campaign aimed at persons at all political and administrative levels, with a view to enabling the population to participate directly in the management of their affairs. For a country as small as Cape Verde, which had recently emerged from colonial status and lacked both an infrastructure for development and known economic resources, the proper use of all its human resources represented an imperative need. To participate fully in the management of their society, as both producers and creators, people must be free from the hunger, disease, poverty, ignorance and illiteracy which were typical of the countries of the third world. The right to work was impossible to implement in his country when jobs were available for only 25 per cent of the active population. Basic educational needs could not be met because the number of teachers was insufficient and schools were under-equipped. Health needs could not be met when there was only one doctor per 14,700 inhabitants and one hospital bed per 6,700

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(Mr. Lima, Cape Verde)

inhabitants. On the question of food, Cape Verde was suffering from its ninth consecutive year of drought; furthermore, 91 per cent of the population lived in areas producing only 5 per cent of total food requirements. His Government had tried to solve those problems with the help of the United Nations and the specialized agencies and improvements in living standards had already been made. With the help of UNLESCO, refresher courses had been organized for teachers and the size of schools had been increased. With the aid of WHO and UNICEF, preventive health services had been organized and decentralized, equipment had been improved and an educational campaign on hygiene carried out. State medical aid, including the provision of medicines, had been made available to the poorest families. With a view to improving diet, supplies of food had also been distributed to such families through the World Food Programme. In carrying out those emergency plans for reconstruction, his Government, with the assistance of international agencies, had created conditions in which it would be possible to guarantee economic, social and cultural rights, which were the foundation of human development. Continued assistance from the United Nations system was necessary to enable his country to continue its development. In that struggle for progress, his delegation placed confidence in the ability of the international community to achieve a new international economic order.

20. Mr. RAKOTONAIVO (Madagascar) said that considerable progress had been made in defining standards for the enjoyment of human rights and fundamental freedoms since the adoption of the Universal Declaration of Human Rights. It was regrettable to note, however, that, despite all those efforts, flagrant violations of human rights were still taking place in various forms in certain parts of the world. The annual reports of the competent bodies of the United Nations system painted a sombre picture.

21. His delegation had voted in favour of General Assembly resolutions 3136 (XXVIII) and 3221 (XXIX) because it believed that the time had come to replace mere verbal condemnations by more effective measures to promote respect for human rights and fundamental freedoms. Human rights issues had to be seen in the context of international relations as they stood at present. The existence of differing concepts of human rights had seriously impeded the search for over-all solutions and had prevented Member States from reaching a better understanding of the problems affecting certain parts of the world. Some countries stressed the political rights of the individual while others, including the majority of developing countries, concentrated on the establishment of a just society, giving priority to economic and social rights as the pre-condition for the enjoyment and exercise of all other rights and freedoms. Mass violations of human rights, such as were occurring in southern Africa, in the occupied Arab territories, in countries still under colonial domination and in Chile, were closely linked with difficult and complex problems reflected in current world ideological and political conflicts.

22. In those circumstances, it was more than ever necessary to undertake a detailed examination of how the United Nations should deal with such questions in the medium and long term. To that end, it was essential to create conditions of

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(Mr. Rakotonaivo, Madagascar)

trust and co-operation required for the effective promotion of human rights. Lasting progress in implementing human rights presupposed concerted national and international policy.

23. In his country, fundamental freedoms and individual rights were guaranteed by the Constitution of the Democratic Republic of Madagascar and the Charter of the Malagasy Socialist Revolution. By means of social, economic and cultural reforms, the Government was endeavouring to ensure the well-being of every Malagasy citizen and to involve the whole population in shaping and implementing those reforms. Details were contained in the relevant replies from his Government to the appropriate bodies of the United Nations system.

24. By ratifying international instruments on human rights, his country had demonstrated to the international community that it was taking an active part in the search for an effective solution. The dignity of the human person was enshrined in its Constitution and it believed that the attempts of certain countries or régimes to deprive certain groups of people or societies of their fundamental rights constituted flagrant mass violations of human rights. It believed that any machinery set up to deal with human rights problems should have the benefit of very broad participation by Member States if it were to be at all effective. Every one recognized that the issue was a very complex one in connexion with which there existed a wide diversity of traditions, customs and standards of behaviour. His delegation therefore rejected any idea of entrusting problems of human rights to a single individual. Given the existing diversity of ideologies, no one person could show the necessary impartiality. The Charter of the United Nations had highlighted the concept of collective responsibility of Member States in promoting respect for human rights and had stipulated that any action in that field should be based on international co-operation. The principle of close interdependence between civil and political rights on the one hand and economic, social and cultural rights on the other was also essential in governing the new approach to human rights advocated in draft resolution A/C.3/32/L.17. That concept had been stressed in the Proclamation of Teheran, but the developed countries had argued that the enjoyment of economic, social and cultural rights should be the outcome of a long-term process. However, the need to assign priority to economic and social rights on a world scale was evident from the fact that the widening gap between the economically developed countries and the developing countries was an obstacle to effective respect for human rights in the international community. In other words, the promotion of human rights and fundamental freedoms would be largely conditioned by the achievement of the new international economic order. Tangible results in that field would make possible the creation of the climate of trust and willingness to co-operate which had so far been lacking in international relations.

25. Rather than set up a multiplicity of institutions, there was a need to utilize the existing machinery more rationally. The report of the Secretary-General had mentioned a number of measures which deserved more detailed consideration by Member States. His delegation attached great importance to measures aimed at strengthening the capacity of existing United Nations bodies to promote the effective enjoyment of human rights and fundamental freedoms. The Division of Human Rights, as the only

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(Mr. Rakotonaivo, Madagascar)

authority enjoying the confidence of all States, should continue to act as co-ordinator, while the various commissions and technical committees, assisted by groups of experts, should continue in their present role as investigatory bodies. His delegation had followed with interest the various attempts by certain Member States to strengthen the procedure provided for in Economic and Social Council resolution 1503 (XLVIII) with regard to special investigation machinery and was happy to note that there was already a section within the Division of Human Rights to receive complaints about alleged human rights violations. Powers of decision and sanction should remain with the General Assembly, through the intermediary of the Economic and Social Council and the Security Council respectively. Any short-comings in the Organization's existing activities with regard to the protection of human rights were due not to structural deficiencies but essentially to insufficient participation or a lack of co-operation on the part of Member States. It was hard to believe that any new institution could have a more positive effect in promoting human rights or in overcoming the difficulties created by the highly political nature of the problem. The appointment of a High Commissioner for Human Rights would therefore be inopportune from all points of view. He would have more to say on that matter when the Committee considered the relevant draft resolutions. Since the issue had first been raised, it had created serious controversy and the insistence on such an initiative had only confirmed the suspicions expressed by the majority of States and eloquently reiterated by the representative of Benin at an earlier meeting. It would have the effect of further jeopardizing the Committee's efforts to establish the climate of trust essential to the search for over-all solutions to the problems of human rights. He hoped that all delegations would show objectivity and understanding and adopt the proposals contained in draft resolution A/C.3/32/L.17.

26. However, without the requisite political will on the part of all States, all such measures would be in vain. The principal concern of the international community should be accession to all the existing instruments and their effective implementation.

27. Mr. RIOS (Panama) said that the question of human rights had been accorded the importance which it merited in 1976 when, on the eve of the thirtieth anniversary of the Universal Declaration of Human Rights, concern for such rights had appeared to be on the decline. At the time of the adoption of the Charter of the United Nations and the Universal Declaration, the horrors of war and oppression had been a recent memory and in that atmosphere the concept of human rights had flourished. With the passage of time, freedoms had increasingly been strangled by physical and mental chains. When a comparison was made between the number of peoples living in 1948 under the systems which, to a greater or lesser degree had guaranteed human rights and the number of peoples living under such systems currently, the contrast was depressing. While progress had been made in some areas, in others human rights were on the defensive. Human rights, however, were essential to the existence of mankind and an anxious world community had stated that it was imperative to find new methods and criteria which would enable all peoples fully to enjoy human rights and fundamental freedoms and play their part in the process of historical evolution.

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(Mr. Rios, Panama)

28. In that connexion, it had been suggested, inter alia, in the report of the Secretary-General (A/32/178) that the international instruments on human rights should be ratified by the largest possible number of States. His delegation agreed with that view, but considered that it would be even more important for States faithfully to respect the provisions of those instruments. The other proposals dealt with in the report included the one relating to the establishment of a United Nations High Commissioner for Human Rights and it was that proposal which had polarized opinion. It had first been mooted in 1963; subsequently the idea had appeared to have been buried but it had re-emerged with greater support as the practice of torture and the use by certain régimes of science, including medicine, for cruel and inhuman purposes had increased. Others had looked to the High Commissioner's office as a means of eliminating the crime of apartheid and ending such practices as the suppression of freedom of thought and of speech, forced labour, the subjection of peoples to foreign military force, exile, the use of slave labour, child abuse and discrimination against women, and as an encouragement to religious freedom and the right freely to leave and return to one's own country.

29. His delegation believed that the establishment of a United Nations High Commissioner for Human Rights would promote the more effective implementation of, and increase respect for, human rights. Different criteria should not be applied in different regions or countries. What was important was mankind. The extraordinary scientific and technological advances which had enabled man to walk on the moon and produce intercontinental nuclear rockets had not yet been able to guarantee the four freedoms enunciated more than 30 years earlier by President Franklin D. Roosevelt and had not succeeded in freeing mankind from fear, poverty, illiteracy and tyranny. Good work had certainly been done on the question but it had not been possible to break out from a regulatory and procedural framework which had acted as a restraint on imaginative action. His delegation therefore was convinced of the need for establishing a United Nations High Commissioner for Human Rights under the authority of the Secretary-General and with the necessary personal independence, prestige and integrity for the prudent and impartial discharge of his duties. His delegation had co-sponsored draft resolution A/C.3/32/L.25, which stipulated quite clearly the essential elements for the proper functioning of such a post. The High Commissioner would have an obligation to suffering humanity but would not interfere in the internal affairs of States or usurp the functions of organs already existing within the United Nations system. He earnestly hoped that the Committee would adopt the draft resolution.

30. His delegation supported draft resolution A/C.3/32/L.17 and would vote for it. Although that draft failed to take due account of individual rights it contained elements that were essential in the struggle for human rights, such as repudiation of racial discrimination, apartheid, colonialism, foreign domination, aggression and the threat of aggression against the integrity of other States, as well as the plunder of their natural resources. The two draft resolutions to which he had referred were not mutually exclusive; to a certain extent they complemented one another.

31. Mrs. KULKARNI (India) said that over the years the United Nations had succeeded in evolving a series of very important standard-setting instruments concerning human rights, and the time had now come to size up the situation. If basic

(Mrs. Kulkarni, India)

philosophical concepts regarding human rights and fundamental freedoms could be defined, it would be much easier to evaluate the comparative merits of alternative approaches to the question.

32. It had been recognized by countries belonging to different political and economic systems in various parts of the globe that all human rights and fundamental freedoms were interdependent. Although civil and political rights had been in the forefront of United Nations discussions, increasing attention must be given to the realization of economic, social and cultural rights, the denial of which was causing grave problems, especially in developing countries. It was her delegation's conviction that the establishment of the new international economic order would be a definite step forward in the human rights field. The developing countries were torn between preserving their distinctive way of life and accepting the modern technological revolution. The rising expectations of the younger generation in those countries called for immediate results from modern technological development. Yet if the developing countries abandoned their ancient cultures vast sectors of society would be hurt and even technical progress might turn out to be meaningless.

33. The efforts of the developing countries to implement human rights standards must be viewed against that background. Centuries of Indian culture had unequivocally accorded importance to the concept of human dignity and its preservation. In fact, the general elections in March 1977 in India had been fought mainly on the question of human rights. The people had felt that their dignity and their rights were in danger. Thus the teeming millions had risen as one and had discarded a system about which they had serious reservations. Those elections would be a landmark in the history of human rights. People who had never heard of the International Covenants on Human Rights had come forward peacefully to insist on their human rights and had succeeded in re-establishing them without fuss or fanfare. For the Government and people of India, the denial of human rights was inexcusable.

34. Yet in implementing human rights and fundamental freedoms it was necessary to take an over-all view and appreciate the special problems of each region. The Governments concerned could then be provided with help in crucial areas.

35. Co-operation was essential in the human rights field. It would therefore be incorrect to condemn any one Government. All had their own areas of weakness where there was scope for improvement. Of course, flagrant and massive violations of human rights were taking place, as in the case of South Africa. Such practices were not only a crime against the black people of Africa but also a blot upon the entire international community. In such a case it was very necessary that the international community should condemn the perpetrators of those violations.

36. However, a more effective means of achieving the enjoyment of human rights and fundamental freedoms would be for Governments to set up national machinery directed towards that end. She was pleased to announce that her Government was currently establishing a Civil Rights Commission, which would concern itself with the entire gamut of human rights. She felt that other Governments should follow suit. Such bodies could consist of notable jurists and leading thinkers. Through those commissions, offences against human rights could be brought to the notice of Governments. That was merely a suggestion and each Government could devise its

(Mrs. Kulkarni, India)

own method. Such an approach was reflected in draft resolution A/C.3/32/L.15 on the question of torture which the Committee had recently adopted by consensus.

37. The natural corollary to the establishment of such national machinery was action to promote widespread awareness among the people of their fundamental rights and freedoms. Unless their moral fibre was strengthened, they would never have the courage to fight those who committed offences against their dignity and basic rights. Thus, education was of primary importance and she strongly urged all institutions within the United Nations system to undertake the task of promoting that awareness. Respect for human dignity must be understood, believed and practised by everyone. Otherwise, no amount of effort could yield any worth-while results. With that balance between national machinery and the promotion of awareness among the people of their civil and political rights, a good climate for effective implementation could be created. She had not attempted to suggest any particular approach; instead, she had tried to outline the philosophical basis of the issue. Once concern for human rights had been created the world over, the task would be easier.

38. Mr. OZADOVSKY (Ukrainian Soviet Socialist Republic) said that the question of enhancing the effectiveness of the United Nations in the human rights field could not be considered separately from the maintenance of international peace and security, the Organization's principal task. Co-operation among States in the human rights field could be successful only if carried out within the framework of détente.

39. Human rights and fundamental freedoms were violated primarily in those regions of the world which were subjected to aggression, colonialism and neo-colonialism, racism, suppression of the national liberation movements and exploitation of man by man. The guarantee of the rights and fundamental freedoms of all peoples depended largely on the effectiveness of the United Nations in strengthening international peace and security and deepening détente, eliminating hotbeds of aggression, racism and colonialism and supporting the national liberation movements and the workers' struggle for their rights and social progress.

40. The United Nations was endowed with a whole hierarchy of representative organs concerned with human rights questions in which government representatives and experts participated. The enjoyment of human rights was impaired not by a lack of appropriate organs but by the conscious actions of certain States which permitted gross and systematic violations of human rights and fundamental freedoms as a result of racial discrimination, apartheid, aggression, foreign occupation and exploitation.

41. Under Articles 55 and 56 of the Charter, all United Nations activities in the human rights field must be based on co-operation among Member States. The item before the Committee should be considered in the light of the recent entry into force of the International Covenants on Human Rights and the existence of other international legal instruments in that field. The results of the first two sessions of the Human Rights Committee were welcome.

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(Mr. Ozadovsky, Ukrainian SSR)

42. The effectiveness of efforts to safeguard human rights depended largely on the consistency with which Member States themselves sought to implement the Charter and the International Covenants. Furthermore, new efforts in the United Nations to codify human rights must respond to the aspirations of progressive forces; that was particularly true in the case of the right of every individual to live in peace and security and the need to safeguard economic, social and cultural rights.

43. He emphasized the need for the widest possible ratification of or accession to United Nations human rights instruments, especially the International Covenants. The Ukrainian SSR was a party to all the most important international human rights instruments and strictly observed them. Progress in international co-operation in the human rights field could be achieved only if there was respect for the sovereign rights and the laws and traditions of States, and non-interference in their internal affairs. That was reflected in the Final Act of the Conference on Security and Co-operation in Europe.

44. The work of the various United Nations human rights bodies could be made even more effective if their agendas were not encumbered by certain artificially conceived questions. Those bodies should concentrate on urgent human rights questions, especially the massive and systematic violations of human rights resulting from colonialism, apartheid, racism and foreign occupation.

45. The efforts of States should be directed toward giving maximum effectiveness to existing international human rights instruments. There was also a pressing need to adopt new instruments, which should reflect the democratic principles of international law and recent positive changes in relations among States with different social and economic systems. The USSR proposal in the Commission on Human Rights concerning the right to live in conditions of peace and security and the proposals concerning legal guarantees and international measures to promote economic, social and cultural rights and concerning the unfavourable effects on human rights of the activities of transnational corporations had responded to the vital interests of peoples and would speed the implementation of human rights.

46. The United Nations should also make a maximum effort for the further mobilization of international public opinion in the struggle against the gross and massive violations of human rights resulting from the policies of aggression, colonialism and neo-colonialism, racial discrimination and the exploitation of the workers. Measures should be taken, in accordance with the Charter, to combat genocide, apartheid and the revival of fascism, which had been described as international crimes.

47. International co-operation in the human rights field should be promoted through the conclusion of agreements based on the principle of sovereign equality and non-interference in internal affairs, in other words, on the basis of the Charter. The existing system had stood the test of time and there was no need to change it.

48. Attempts to divert the United Nations from the solution of vital problems and to concentrate attention, in violation of the Charter, on the consideration of complaints from individual persons or non-governmental organizations would not

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(Mr. Ozadovsky, Ukrainian SSR)

receive the support of the overwhelming majority of Member States. His delegation opposed the establishment of new United Nations organs and procedures in the human rights field. It felt that international human rights instruments and the existing documentation submitted to the General Assembly were adequate for an analysis of the methods for promoting human rights.

49. Under the Charter, Member States had the obligation to guarantee the enjoyment of human rights and fundamental freedoms for their people, and only they had the prerogative and the power to fulfil that obligation. Proposals for the establishment of a supranational organ in the human rights field were not in keeping with the Charter. Such an organ would undermine the effectiveness of existing forms of co-operation. Proposals for the establishment of a High Commissioner for Human Rights were not new: they had been rejected years earlier as attempts to create a new channel for interference in the internal affairs of other States. In its resolution 3136 (XXVIII), the General Assembly had decided to discontinue consideration of that question and, instead, in paragraph 3, had included in the agenda the question of alternative approaches. Consequently, his delegation was surprised by the efforts being made to divert the Committee's attention from its task. If the General Assembly had concluded that such a post was unnecessary, there was no reason to resurrect that question, and his delegation formally opposed attempts to do so. The establishment of such a post would have adverse consequences for United Nations activities in the human rights field and would not improve inter-State relations. Such a post would serve as a cover for making all kinds of insinuations against Member States. The States which put forward those proposals were avoiding their responsibility for the practical implementation of human rights through observance of the International Covenants on Human Rights, and were ignoring the existing structure of United Nations organs concerned with human rights. The proposals were unsound from the practical and legal points of view.

50. His delegation was ready to co-operate with those interested in fostering international co-operation in the effective implementation of human rights and fundamental freedoms.

51. Mr. GRAEFRATH (German Democratic Republic) said that his delegation could not associate itself with the account of the background to discussion of the item given in the Secretary-General's report (A/32/178), and the introductory remarks of the Deputy Director of the Division of Human Rights. It was also somewhat unusual that the Secretariat should have assessed the comments of Member States without having been asked to do so. The wording of item 76 made it clear that the search for an alternative approach had to take place within the United Nations system; the fundamental principles of that system had been agreed upon in Article 2 of the Charter and the 1970 Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States, and the principle of sovereign equality set forth in that text could not be by-passed. The Declaration made it clear that the activities of States and of the United Nations concerning human rights had to be based on the principle of peaceful co-operation and such co-operation could take place only in an atmosphere of mutual respect for sovereignty, as defined in Articles 55 and 56 of the Charter.

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(Mr. Graefrath, German  
Democratic Republic)

52. Under the United Nations system, responsibility for safeguarding human rights fell within the jurisdiction of individual Member States. That was in full accord with reality; the rights of the individual could not be separated or isolated from the society in which he lived. Any outside attempts to misuse the human rights issue to isolate the individual from society and to bring him into conflict with the State were essentially directed at undermining the sovereignty of States. Likewise, any attempt to extend the competence of the United Nations against the will of States ran counter to the principles of the United Nations system and, rather than promoting human rights, would be apt to endanger the implementation of individual rights and freedoms in so far as they depended on the maintenance of international peace and friendly relations among States. The search for an alternative approach was intended to strengthen, not to replace, the existing approach. His delegation believed that the existing approach should include the drafting of additional international agreements, by which States would define their obligations in regard to certain human rights and to international co-operation in promoting those rights. The process under way to draft a convention on the elimination of discrimination against women provided a good example of how profoundly the specific social, national and historical background of States was involved in the implementation of human rights. It demonstrated that realistic results could be achieved only by agreement among States.

53. In addition to drafting new conventions, there was a need for more States to accede to existing human rights conventions. Only by ratifying those instruments could States recognize and fully implement the legal obligations involved. Attempts by States which had not ratified those instruments to set themselves up as judges over other States not only were contrary to the fundamental principles of international law and of the Charter, but inevitably aroused suspicion and justifiable doubts about the goals being pursued. His delegation therefore regarded the ratification of human rights instruments drawn up within the framework of the United Nations as one of the most important means of further strengthening co-operation among States to improve the effective enjoyment of human rights and fundamental freedoms. By ratifying the Optional Protocol to the International Covenant on Civil and Political Rights, all States could give their citizens the opportunity of recourse to an international body, but so far only 17 States had done so, and not all of those which had been repeatedly calling for the appointment of a High Commissioner for Human Rights over a long period were among them.

54. Another important means of improving the effective enjoyment of human rights and fundamental freedoms was to exploit fully the opportunities presented by the Charter of the United Nations to combat systematic mass violations of human rights which endangered international peace. His delegation reiterated its strong conviction that there was a difference in principle between the co-operation of States based on mutual respect for sovereignty, with a view to promoting human rights in accordance with Chapter IX of the Charter and measures directed against mass violations of human rights that endangered international peace, under Chapter VII of the Charter. It welcomed the fact that the Security Council, in

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(Mr. Graefrath, German  
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its decision of 4 November 1977, had reaffirmed the danger to international peace and security represented by the violation of human rights in South Africa. His delegation was convinced that the cause of peace and human rights would have been better served if a mandatory arms embargo had been imposed against South Africa 10 years earlier and if the newly imposed embargo were not limited to arms. Nevertheless, it hoped that those States which had for so long been impeding such a step would be willing at last to recognize the international character of the crime of apartheid and to ratify the Convention on the Suppression and Punishment of the Crime of Apartheid. Those who declared that human rights questions should no longer be regarded as falling within the purview of the sovereignty of States had a particular responsibility to take such a step.

55. The Secretary-General's report showed that despite three years of discussion in the General Assembly and requests by the Secretary-General, only 30 States had submitted comments. That was a strikingly small number and indicated that Member States, especially the developing ones, had not yet fully determined their policies on alternative approaches. It was useful to recall that the item under discussion had been formulated in 1973 as the only means of reaching a consensus on the promotion of human rights when the attempt to place Member States, against their will, under the control of a High Commissioner for Human Rights had again failed. The proposal to appoint a High Commissioner for Human Rights was not an alternative approach, but an attempt to revive an idea that had failed to achieve a consensus. There should be no resentment, therefore, at the fact that some delegations saw that proposal as being connected with anti-communist, interventionist human rights campaigns. The appointment of a High Commissioner could only have an adverse effect on the implementation of the existing human rights instruments. It was difficult to imagine what a High Commissioner could actually achieve against the apartheid régime when the Convention on the Suppression and Punishment of the Crime of Apartheid had already placed effective measures at the disposal of States. The Special Committee against Apartheid and the Unit for servicing it existed to co-ordinate United Nations activities against South Africa, and sanctions and other enforcement measures fell within the competence of the Security Council. Draft resolution A/C.3/32/L.25 did not even define a clear mandate for the High Commissioner. There was nothing to prevent him from suddenly deciding that the nationalization of an oil company or a copper mine was a violation of human rights, or intervening in trials of mercenaries or even taking a stand against certain groups of countries. The world had seen too many examples of such interference in internal affairs and attempts at destabilization. With the entry into force of the Covenants, and of the Optional Protocol for those States which were in favour of it, the appointment of a High Commissioner who could look into individual complaints without any treaty to that effect having been signed would obviously represent nothing less than an act of intervention incompatible with State sovereignty.



(Mr. Graefrath, German  
Democratic Republic)

56. In its reply to the Secretary-General, his Government had explained what it understood by an alternative approach within the United Nations system, and he wished to stress certain of the most important aspects of that approach. First, the basic principles of international law had to be applied when dealing with human rights and the right to peace had to be considered as an essential element of all human rights. That raised a number of fundamental issues, inter alia the need for sanctions against the apartheid régime, the promotion of détente and respect for sovereignty and the principle of non-use of force and non-intervention. Secondly, greater attention had to be paid to the unity of economic and political rights as formulated in General Assembly resolutions and in the Proclamation of Teheran. More remained to be done, and his delegation therefore welcomed the stress laid on that subject in draft resolution A/C.3/32/L.17. Thirdly, to achieve the unity of social, economic and political rights it was necessary to discard once and for all the outmoded view that the safeguarding of human rights could be reduced to judicial remedies. For example, safeguarding the right to life could no longer be limited to the question of abolition of the death penalty. Other factors such as the development of new weapons of mass destruction, mass starvation and malnutrition, high infant mortality rates and differences in life expectancy in various parts of the world, had to be taken into account. Fourthly, an alternative approach meant considering the consequences of the new international economic order. Fifthly, the time had come to abrogate, or suspend, those procedures which pre-dated the entry into force of the Covenants, such as resolution 1503 (XLVIII) of the Economic and Social Council. His delegation considered that draft resolution A/C.3/32/L.28 distorted that resolution. The right of the Commission on Human Rights to carry out investigations depended on the consent of the State concerned. States willing to accept such fact-finding missions could do so under article 41 of the International Covenant on Civil and Political Rights. Adopting an alternative approach also meant solving the problem of the unequal treatment of reports on the implementation of human rights. For that purpose, it would be useful to apply to the discussion of reports in the Commission on Human Rights the system already in use in the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, which would be beneficial to those States that had not yet acceded to the Covenants.

57. He welcomed the fact that many of the points his delegation considered essential were included in draft resolution A/C.3/32/L.17 and was convinced that that draft could be improved by linking it more strongly with the right to peace as a prerequisite for the implementation of human rights. However, his delegation believed that it would be wrong to set up new bodies or institutions now that the Covenants were beginning to take effect. The real need was to guarantee and increase the effectiveness of existing institutions, leaving the task of co-ordination to be carried out by the Secretary-General through the intermediary of the Division of Human Rights. There was no need for special resolutions or bodies. If the Division of Human Rights based itself on the long-term programme of the Commission, it would be in a better position to cope with that task.

58. His delegation reserved the right to comment individually on the draft resolutions at a later stage.

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59. Mr. OSMAN (Uganda), speaking in exercise of the right of reply, said that he was sure the Permanent Representative of Norway was aware of the hard work that the Commission on Human Rights had done at its most recent session and the ingenious and statesmanlike way in which the case of Uganda had been handled in conformity with resolution 1503 (XLVIII) of the Economic and Social Council concerning confidential communications. The Commission had acted within its mandate and in accordance with its rules of procedure and could not be expected to act ultra vires. Unlike some countries, it observed the principle of confidentiality. He wanted to state very candidly that some people had been misinformed about the situation in Uganda, precisely as a result of the violation of the confidentiality of communications to the Commission on Human Rights by certain countries adversely affected by Uganda's declaration of economic war.

60. It was amazing that those who were voicing serious concern about alleged violations of human rights by Uganda had never said a word in condemnation of the naked aggression which had been perpetrated against that country on a number of occasions, during which the lives of many innocent Ugandans had been lost. No concern had ever been voiced by those people at the smuggling of large quantities of arms and ammunition into Uganda for the purpose of killing its citizens and creating chaos. There could not be double standards governing the enjoyment of human rights. His delegation believed that a tribute should be paid to the Commission on Human Rights for standing firm and refusing to let itself be swayed by the propaganda of the mass media in reaching its conclusions. Such propaganda and allegations, from whatever quarter, did not enhance the cause of human rights either in the Commission or the Third Committee. The issue was a very sensitive one which required all the skill, wisdom and patience of the Commission. He dismissed any allegations by Norway and innuendoes from any other quarter as baseless, and denounced any manoeuvres by any State or group of States aimed at setting up an institution consisting of one individual to question the acts of sovereign States. By the same token, his delegation did not support any attempt to undermine the sovereignty of States. Uganda was not an issue before the Committee and he did not understand why it had been raised at all.

The meeting rose at 6.30 p.m.