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THIRD COMMITTEE  
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Tuesday, 22 November 1977  
at 3 p.m.  
New York

SUMMARY RECORD OF THE 54th MEETING

Chairman: Mrs. MAIR (Jamaica)

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The meeting was called to order at 3.25 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. Lady GAITSKELL (United Kingdom) said the basis of the work of the Third Committee was to try and match national practice with the international principles and the obligations of Member States under Articles 55 and 56 of the Charter, which proclaimed economic, social, cultural, political and civil rights on an equal footing.

2. A major element of her Government's human rights policy was support for the United Nations, which had fulfilled its standard-setting role with distinction, with its drafting of the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Convention on the Elimination of All Forms of Racial Discrimination. That work continued to be necessary in areas such as torture and in the elimination of discrimination against women. The Committee must not overlook the fact that a majority of Members of the United Nations had not ratified those instruments. Therefore, important as the Covenants were, they could not be said to have attained their objective, which was to encourage States Parties to fulfil their obligations under Articles 55 and 56 of the Charter.

3. At the same time, more effective procedures were needed to supervise and enforce the implementation of agreed international standards: that did not necessarily mean developing new procedures, but it did mean applying existing procedures more effectively. Otherwise, international public opinion would be critical of the United Nations. A sad recent example was the failure of the Commission on Human Rights to speak up about the appalling situation in Uganda, even when fresh evidence of atrocities had coincided with the meeting of the Commission. Also, United Kingdom Ministers had expressed their concern at the systematic violations of human rights which had occurred in Cambodia. The Commission must confront those challenges in 1978.

4. The United Kingdom looked for action by the Commission under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII). It was true that it could only deal with individual complaints from nationals of States Parties to the Optional Protocol. However, under Council resolution 1503 (XLVIII), anyone, whether or not a victim of human rights violations, could send a communication to the Commission on Human Rights, and it was therefore sensible to retain that procedure. Her delegation disagreed with the suggestion of one delegation that the procedure had been envisaged as a temporary measure or that it needed revision. What was needed was a wider demonstration of the political will to make it work.

5. It had also been said that the Sub-Commission on Prevention of Discrimination and Protection of Minorities was superfluous. Those who suggested that should examine the great benefits which resulted from having a non-governmental body of genuine experts in the human rights field, whose objectivity and flexibility were

(Lady Gaitskell, United Kingdom)

admirable. The Commission on Human Rights could do more to act positively in areas of concern referred to it by the Sub-Commission.

6. The point where legitimate international concern for human rights merged into interference in domestic affairs was by no means always clear-cut. At Member States, through their acceptance of Articles 55 and 56 of the Charter, the Universal Declaration of Human Rights and the International Covenants, and through actions taken collectively against South Africa and Chile, had accepted that abuses of human rights, wherever they might occur, were the legitimate subject of international concern. There were also differences in cultural, social and legal traditions that should not be underestimated, and the sensitivity of Governments and peoples to what they might regard as outside interference was understandable.

7. Her Government utterly rejected the contention that certain human rights were the concern only of Western democracies. That argument was not very flattering to the people of developing countries, and was demonstrably untrue. The United Kingdom accepted the validity of economic rights. As the Foreign and Commonwealth Secretary had stated in the general debate at the current session, the global challenge of chronic poverty, malnutrition and disease ensured that the international community could not escape its responsibility for economic and social rights. But the United Kingdom could not accept the idea that economic development should be achieved at the expense of political and social development. After all, it was the acceptance of a moral demand which had led, in the United Kingdom's case, to self-determination of the colonial territories. It was also a moral concern which led the developing countries to emphasize economic development. Her delegation agreed with the Portuguese delegation that, despite some differences of opinion, there was a broad area of common ground between members of the Committee, since the whole range of human rights was important to all.

8. Draft resolution A/C.3/32/L.28 deserved the closest attention. Draft resolution A/C.3/32/L.32 was in many ways an alternative to draft resolution A/C.3/32/L.25/Rev.1, which her delegation preferred. The sponsors of draft resolution A/C.3/32/L.17 had given their assurance that their aim was to emphasize the importance which their countries attached to all aspects of human rights, but the language of the draft was confusing. If it could be changed to make it absolutely clear that the resolution would not give undue weight to certain forms of rights to the detriment of the human rights of individuals, her delegation - which had some amendments to suggest in that connexion - could accept it in a spirit of consensus.

9. In addition, her delegation had two proposals: the first dealt with the promotion of regional human rights procedures such as those already established in Western Europe by the European Convention on human rights and fundamental freedoms; the second had to do with the question of extended or additional sessions of the Commission on Human Rights to enable it to perform its task better.

10. Draft resolution A/C.3/32/L.25/Rev.1 was entirely compatible with the spirit of draft resolution A/C.3/32/L.17, since it referred to violations of human rights such as apartheid, racism and racial discrimination, colonial domination, foreign

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(Lady Gaitskell, United Kingdom)

occupation and alien subjugation, the establishment of a new economic order and the equal importance of civil, political, economic, social and cultural rights. Many of the misgivings expressed by certain delegations about the role of the High Commissioner for Human Rights would be dispelled by close examination of the text. It was clearly stated that the High Commissioner would operate under the authority of the Secretary-General and within the framework of the Charter of the United Nations, without prejudice to the functions and powers of other human rights organs, and that he must give the most careful attention to the economic and social situation and the cultural and religious values of different countries. That represented a new concept of the role of the High Commissioner, who would be a co-ordinator, a mediator and an educator. There was a certain gap between the machinery established under the International Covenants, which met periodically to consider particular aspects of human rights, and the role of the Secretary-General under the Charter in the field of human rights. In view of the many responsibilities of the Secretary-General, it would be useful if there were a person to assist him who had "the degree of personal independence, prestige and integrity required for the discreet and impartial performance of his functions". Some delegations had wondered whether a single person could be trusted to fulfil that task. Suffice it to mention the example of UNHCR about whose establishment many reservations had been expressed at that time, and whose work had so recently and rightly been applauded by the Committee. The Committee must seize the opportunity to establish a post which could benefit mankind as a whole.

11. Mr. KAUFMANN (Netherlands) said that his delegation appreciated the documents before the Committee but thought that it would have been useful if the views of Governments, summarized in document A/32/178, could also have been made available in their entirety. The item under consideration had already been included in the agenda of the thirtieth session, but its discussion had had to be postponed until the current session for want of time; it covered such matters as the question of the establishment of the post of a High Commissioner for Human Rights, and all aspects of the item deserved the Committee's attention. The conclusion apparently reached by some delegations by erroneous reasoning, namely, that the original proposal for the establishment of the post of High Commissioner had been rejected, was not in conformity with what had actually happened.

12. Many conventions and declarations aimed at protecting human rights had been drafted within the United Nations, and that process was continuing in the Third Committee and elsewhere. The entry into force of the international instruments and the institution of procedures aimed at monitoring their observance represented significant progress in the promotion and protection of human rights. The United Nations should encourage the largest possible number of States to ratify those instruments and to accept the optional clauses, including the provision relating to interstate complaints (article 41 of the Covenant on Civil and Political Rights) and to communications from individuals (article 14 of the International Convention on the Elimination of all Forms of Racial Discrimination).

(Mr. Kaufmann, Netherlands)

13. Human rights instruments formulated the obligations of States parties towards their nationals; it was therefore essential that the latter should have access to adequate and effective local remedies. An international body such as the Commission on Human Rights or the Economic and Social Council should exercise a monitoring function. To establish standards without providing for an effective implementation machinery might reduce the value of the instrument in question to that of a mere moral obligation. Secondly, the no less important procedures provided for in the Charter of the United Nations continued to be of crucial importance for the international promotion and protection of human rights. Two reasons could be advanced in favour of maintaining those procedures and devising alternative approaches and ways and means for improving the effective enjoyment of human rights: first, the international instruments on human rights were far from being ratified or accepted by the entire membership of the United Nations. Second, the procedures prescribed in those instruments were generally geared to supervision on a regular basis and did not seem fully adequate to respond to urgent human rights situations, particularly those which revealed a consistent pattern of gross violations. Adequate fact-finding methods were indispensable in such cases.

14. Economic and Social Council resolution 1503 (XLVIII) represented one of the very few possibilities for victims of human rights violations, or persons acting on their behalf, to bring such abuses to the attention of the competent organs of the United Nations. Without ignoring the short-comings of that procedure, his delegation attached great importance to its functioning and would support any effort to improve it. It therefore welcomed draft resolution A/C.3/32/L.28. Of course, the pledge by Governments not to refuse access to their territory to the ad hoc committee appointed to conduct an investigation would be a step forward and might strengthen the procedure as a whole.

15. In view of the excellent work done by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, his Government would welcome a positive response by the Commission on Human Rights, the Economic and Social Council and the General Assembly to wishes expressed by the Sub-Commission in relation to the establishment of working groups and, possibly, an increase in the number of its meetings.

16. The Netherlands believed that civil and political rights and economic, social and cultural rights were equally important. It agreed that the latter were of vital importance and, indeed, the Netherlands Government had played a leading role in trying to secure the effective implementation of the resolutions on the new international economic order, but so far no valid argument had been advanced to show that the struggle for economic, social and cultural rights should be waged at the expense of political freedoms. At the same time, his country was aware of the need to devote more attention to emergency economic situations and immediate needs in the area of economic and social rights. In the case of civil and political rights, authorities must be induced to refrain from violating those rights whereas, in the case of economic and social rights, authorities had a duty to do their utmost to create optimum conditions for the population as a whole to be able to

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(Mr. Kaufmann, Netherlands)

meet at least its most urgent needs. That distinction was clearly reflected in article 2 of the International Covenant on Economic, Social and Cultural Rights, whereby States Parties were required to take steps with a view to achieving progressively the full realization of those rights. The indivisibility and interdependence of all human rights and fundamental freedoms, which was proclaimed in operative paragraph 1 of draft resolution A/C.3/32/L.17, and their interrelationship with economic and social development, should form a guideline for all United Nations activities in the field of human rights. Human rights and fundamental freedoms must be enjoyed by all organs of society at all levels, and in that connexion not only the United Nations but also Governments and non-governmental organizations had an important part to play, by means of information and education, in acquainting people with all their rights.

17. His delegation fully supported draft resolution A/C.3/32/L.28. It also welcomed draft resolution A/C.3/32/L.17, but noted that it referred only to mass and flagrant violations of human rights of peoples; his delegation would appreciate it if the sponsors would also mention violations of the human rights of individuals.

18. While draft resolution A/C.3/32/L.17 concentrated on alternative ways of improving the effective enjoyment of human rights and fundamental freedoms, draft resolution A/C.3/32/L.25/Rev.1, which his delegation fully supported, concentrated on alternative means, and particularly the creation of a post of High Commissioner for Human Rights. The two drafts were therefore clearly complementary. Some delegations had objected that such a post would lead to duplication of existing procedures and that the High Commissioner might interfere in the domestic affairs of Member States. In the opinion of his delegation, both objections were unfounded. The essential characteristic of the High Commissioner was to be found in the way in which he could perform his activities: while United Nations bodies usually met for only a few weeks each year, the High Commissioner would perform his duties throughout the year and would be ready to take action whenever he was requested to do so. The sponsors of the draft resolution had taken great care to make it clear that the High Commissioner would have no supranational powers, that he would not be in a position to exert undue pressure on individual States and that he would have to work within the framework of the Charter of the United Nations, in particular Article 2, paragraph 7, and article 55. It might be useful to recall that similar arguments had been put forward at the time of the creation of the post of United Nations High Commissioner for Refugees. As a result of the excellent work done by the latter, the original objections had vanished. His delegation was convinced that the same would happen in the case of the post of High Commissioner for Human Rights, the creation of which met a very urgent need and would serve the interests of the international community. Draft resolution A/C.3/32/L.25/Rev.1 therefore deserved serious attention.

19. Mr. GIAMBRUNO (Uruguay) said that his country could not fail to support enthusiastically the establishment of a High Commissioner for Human Rights (draft resolution A/C.3/32/L.25/Rev.1), an idea which it had always favoured. He was grateful to the sponsors for having revived that proposal, which had been submitted

(Mr. Giambruno, Uruguay)

to the Commission on Human Rights as early as 1950, but to no avail. The draft did not perhaps define the competence of the High Commissioner for Human Rights sufficiently clearly, but it was worded in such a way as to allow for a review of the new machinery.

20. Draft resolution A/C.3/32/L.32 concerning the appointment of a group of 10 experts, representing different legal systems, was in a certain sense a pendant to draft resolution A/C.3/32/L.25/Rev.1. There had already been a suggestion in 1971 that the High Commissioner should be assisted by 10 experts. Those two drafts could perhaps be combined in a single text which would reflect the various positions.

21. His delegation supported draft resolution A/C.3/32/L.17, together with the amendments proposed by Morocco (A/C.3/32/L.33). It favoured the idea of the Commission on Human Rights undertaking an analysis of ways and means for improving the effective enjoyment of human rights and fundamental freedoms. It did, however, have some reservations with regard to paragraph 1 (b), which reproduced almost word for word a paragraph in the Proclamation of Teheran. If the full realization of civil and political rights without the enjoyment of economic, social and cultural rights was impossible, the converse was equally true. The effective enjoyment of economic, social and cultural rights went hand in hand with the achievement of certain freedoms. It could be questioned whether the fact that the non-white majority in South Africa was economically better off than the inhabitants of other countries on that continent justified the existence of apartheid. Surely there was also a need to demand civil and political rights for those people. It would be artificial to try to divide the world into two opposing concepts: the so-called Western idea that fundamental freedoms were political freedoms, and the socialist and Marxist concept that it was first necessary to ensure that a person had satisfactory material conditions of existence. While there was no difficulty in endorsing the latter view, that surely did not mean that the masses should silently bow under the yoke of their oppressors. It had to be said that the socialist revolution had failed where civil and political rights were concerned; dissidents, for example, were still being persecuted and shut away in psychiatric hospitals.

22. There was a need to consider the question of human rights independently of any political context. Unfortunately, within the United Nations itself, countries were judged on the basis of their political orientation; such was the case of Chile, for example. The very system for considering communications on violations of human rights had to be completely revised. Those communications were initially considered by a five-member Working Group of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The criteria of that sub-committee in selecting those communications were overwhelmingly political. In addition, instead of remaining confidential, such communications were given wide publicity even before Governments could reply to the accusations made against them. It was therefore obvious that there were tremendous gaps in the practical machinery for the protection of human rights currently in force.

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(Mr. Giambruno, Uruguay)

23. His delegation also supported draft resolution A/C.3/32/L.28, which requested States voluntarily to accept fully the machinery set up in Economic and Social Council resolution 1503 (XLVIII) for dealing with communications relating to violations of human rights, which thus far had not been used even once.

24. With regard to the obstacles to the establishment of a High Commissioner for Human Rights, a step which, according to some, would be contrary to the provisions of Article 2, paragraph 7, of the Charter, a rapid perusal of all the draft resolutions submitted was sufficient to show that there had never been any question of authorizing the slightest interference in the internal affairs of States. The United Nations had never intended to establish a body which would not respect that principle. Every country would perhaps need to have the courage to surrender part of its sovereignty and submit to effective and impartial international machinery which would come into operation whenever human rights were violated.

25. Mr. CHARPENTIER (Canada) said that any over-all examination of the question of human rights was, or should be, based on three axioms. First, there was no doubt that universal enjoyment of human rights should be guaranteed in a uniform and consistent manner. That was an arduous task but, despite the obstacles that were currently impeding the achievement of that objective, the international community had to persist in its efforts towards that end. The various human rights were, moreover, closely interlinked and indivisible. Several of them - protection from torture, slavery and arbitrary or illegal action - could and should be guaranteed by all States. Full enjoyment of rights was certainly not possible in countries which did not have the necessary resources to satisfy basic human needs. It had to be recognized nevertheless that human rights were at the heart of the world community's concerns and had to be guaranteed unconditionally to all.

26. Secondly, there was a need to emphasize the crucial role that the United Nations could play in ensuring respect for the rights set forth in various international legal instruments, resolutions and declarations. It was, of course, first and foremost the responsibility of every State to fulfil its obligations. His Government believed that more States should participate in the activities and deliberations of the multilateral bodies, the existence and functioning of which were perfectly in harmony with the principle of respect for national sovereignty. All States had the duty to ensure that human rights were respected in accordance with the fundamental purposes and principles of the United Nations.

27. Thirdly, it should be remembered that there was often a considerable discrepancy between the obligations assumed by States and the satisfactory fulfilment of those obligations. Similarly, the machinery currently available to States at multilateral level to ensure the application of the principles of the Universal Declaration of Human Rights was not sufficiently effective; it needed to be reactivated and strengthened. Wherever there were gaps, they had to be filled.

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(Mr. Charpentier, Canada)

28. For that reason his delegation supported draft resolution A/C.3/32/L.25/Rev.1 concerning the establishment of a High Commissioner for Human Rights. That proposal was in accordance with the objectives set forth in the Charter of the United Nations and in no way threatened national sovereignty. In addition, to a large extent, the draft took account of the views and interests of numerous delegations which had expressed doubts about the justification for or timeliness of the proposal. He hoped that the Committee would support an initiative aimed at better co-ordination of efforts and improvement of the means available to promote and protect human rights.

29. It also supported draft resolution A/C.3/32/L.17. It was important to establish priorities in the field of human rights for the future. That was not an easy task because the United Nations was currently facing many international problems the relative importance of which inevitably depended on the viewpoint of each Member State. The question under consideration was of prime importance for the future work of the United Nations in the field of human rights. For that reason his delegation was prepared to co-operate with other delegations with a view to working out generally acceptable order of priorities which could serve as a basis for firm and practical international action.

30. Mr. HARRIMAN (Nigeria) said that his delegation, which fully supported all the efforts of the United Nations in the area of human rights, such as the International Covenants on Human Rights, and actively participated in the work of competent United Nations bodies in that area, supported the creation of any suitable new machinery geared to the enhancement of the capacity of the United Nations to promote human rights not only in the political, but more so in the economic and social fields. If the sponsors of draft resolution A/C.3/32/L.25/Rev.1 were advocating a positive re-thinking of the search for a means of tackling the root causes of the widespread violation of human rights the world over, that should be fully encouraged. In the opinion of his delegation, those violations did not flow only from economic under-development, but were also a direct consequence of social oppression and political intolerance. The impression had been created that the establishment of a United Nations High Commissioner for Human Rights would encourage certain countries to accentuate the propagation of their own ideologies at the expense of those of other States. It was therefore essential at the current stage for the Committee to deal with the question of alternative approaches and ways and means of improving the effective enjoyment of human rights and fundamental freedoms in such a manner as to reach a formula acceptable to all. Even the technologically-advanced States were not completely free from violations of human rights. Where the individual citizen's rights were denied by national authorities, it was only appropriate that international organizations should assist their member States, wherever possible, in overcoming their difficulties, whether they occurred in the social or the economic field.

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(Mr. Harriman, Nigeria)

31. Racial oppression and religious persecution, as well as class or caste systems, still existed in many countries. The technically advanced countries had ignored the social and economic rights of the poorer countries, thus making it more difficult for them to establish the infrastructure essential for the creation of a truly egalitarian society. Since repression and intolerance were almost directly proportionate to economic backwardness, if the standard of living was low, a State might be tempted to resort to unacceptable methods in order to maintain order and ensure national security when faced with socio-economic insecurity. Economic problems often led régimes to establish a dictatorship or a totalitarian system. Neither regard for the personal value of the individual, nor family stability, nor the structure of community life could resist the corrosive force of unemployment.

32. Despite its relatively low level of development, Nigeria guaranteed protection of the rights of all citizens, including women, and all citizens were free to contribute to the development of their country. International and non-governmental organizations were authorized to operate freely throughout the country. Consequently, his country would not tolerate violations of human rights anywhere in the world. Unfortunately, in draft resolution A/C.3/32/L.25/Rev.1 (paras. 2 (a) (i) and 5), the sponsors appeared to equate the system of racist minority rule in southern Africa with the violation of human rights, and to play down the enormity of the crimes which the system of apartheid perpetuated. Nigeria had always considered it unacceptable to compare that repugnant system of neoslavery to the struggle for civil rights in other parts of the world. Situations where all individuals were equal before the law but where some despots abused their power must not be confused with the institutionalized violation of fundamental rights, including the right to life, by a racist minority which reduced the majority to slavery. During the current session, Nigeria had joined the sponsors of the various resolutions on the elimination of all forms of racial discrimination, on torture and other cruel, inhuman or degrading treatment, and on crime prevention and control, and had been one of the first to support the resolution on security of international civil aviation.

33. Nevertheless, with regard to draft resolution A/C.3/32/L.25/Rev.1, his delegation would need more time to study in depth all aspects of the role of the High Commissioner for Human Rights and particularly the manner in which it might affect, or complement, some of its statutory provisions: for example, the courts dealt with complaints concerning violations of fundamental rights (chap. III of the Constitution) and bureaux headed by ombudsmen had been established in the 19 states of the Federation to deal with complaints against the Administration. Furthermore, Nigeria would like the Secretariat to submit a report on the financial implications of the establishment of the post of High Commissioner, which were likely to be considerable. There was no assurance that the establishment of a High Commissioner would increase the effectiveness of the interpretation and implementation of the International Covenants on Human Rights, or promote their universal acceptance, nor that his role as a co-ordinator was indispensable. Before examining those proposals, it would be preferable to await the outcome of the current work on the restructuring of the United Nations system. Furthermore; care . .

(Mr. Harriman, Nigeria)

must be taken to avoid overlapping between the responsibilities of the proposed High Commissioner, on the one hand, and those of the non-governmental organizations, the Office of the Secretary-General, the Centre for Social Development and Humanitarian Affairs, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the Human Rights Committee, on the other hand. If machinery for co-ordinating the efforts of the non-governmental organizations and of the United Nations bodies was considered necessary, Nigeria would prefer that the good offices of the Secretary-General of the United Nations should not be limited by the establishment of a post which would not be under his direct supervision. References to human rights in the context of the new international economic order should be matched by concrete commitments on the part of the developed countries to help those countries which needed the support of the international community in ensuring the proper redistribution of resources.

34. Miss ILIC (Yugoslavia), introducing draft resolution A/C.3/32/L.17 on behalf of its sponsors, which had been joined by Bangladesh, Benin, the Comoros, Ethiopia, Kenya, Papua New Guinea, the Syrian Arab Republic, and the Socialist Republic of Viet Nam, said that the name of Senegal should be deleted from the list of sponsors. The draft was the result of a collective effort of delegations that wished to contribute constructively to the work of the Committee and to offer alternative means of improving the enjoyment of human rights and fundamental freedoms.

35. She read out the draft resolution, and remarked, with regard to the first two preambular paragraphs, that violations of human rights were generally the result of non-observance of the principles of the Charter set forth in Article 1, paragraph 3, and Articles 13, 55 and 56. Hence the importance of international co-operation in that field and of co-operation based, as indicated in the third preambular paragraph, on a profound understanding of problems existing in different societies. The fourth preambular paragraph referred to the basic instrument on the protection of human rights - the Universal Declaration of Human Rights - and was followed logically by the fifth preambular paragraph. The eleventh preambular paragraph was designed to fill a gap: indeed, the experiences of the developing countries had not been taken into due account in the approach to the work within the United Nations system in the field of human rights. Operative paragraph 1 set forth the concepts on which the approach to the future work within the United Nations system with respect to human rights questions should be based; subparagraph (b) stressed the relevance of the Proclamation of Teheran, which established the indissoluble link between the full realization of civil and political rights and the enjoyment of economic, social and cultural rights; subparagraph (d) enumerated the situations to which priority should be accorded in the search for solutions to the mass and flagrant violations of human rights of peoples, such as apartheid, racial discrimination, colonialism, foreign domination and occupation, aggression, threats against national sovereignty and the refusal to recognize the fundamental rights of peoples to self-determination. Paragraph 2 was addressed to the Commission on Human Rights and paragraph 3 to the Secretary-General. Referring to the French version of the draft resolution, she

(Miss Illic, Yugoslavia)

said that in the second line of paragraph 1 (d), the article la before the word priorité should be replaced by the article une.

36. The sponsors felt that the draft resolution reflected the concerns of the majority of Member States.

37. Mrs. EISTRUP (Jamaica) said that the subject under consideration was certainly the most important and complex on the United Nations agenda. The search for international justice was a dynamic concept, which had acquired new dimensions in recent years consistent to the needs and priorities of the international community. The concern for global economic justice had grown, and the moral justification for a reordering of the world's economic system was felt in all United Nations activities, including the field of human rights.

38. The emphasis on economic, social and cultural rights had evolved from the historical development of the countries of the southern hemisphere. It would be a mistake to underestimate the impact of the experience of the developing countries on the intellectual and moral principles which governed United Nations activities. That experience had led the international community to an increasing acceptance of the indivisibility and interdependence of all human rights. As shown by many statements on item 76, that tendency reflected the idea that economic and social justice was a fundamental aspect of the economic system and a full guarantee of the enjoyment of all human rights. The struggle against global economic inequity and poverty, through the establishment of a new international economic order, was becoming integral to any strategy for the implementation of human rights. Thus the campaign was still being pursued to ensure the rights of all to food, shelter, health and full employment, which were the most urgent needs of the majority.

39. Her country did not, however, lose sight of the rights of the individual expressed in the Universal Declaration of Human Rights, such as freedom of expression, freedom of movement, freedom of association and the right to free elections. The Government of Jamaica acknowledged the obligation of the State to protect those and other rights, which were enshrined in its Constitution, and which were accorded to the individual, "whatever his race, place of origin, political opinions, colour, creed or sex".

40. The radical social and economic reconstruction being undertaken in Jamaica involved the application of socialist principles, firmly grounded in democratic institutions and respect for individual liberties. Her Government considered that an artificial barrier had been erected between individual and collective rights; individual rights had been frequently fought for by collective effort, and her country was convinced that the same would occur at the international level, through collective effort and international co-operation. However, judging by the title of the item, the small number of States which had acceded to international human rights instruments, and especially the persistence of the apartheid system in South Africa, where violations of all known human rights occurred, the United Nations fell far short of realizing that goal.

(Mrs. Eistrup, Jamaica)

41. Conscious of the need to make even greater efforts for the realization of human rights throughout the world, Jamaica welcomed all constructive efforts to enhance the capacity of the United Nations system in that field. She therefore fully supported draft resolution A/C.3/32/L.17, the intention of which was that all future United Nations activities should take account of certain basic concepts of human rights. The other proposals before the Committee - of which few presented insurmountable obstacles for her delegation - merited serious consideration. She reserved her right to comment further on them.

42. Mr. AZIZ (Afghanistan) said that the efforts made by the United Nations since its inception to encourage respect for human rights and fundamental freedoms expressed the concern of the international community to secure those rights. That concern was reflected in the Charter, where the principle of respect for human rights and human dignity was affirmed in the Preamble and in Articles 1, 13, 55, 56, 62 and 68. Chapter XII, Article 76, also stated that one of the basic objectives of the Trusteeship system was to "encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".

43. A great deal of United Nations activity in the field of human rights consisted, on the one hand, of spelling out in detail the substantive content of the term "human rights and fundamental freedoms", and on the other hand, of urging Governments of Member States to observe those rights. In order to ensure the enjoyment of human rights, the United Nations had employed various techniques - such as the preparation of treaties, declarations and recommendations, and the activities of specific organs, and was currently seeking other methods and approaches. With regard to the High Commissioner for Human Rights, he drew the Committee's attention to the fact that the establishment of the office came within the competence of the General Assembly, according to Article 1, paragraph 3, Article 13, paragraph 1 (b) and Articles 22, 55, 56 and 60 of the Charter. The General Assembly's discharge of its functions in the field of human rights would be enhanced if it were assisted by a High Commissioner for Human Rights.

44. There was a difference of opinion on the interpretation to be given to the word "intervene" in Article 2, paragraph 7, of the Charter, which stipulated that "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state". According to Professor Cassin and Professor Lauterpacht, the term was unambiguous and signified action amounting to a denial of the independence and sovereignty of a State. The activities of a High Commissioner for Human Rights could not be compared to such action, and the creation of the post was not therefore contrary, as had been stated by some, to the provisions of the Article in question. His delegation reserved the right to comment further, if the need arose, on the question of whether the establishment of a High Commissioner of Human Rights was in accordance with the Charter.

45. Mr. O'DONOVAN (Ireland) said that he was surprised that some countries, under the pretext that they had not participated directly in the formulation of the

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Charter and the Declaration of Human Rights, now wished to incorporate their views into the guiding principles of the United Nations, since what they were calling for - the right of peoples to self-determination, to social and economic development and to non-discrimination - was contained in the provisions of the Charter, particularly in Articles 1 and 55, as well as in the various instruments adopted by the United Nations over the years.

46. It was in that context that the draft resolutions before the Committee should be considered, particularly draft resolution A/C.3/32/L.17, which sought to redefine all the current thinking of the United Nations in the field of human rights. The draft had been described as a historic step. It was indeed historic in so far as it was the first concerted contribution by an important number of countries to General Assembly deliberations on the subject. While acknowledging the considerable efforts made by the co-sponsors, and without denying the merits of the draft resolution, which he had studied closely, he wished to express certain general criticisms of it.

47. In the first place, the aim of the draft resolution was to have the General Assembly define the future approach of the United Nations system in the field of human rights, an undertaking which could scarcely be achieved in a single session, since a whole year did not suffice to prepare a draft convention likely to achieve general acceptance on a subject as specific as discrimination against women. Secondly, the draft took no account of the compromise language of the title of the item, nor of the differences of emphasis placed by countries on that aspect of the question of human rights. Finally, while it was justifiable to affirm the rights of peoples and the requirements of social and economic development, it was wrong at the same time to exclude individual rights, particularly civil and political rights. Certainly, as some had argued, it was not much use having freedom of speech on an empty stomach. But the reverse was equally true, and one might ask what was the advantage of being well fed if one risked being tortured. Human rights were irreducible, and could not be set one against the other. It was the balance of human rights which was in question. To abandon the search for that balance would be tantamount to countries abandoning the made pledge in the Preamble to the Universal Declaration of Human Rights to achieve a common understanding of human rights and fundamental freedoms.

48. The search for that common understanding must go together with the search for ways to promote the implementation of human rights. That was why his delegation was a sponsor of draft resolutions A/C.3/32/L.25/Rev.1 and L.28. It was essential for States to do as they were requested in draft resolution A/C.3/32/L.28, namely to waive their right under article 6 of Economic and Social Council resolution 1503 (XLVIII) to withhold access to their territory by the ad hoc committee appointed by the Commission on Human Rights. Given that the procedure envisaged in that resolution provided States with guarantees of confidentiality and discretion, it was a means of strengthening the enjoyment of human rights.

49. With regard to draft resolution A/C.3/32/L.25/Rev.1, he said that, as it was specified that the High Commissioner would act within the framework of the Charter, it was difficult to claim, as some representatives had done, that the

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appointment of a High Commissioner would be contrary to the principles of the Charter. Others were alleging that the High Commissioner would infringe the sovereignty of States and would even become the political agent of certain countries. However, the draft resolution expressly stipulated that the duty of the High Commissioner would be to promote universal and effective understanding and respect for human rights as set forth in the Charter, and that he should perform that task with discretion and impartiality by lending his good offices to States requesting them. As the creation of the post had already been contemplated for 12 years, his delegation was convinced that a large number of countries wanted the project to be given a chance to operate. Far from sharing the opinion that a High Commissioner would be powerless and would only complicate the human rights situation, Ireland's view was that, on the contrary, he would be effective in producing more coherence in that area. The appointment of a High Commissioner for Human Rights, provided he remained completely neutral, would have as much justification as that of the Secretary-General of the United Nations or the High Commissioner for Refugees. His presence would even have particular value for the smaller Member States. A single individual could be more effective and have more authority than some representatives imagined. The opportunity to strengthen the effective enjoyment of human rights should not be missed.

50. Mr. OTAKA (Japan) said that his country supported all the efforts of the international community towards the universal attainment of human rights and fundamental freedoms, a goal which was still far from being achieved. It was for the United Nations to take the initiative in those efforts and to ensure their co-ordination.

51. Since the United Nations lacked a central organ responsible for the consideration and daily administration of human rights affairs, his delegation supported draft resolution A/C.3/32/L.25/Rev.1, which proposed the establishment of a High Commissioner for Human Rights to fulfil that function, on condition that his activities did not duplicate the functions of other United Nations bodies concerned with human rights, and that the costs involved were kept to a minimum. His delegation also supported the idea contained in draft resolution A/C.3/32/L.28, according to which the voluntary consent by Member States to investigations pursuant to ECOSOC resolution 1503 (XLVIII) would contribute to better safeguards for the enjoyment of human rights and fundamental freedoms, although he was still not clear on the legal effects of the statement of intent envisaged in that draft resolution. At all events, as many States as possible should support the two draft resolutions if they were to achieve the desired results.

52. Concerning draft resolution A/C.3/32/L.17, to which his delegation attached great importance, it might well be true that, without the enjoyment of economic, social and cultural rights, the realization of political and civil rights was impossible, that the prevailing economic order hindered the attainment of the former, and that the solution to the problem lay in the establishment of a new international economic order. His delegation also recognized that mass violations of the human rights of peoples, such as apartheid, racial discrimination and colonialism, were also denials of individual rights. However, the draft resolution



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placed excessive emphasis on collective human rights and on economic, social and cultural rights, to the detriment of civil and political rights and fundamental freedoms, the vital importance of which it failed to recognize. The draft resolution would be acceptable to the majority of Member States if it presented a fuller and more balanced picture of the whole range of human rights. Man did not live by bread alone, and respect for his dignity implied respect for all his rights, civil and political as well as economic, social and cultural. If the landmark draft resolution was to be adopted by consensus, it must give a clear, balanced and realistic view of the whole human rights issue.

53. Mr. OSMAN (Uganda), speaking in exercise of the right of reply, recalled that the representative of the United Kingdom had described the situation in Uganda as dreadful. It was not the first time that the United Kingdom had displayed hypocrisy on the subject of human rights. Members of the Committee would certainly remember that in 1976, under the very same Economic and Social Council resolution - 1503 (XLVIII) - the Commission on Human Rights had considered the dreadful situation prevailing, not in Uganda, but in Northern Ireland, where the United Kingdom, through its policy of bloodshed, was systematically violating human rights, as it had done in Asia, Africa and other areas of the world. His delegation had already had occasion to refute the insinuations made against Uganda by the representative of Norway. No one was unaware of the fact that certain delegations were seeking to score points by introducing into the debate matters which had nothing to do with the subject under consideration. The Committee was not dealing with the situation in Uganda.

54. Mr. EDIS (United Kingdom), speaking in exercise of the right of reply, said that he would leave it for the Committee to reach a verdict on the situation prevailing in Uganda.

55. Mr. OSMAN (Uganda) said that he reserved the right to return to the subject.

56. Mr. SMIRNOV (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, recalled that one of the most ardent supporters of draft resolution A/C.3/32/L.25/Rev.1, which envisaged the appointment of a United Nations High Commissioner for Human Rights, had said that United Nations action was politically slanted, and had hurled slander at one of the Member States. Such statements could be ignored if they did not prove that the advocates of the creation of the post in question intended to use it to spread slanderous statements of the type just heard by the Committee. No group of States could use United Nations bodies, which were representative bodies, to serve their own interests, yet on the other hand it was not impossible for an individual, however objective, to be manipulated by a group of countries. The statement of the representative of Uruguay confirmed that supposition. Moreover, it was to be feared that the activities of the High Commissioner would hamper those of other bodies and that he would make use of any document, including statements such as that made by the representative of Uruguay, to disseminate slander about States Members of the United Nations. The Soviet delegation refuted that statement, which was based, not on official documents, but on information taken from the local press.



(Mr. Smirnov, USSR)

57. The representative of Uruguay should know that, when the Universal Declaration of Human Rights was formulated, the Soviet Union had struggled to obtain respect for those fundamental rights which were of primary importance for millions of people, such as the right to self-determination and the right of liberation from the colonial yoke. Those proposals had been rejected on the pretext that they were collective rights; the same arguments were recurring in the deliberations of the Third Committee on the item under consideration. The Soviet Union had also asked for the incorporation in the Declaration of new rights (the right to medical care, housing, education), convinced that only the enjoyment of those rights could guarantee decent living conditions for mankind. To say that social rights, and particularly economic and cultural rights, were of no importance, was to ignore the hunger, illiteracy and unemployment with which millions of human beings were stricken, particularly in the developing countries.

58. Mrs. PIZZANELLI (Uruguay) said that she reserved the right to reply later to the statement of the representative of the Soviet Union.

59. Mr. MOMPOINT (Secretary of the Committee), replying to Mr. ALFONSO (Cuba) and to Mr. DIOM (Senegal), said that the statement of the financial implications of draft resolution A/C.3/32/L.25/Rev.1 would be distributed the following morning.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL /A/32/3, chaps. II, III (sect. G and L), IV (sect. A) and VI; A/32/3/Add.1; A/32/61, 65, 125, 129, 139, 215, 227 and 234; A/C.3/32/1, 2 and 6

60. Mr. SANON (Deputy Director of the Division of Human Rights) described the activities undertaken by the Economic and Social Council and its subsidiary organs in the field of human rights. Those organs were constantly re-evaluating their approaches. In resolution 4 (XXXIII), the Commission on Human Rights had recommended that the Economic and Social Council should undertake a study on the subject "The international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and the fundamental human needs", which should provide a moral and legal framework for the implementation of the Programme of Action on the Establishment of a New International Economic Order. It had also determined the concepts which would guide its future work, in particular the principles contained in the Declaration on Social Progress and Development and the instruments relating to the establishment of a new international economic order and those concerning the economic rights and duties of States. He drew particular attention to resolution 5 (XXXIII), in which the Commission on Human Rights had decided that, while it had so far concerned itself mainly with violations of civil and political rights, it should also study violations of economic, social and cultural rights. Having considered the Commission's report, the Economic and Social Council had decided /decision 230 (LXII)/ to appeal to all States, especially the developed States, and the specialized agencies and non-governmental organizations, to make all efforts to accelerate the establishment of conditions that could promote the unrestricted enjoyment of all human rights in States with difficult economic and social conditions.

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(Mr. Sanon)

61. With regard to its programme and methods of work, the Commission on Human Rights had decided /decision 4 (XXXIII)/ to request the Secretary-General to submit to it at its thirty-fourth session a report summarizing and analysing the proposals and suggestions put forward in the course of the discussion of the item at the thirty-third and previous sessions of the Commission, as well as those contained in the relevant documentation before the Commission; and to establish at its thirty-fourth session a working group to study the report and submit its recommendations to the Commission at that session. For its part, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had at its thirtieth session adopted by consensus a statement in which it drew the attention of all concerned to the fact that its members were elected in their personal capacity and acted in that capacity with complete independence and impartiality, and rejected most emphatically any allegations or insinuations to the contrary or any intimidation exercised against its members.

62. As at all their sessions, the Commission on Human Rights and the Sub-Commission, pursuant to resolutions 1235 (XLII) and 1503 (XLVIII) of the Economic and Social Council, had considered situations giving rise to allegations of gross and systematic violations of human rights. In connexion with the Middle East, the Commission had adopted resolution 1 (XXXIII). On the Cyprus question, it had requested the Secretary-General to provide it at its thirty-fourth session with information relevant to the consideration of the question /decision 6 (XXXIII)/.

63. With regard to southern Africa, it had formulated recommendations /resolution 6 (XXXIII)/ on the basis of which the Economic and Social Council had decided, in resolution 2082 A (LXII) that the Ad Hoc Working Group of Experts on southern Africa, in conjunction with the Special Committee against Apartheid, should examine the treatment of prisoners in South Africa, Namibia and Zimbabwe, including the deaths of a number of detainees, as well as police brutality during peaceful demonstrations against apartheid in South Africa since the Soweto massacre, with a view to submitting a report, which would be brought to the attention of the General Assembly in accordance with paragraph 4 of that resolution (E/CN.4/1222). The Economic and Social Council had also recommended /resolution 2082 B (LXII)/ that the General Assembly should declare 1978 International Anti-apartheid Year, and suggested /resolution 2082 C (LXII)/ that the General Assembly should consider the applicability to United Nations organs of the solemn obligation of the administering Powers to promote the political, economic, social and educational advancement of the inhabitants of the Territories under their administration and to protect the human and natural resources of those Territories against abuses, and should consider the desirability of exercising fully its powers in its capacity as Administering Authority for Namibia. Pursuant to the request in resolution 7 (XXXIII) of the Commission on Human Rights, the Sub-Commission's Special Rapporteur on the question of the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa had begun to prepare the necessary material for a provisional general list identifying those individuals, institutions, including banks, and other organizations or groups, as well as representatives of States, whose activities constituted political, military, economic or other forms

of assistance to the colonial and racist régimes in southern Africa. Finally, with regard to the question of the penalties applicable for violations of human rights within the framework of resolution 1503 (XLVIII), the Economic and Social Council had decided /decision 232 (LXII)/ to draw the attention of the General Assembly and the Security Council to the desirability of adopting specific measures, including those provided for in Chapter VII of the Charter of the United Nations, with a view to putting an end to the illegal occupation of Namibia by South Africa. The Commission on Human Rights had thus continued to seek new methods and techniques for investigating allegations of violations of human rights.

64. Its efforts in that direction were also evident from resolution 9 (XXXIII) of the Commission concerning the situation in Chile, in which the Sub-Commission on Prevention of Discrimination and Protection of Minorities had been requested to undertake a study on the consequences of the various forms of aid extended to the Chilean authorities and to present a progress report thereon to the Commission on Human Rights at its thirty-fourth session. The task had been entrusted to Mr. Cassese, whom the Sub-Commission had requested to analyse and compare the volume, origins, development and significance of the assistance given to the present régime in Chile and to study whether a quantitative or qualitative change in that aid might contribute to restoring respect for human rights in Chile. Notes verbales had already been sent to a number of institutions and organizations which might be able to provide information. The Sub-Commission had also been requested to analyse feasible ways to give humanitarian, legal and financial aid to those arbitrarily arrested or imprisoned, to those forced to leave their country and to their relatives. In its turn, the Sub-Commission had requested the Secretary-General to provide the Commission on Human Rights at its thirty-fourth session with a report including, in particular, suggestions as to methods of establishing the fund, its administrative and legal structures, sources of contributions, and channels of distribution of the aid. Moreover, the Third Committee would have before it the report of the Ad Hoc Working Group on the Situation of Human Rights in Chile, which would be introduced by the Chairman-Rapporteur.

65. He referred to studies conducted on the underlying causes of the violations of human rights, in the first place, the aforementioned study on the international dimensions of the right to development as a human right. Moreover, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had commissioned two of its members to undertake a preliminary study of the implications for human rights of situations known as a state of siege or emergency. It had requested the Secretary-General to prepare an analysis of the documents relating to the question of the human rights of persons subjected to any form of detention or imprisonment which had been submitted to it at the previous three sessions. On the question of the human rights of migrant workers, the Economic and Social Council, in resolution 2083 (XLIII), had recommended that the Commission on Human Rights, in co-operation with ILO and other interested organizations of the United Nations system, should make a complete and thorough study of the questions mentioned in resolution 31/127 of the General Assembly, which, moreover, had the question before it at the current session. Finally, the Sub-Commission had studied the role it should play in connexion with the Programme for the Decade for Action to Combat

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Racism and Racial Discrimination and, in resolution 3 (XXX), had decided to consider ways and means of using national courts, administrative tribunals and other domestic forums, including legislative forums, to help implement United Nations resolutions on racism, racial discrimination, apartheid, decolonization and self-determination and related matters; it had requested the Secretary-General to prepare for its thirty-first session a preliminary document setting forth information on how United Nations instruments, including declarations and resolutions, had been used in those courts, tribunals and forums, with suggestions for their effective future use, as well as a preliminary document reporting on the use of those instruments in private forums, trade unions and other organizations, and including in particular information as to shareholder actions and other activities aimed at discouraging collaboration by banks and other transnational corporations with colonial and racist régimes.

66. With respect to the establishment of standards, the Commission on Human Rights, at its thirty-third session, had accepted, with certain minor changes, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock (E/5927, para. 212), which had been submitted to it by the Sub-Commission, and had referred them to the Council for further consideration. The Council, in its decision 234 (LXII), had taken note of the work done by the Commission, requested the Secretary-General to transmit the draft general principles to Governments for comments, and decided to consider those principles further with priority at its sixty-fourth session, with a view to their approval. In resolution 2076 (LXII), the Economic and Social Council had decided to add to part II of the Standard Minimum Rules for the Treatment of Prisoners a new section extending the application to persons arrested or imprisoned without charge. At its thirty-fourth session, the Commission on Human Rights would have before it a draft of all the principles relating to the protection of persons subjected to any form of detention or imprisonment prepared by the Rapporteur of the Sub-Commission (E/CN.4/Sub.2/395). At its thirty-third session, it had continued work on the preparation of a draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief, a question which had also been on the agenda of the General Assembly. It had also requested the Sub-Commission /resolution 10 (XXXIII)/ to study, with a view to formulating guidelines, if possible, the question of the protection of those detained on the grounds of mental ill-health against treatment that might adversely affect the human personality and its physical and intellectual integrity, and to submit a progress report on the question as soon as it was ready. At its thirtieth session, the Sub-Commission, after having examined a study prepared by Baroness Elles, the Special Rapporteur on the protection of the human rights of individuals who were not citizens of the country in which they lived, had requested the Secretary-General to submit to Governments the draft declaration contained in annex I of the study, and had requested the Special Rapporteur to present at its following session a new draft declaration, taking into account the replies of Governments and the views expressed during the discussion of the item. Furthermore, it had also endorsed the conclusions and recommendations in the study on the rights of persons belonging to ethnic, religious and linguistic minorities prepared by Mr. Capotorti, the Special Rapporteur, which would be before the Commission on Human Rights at its thirty-

fourth session. It had also recommended to the Commission a draft declaration on the rights of members of minorities within the framework of the principles set forth in article 27 of the International Covenant on Civil and Political Rights.

67. Finally, he stressed the special importance of education and the dissemination of information regarding United Nations activities in the field of human rights. In accordance with resolution 3 (XXXIII) of the Commission on Human Rights, the Third Committee had before it a note from the Secretary-General on the observance of the thirtieth anniversary of the Universal Declaration of Human Rights (A/C.3/32/1). The Commission had decided to recommend to Member States, the specialized agencies and all international organizations, governmental and non-governmental, concerned with the protection and promotion of human rights to take appropriate measures to ensure that the thirtieth anniversary of the Universal Declaration of Human Rights was the occasion for special efforts to promote international understanding, co-operation and peace and the universal and effective respect for human rights, more particularly by laying stress on the educational approach both within and outside formal school systems; and it had invited them to report to it at its thirty-fifth session on efforts made in that connexion. On the recommendation of the Commission, the Economic and Social Council, in decision 228 (LXII), had requested UNESCO to lay before its member States appropriate proposals for the implementation of the resolution and to submit to the Commission, at its thirty-fourth session a report on the situation with regard to the teaching of human rights throughout the world, accompanied by detailed recommendations.

68. With respect to the advisory services component (seminars, training and fellowships), he referred the members of the Committee to the introductory statement which he had made on agenda item 76 (A/C.3/32/SR.42).

69. In conclusion, he stressed that, in an area as complicated and difficult as that of human rights, there was no miracle solution. What was important was that Member States should have the political will to give those questions the consideration they deserved.

The meeting rose at 7 p.m.