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THIRD COMMITTEE
56th meeting
held on
Thursday, 13 November 1980
at 3 p.m.
New York

SUMMARY RECORD OF THE 56th MEETING

Chairman: Mr. GARVALOV (Bulgaria)

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REPORTS OF THE SECRETARY-GENERAL

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The meeting was called to order at 3.25 p.m.

AGENDA ITEM 78: OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES: REPORT OF THE HIGH COMMISSIONER (continued) (A/35/12 and Add.1; A/35/3/Add.21; A/35/68, 73, 84, 154, 169, 239, 255, 275, 292, 328, 353, 354, 374, 441, 457, 469, 594; A/C.3/35/L.47, L.51)

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/35/149, 303, 360 and Corr.1-3, A/35/409, 410, 502, 606; A/C.3/35/L.45/Rev.1, L.46/Rev.1, L.48/Rev.1, L.49, L.50 and L.55)

1. Ms. FAWTHORPE (New Zealand) said that never before in history had so many people in so many parts of the world been forced to flee their homes and take refuge elsewhere. It was clear from the report before the Committee in document A/35/12 that the United Nations High Commissioner for Refugees and his staff had responded to the situation with dedication and efficiency. The General Assembly had frequently broadened the role of the High Commissioner's Office (UNHCR), which now embraced good-offices activities, co-ordination of voluntary repatriation and assistance to returnees. The fact that there were over 5 million refugees in Africa, 1.2 million Afghan refugees in Pakistan, hundreds of thousands of refugee and displaced Kampuchean in Thailand or on the Thai-Kampuchean border and many thousands of Indo-Chinese boat people gave some idea of the mammoth task of co-ordination that was involved.

2. Her delegation attached importance to the establishment of an emergency unit in UNHCR and the special attention given by UNHCR to the specific problems of refugee and displaced women and their children.

3. The situation was particularly disturbing in Africa, where refugee problems were compounded by poverty, drought and famine. Notwithstanding those problems, there were African countries which accepted refugees from neighbouring countries and whose need for assistance was great. Her Government was also concerned about the Kampuchean refugees and displaced persons and believed that the humanitarian and political aspects of the issue were inextricably intertwined. It was essential to remove the cause, not simply the results, of the conflict which had led to that massive displacement of people.

4. With regard to the purely humanitarian aspects of the problem, she said that New Zealand had given priority to providing resettlement places for the refugees. Her country saw voluntary repatriation as the ideal solution but also recognized the fundamental principle of burden-sharing where voluntary repatriation was ruled out. As at 1 October 1980, 1,430 Indo-Chinese refugees out of the quota of 1,800 set for the year had been settled in New Zealand. The choice of refugees had been based on humane criteria; handicapped and ill people and cases involving family reunification were included. Her country was making special efforts to ensure that the transition to a new culture and environment took place as smoothly as possible. Non-governmental organizations played a vital role, particularly in finding employment for new arrivals.

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(Ms. Fawthorpe, New Zealand)

5. While it recognized that removal of the root causes of the problems of refugees was the ideal, her country also firmly supported the High Commissioner in his efforts not to let political elements hamper the work of the Office. Her Government therefore endorsed the High Commissioner's reference to the eminently and exclusively humanitarian character of the Office's action.

6. Mr. SVIRIDOV (Union of Soviet Socialist Republics) said that no one involved in the problem of refugees and displaced persons and its causes could fail to be concerned about the tragic situation of the 4 million Palestinian Arabs, a people who since the 1940s had suffered exile or oppression by the Israeli occupiers. The responsibility of Israel and its protectors abroad for the tragedy and suffering of the Palestinian people was well known.

7. Equally tragic was the situation of the southern African refugees who were forced by the repressive policy of the racist Pretoria régime to seek refuge in large numbers in Angola, Botswana, Mozambique, Swaziland, Zambia and other countries. The millions of Africans in South Africa, who were forced into settlements by the apartheid régime, must also be remembered. The responsibility for the tragedy of the refugees lay not only with the rulers at Pretoria but also with the neo-colonialist and reactionary forces which interfered in the domestic affairs of African States and fomented fratricidal strife among them.

8. In sharp contrast to those very real problems, some delegations in the Committee were attempting to create a so-called Afghan and South-East Asian refugee problem, which could not be compared either in scale or in importance with the problems he had referred to.

9. The situation of the refugees in southern Africa and the Arab territories occupied by Israel called for the immediate attention of the United Nations, since refugee camps had been attacked and bombed by both Israel and South Africa; those facts had been stated in the report of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees on the work of its thirty-first session (A/35/12/Add.1).

10. The delegations trying to create an artificial problem on the basis of the situations in South-East Asia and Afghanistan were obviously not motivated by humanitarian considerations; if they wanted to know the real situation, they should acquaint themselves with the position of the Government of Afghanistan, partially expressed in its statement of 10 March 1980, issued as document A/35/154, in which a distinction was made between genuine refugees and those persons who, incited by imperialists and hegemonists, were engaging in provocative and subversive activities against the Democratic Republic of Afghanistan.

11. It was clear from the statement that the genuine refugees included people who had been misled by false imperialist propaganda and had taken hostile action against the Afghan revolution; on the other hand, it was incorrect to include nomads whose seasonal migration was part of their traditional life.

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(Mr. Sviridov, USSR)

12. Attempts to distort the situation were nothing but efforts to evade responsibility by the fomentors of aggression against Afghanistan and those who were to blame for the difficult situation in the region. His delegation wished to emphasize that it would support any constructive approach to the settlement of that situation, in particular with regard to the refugees.

13. Concerning refugees and displaced persons in South-East Asia, it was well known that they had originated in the wars of aggression waged by certain Powers against the peoples of Viet Nam, Kampuchea and Laos. Those matters had been convincingly explained by the delegation of the Socialist Republic of Viet Nam in the Third Committee. The imperialist and hegemonist Powers' policy of interference in the internal affairs of that region was the cause of the continuing tension in South-East Asia. His delegation supported the proposals of the representative of Viet Nam for a just and humanitarian solution of the South-East Asian refugee problem.

14. In his delegation's view, the problem of refugees and displaced persons called for a constructive approach and did not permit the use of aid as a means of interference in the internal situation of States. No one sincerely concerned about the problem could allow it to be exploited in the "cold war" spirit.

15. Mr. ALMULLA (Qatar) drew special attention to the efforts of the High Commissioner for Refugees to alleviate the suffering of innocent persons lacking shelter, food and clothing and also referred to the role of the various United Nations organizations which were endeavouring to find effective solutions for the refugee problem.

16. The flow of refugees had increased in Asia in recent years, and many countries were offering them asylum even though they were unable to solve their own problems. Those States had done much to help refugees and had deprived their own people of resources to use them for refugees. His delegation wished to pay tribute to them. In Africa, Somalia was a striking example of such generosity.

17. He urged the High Commissioner to continue convening meetings with a view to resolving the refugee problem. His country was increasingly concerned about the situation of refugees in the world and recalled that the Palestinian people had been living in camps for 32 years because their homeland had been occupied. The return of refugees to their countries of origin was a conspicuous feature of independent African countries.

18. The role of the High Commissioner should not be used as a pretext for colonialist and aggressor countries to continue their policy, since the United Nations had called for the granting of independence to colonial peoples. With the number of refugees increasing year by year and their situation worsening, his country continued to participate in activities aimed at finding a solution to the refugee problem and helping the countries of asylum.

19. He suggested that, just as there had been international years dedicated to women and to children, consideration should now be given to the proclamation of an international refugee year, with a view to finding a political solution for the problem, which was the responsibility of the United Nations.

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20. Mr. O'DONOVAN (Ireland) said that the interagency missions which over the past year had visited Ethiopia, Somalia, the Sudan, Djibouti and other places in the African continent had highlighted the enormous difficulties placed upon developing countries in Africa by the influx of refugees and had made it clear that major international help was required. The refugee problem was also very serious in Pakistan which, during the past year, had received tens of thousands of refugees, and in South-East Asia where, although the problems had been somewhat alleviated, they were by no means removed.

21. His delegation believed that the long-term solution lay in the commitment to resolve disputes through a peaceful, political process. The reality was that there were currently 10 million refugees and displaced persons scattered throughout the world and that about 5 million of those people were in the African continent. In order to help solve the problems of refugees, Ireland, like other countries, supported the humanitarian principles of asylum and non-refoulement and also urged world-wide accession to the United Nations Convention relating to the Status of Refugees and to the 1967 Protocol thereto.

22. The case of Zimbabwe, where thousands of refugees had been able to return to their country and take an active part in national life, and that of the return of large numbers of people to Bangladesh, due, to a significant extent, to the help provided by UNHCR, demonstrated the effective work of the High Commissioner and his Office. However, to ensure the best possible results, there was a need for greater rationalization of the humanitarian relief efforts carried out by various United Nations and international bodies. As had been noted, the High Commissioner's Office had grown enormously in recent years and his delegation welcomed the view which had emerged at the most recent meeting of the Executive Committee of the High Commissioner's Programme that there was a need to take a closer look at the administrative and financial aspects of the work of the Office. His delegation therefore welcomed the idea of setting up a working group to study those aspects and believed that it would be most useful if the group could meet shortly before the next meeting of the Executive Committee in 1981.

23. His delegation appreciated the efforts made by the High Commissioner to devise ways and means of responding to the emergence of new refugee situations in a flexible and efficient manner and was also pleased to note the modernization of equipment and the employment of professional staff qualified to advise on technical aspects likely to be encountered in refugee situations.

24. Mr. FARAH (Djibouti) said that the search for a remedy to the refugee problem should transcend the traditional search for solutions by the Office of the High Commissioner and ensure that the international community was involved morally and materially in bringing about concerted humanitarian action. The High Commissioner was to be commended for his efforts to secure asylum for refugees, to defend their basic rights and meet their needs, to establish large-scale programmes for reception, relief and rehabilitation, to co-ordinate large-scale voluntary repatriation and to participate effectively in providing the humanitarian assistance required in emergency situations.

(Mr. Farah, Djibouti)

25. It was well known that Africa, which contained two thirds of the least developed countries and had suffered most under extreme economic difficulties, currently hosted half the entire world refugee population; despite that, the situation in that continent had not attracted adequate relief and assistance from the international community. Faced with that situation, the Heads of State and Government of the Organization of African Unity, at their thirty-fifth meeting held at Freetown, Liberia, had unanimously declared the urgent need for the convening of an International Pledging Conference for African Refugees. His delegation was happy to note the keen interest shown by the High Commissioner and his readiness to assist in the organization of the Conference and requested the Secretary-General, in co-operation with the High Commissioner, the African Member States and the Secretary-General of the Organization of African Unity, to make the necessary arrangements for the convening of the Conference.

26. His delegation expressed its appreciation for the appeal launched by the High Commissioner in 1978 for urgent humanitarian assistance to refugees and displaced persons in the Horn of Africa and for his timely appointment, early in 1980, of a co-ordinator to carry out his Office's humanitarian activities in the region. Positive results had been achieved because of the close co-operation between the staff of the Office and the regional Governments in facilitating the implementation of the programme of assistance so far provided.

27. His Government had ratified the United Nations Convention relating to the Status of Refugees and the 1967 Protocol thereto; in Djibouti refugee problem had existed even before the country had attained independence and, since then, had gained a momentum that could no longer be controlled. The ever-increasing number of refugees from rural and urban areas currently represented about 15 per cent of the total population and consisted mainly of women, children and elderly persons who placed a heavy burden on the Government's efforts to improve the country's rather poor social and public services. It was very hard to imagine that Djibouti, with a population estimated at about 350,000 persons and with meagre economic resources, could cope with that considerable number of refugees, particularly since that situation had been aggravated by the harsh consequences of a prolonged drought which had displaced a proportion of the nomadic population estimated at over one third of the country's total population. Despite that difficult socio-economic predicament, Djibouti had opened its doors to those refugees in fulfilment of its humanitarian obligations and in compliance with the provisions of the 1969 OAU Convention on Refugees.

28. His delegation appreciated the comprehensive survey that had been carried out by the United Nations interagency mission to Djibouti in accordance with Economic and Social Council resolution 1980/11, especially with regard to the refugee and drought problem and the assessment of needs for relief and rehabilitation programmes for refugees, and hoped that the report would enjoy the sympathy and support of the international community. At the same time, it requested the High Commissioner to ensure the mobilization of the necessary assistance programmes not only for immediate and emergency relief assistance but also for the long-term programmes for the rehabilitation of the refugee population.

(Mr. Farah, Djibouti)

29. Refugees in the Republic of Djibouti benefited from a policy of non-discrimination which did not distinguish between the local population and refugees and accorded to all of them on an equal basis the advantages of the country's social and public services. For example, it might be noted that 60 per cent of the national health budget went to refugees and that 40 per cent of the hospital beds in the cities, and 66 per cent of hospital beds in Dikhil and Ali Sabieh, where the two largest refugee camps were located, were occupied by refugees. Health services were provided free of charge and without distinction between the local population and refugees and the same applied in the sphere of education, where the available space was becoming increasingly overcrowded. In relation to housing, the report of the United Nations interagency mission indicated that well over 50 per cent (of the urban population) lived in housing conditions which could at best be described as precarious. Well over 100,000 people lived 10 or more to a house, at densities of 600 per hectare; in houses constructed of scraps of wood, cardboard and metal, situated on plots which were at, or below, sea level (and therefore were flooded during the rains), often far from access roads and water sources, and totally without sewage and drainage. As to unemployment, it was estimated that 60 per cent of the active population was unemployed.

30. Although the Government of the Republic of Djibouti was determined to involve all sectors of the country in finding solutions to the refugee problem, the possibilities of success were slim without the full support of the international community. The international community must therefore co-operate adequately in providing immediate humanitarian assistance and in meeting the long-term development requirements in the process of the rehabilitation and resettlement of the substantial number of refugees who had not so far been integrated. In that regard, his delegation called upon all Member States, governmental and non-governmental organizations and United Nations bodies and specialized agencies to adopt the recommendations of the United Nations interagency mission regarding assistance to Djibouti to be found in the report of the Secretary-General in document A/35/409, and reaffirmed its gratitude to the various governmental and non-governmental organizations which had provided and were continuing to provide humanitarian assistance to relieve the refugee problem in Djibouti.

31. Mr. GIUSTETTI (France) said that the flow of refugees had now become an exodus and had created needs that had nothing in common with the needs faced by the international community when it was acting in the context of the traditional concept of the refugee. Such assistance had become not only massive but also very complex and thus required the intervention of various specialized governmental and non-governmental institutions.

32. A third factor was that the situations that gave rise to flows of refugees were mostly emergency situations. Since they did not originate in natural disasters, those situations required the international community to study the underlying causes of such exoduses, in order to adopt the necessary measures. The two functions, investigation of the causes and action on behalf of the refugees, should thus be kept separate.

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(Mr. Giustetti, France)

33. The first three results of the aforementioned situation were that when the financial resources needed by an institution were multiplied by 10 or 20, the problems that arose were mainly ones of organization and method; when an action required the intervention of various bodies, it was also necessary to resolve the problem of co-ordination; and finally, when such action was taken in response to emergency situations, a solution had to be found for those kinds of problems.

34. In that connexion, his delegation wished to assure the High Commissioner once again that it was prepared to co-operate with him in carrying out his important mission; in that connexion, he drew attention to the words of the President of the French Republic on 10 December 1979, when he had said that, although the High Commissioner had been charged in principle with a limited mission, he had been able to deal with the difficulties while expanding the scope of his activities. He was now dealing with refugees and displaced persons within their own countries, with problems of refugees in exile, and repatriation and reintegration in the country of origin and with permanent and also temporary asylum; and he should be supported in those important functions. If Governments provided better information on the cost and effectiveness of their programmes and improved their management techniques, the High Commissioner could and should continue to be the chief architect of all international action on behalf of refugees.

35. Once the effectiveness of programmes had been improved and their co-ordination assured, the international community should show its solidarity by continuing to support the necessary efforts for as long as was necessary. In that connexion, he pointed out the positive results of the Meeting on Refugees and Displaced Persons in South-East Asia held in Geneva on 26 and 27 May 1980, with the objective of augmenting international efforts in support of the humanitarian programme for the Kampucheans living both inside and outside their country.

36. His delegation was particularly concerned with the problem of the refugees in Pakistan and in other African countries, such as Somalia, the Sudan, Ethiopia, Djibouti, Cameroon and Uganda, where the lack of food and health care for the refugees had reached critical levels. The international community should find adequate solutions for those distressing human problems and should seek to arouse world public opinion to the plight of the refugees.

37. The response of African countries bound by ties of brotherly solidarity had not disappointed the President of the French Republic's hope that all members of the international community would undertake to provide asylum for the refugees, at least temporarily. But such an effort of regional solidarity must be backed by world solidarity. His delegation therefore felt that the convening of an international conference, as recommended by the Meeting of Heads of State of the Organization of African Unity in Freetown, might, by mobilizing additional resources, provide solutions to the extremely serious problems facing Africa with regard to refugees and displaced persons.

(Mr. Giustetti, France)

38. His Government would respect the commitments it had made in connexion with the reception and reintegration of refugees, whatever their country of origin, and would co-operate in the international community's joint efforts on behalf of displaced persons and refugees in Africa, South-East Asia or other continents.

39. His delegation welcomed the adherence on the part of new countries to the international legal instruments relating to the status of refugees adopted under United Nations auspices and would associate itself with a call for all States to ratify the 1951 Geneva Convention and the 1967 Protocol.

40. Mrs. BALLAH-CONTEH (Sierra Leone) said that political and other conflicts all over the world, especially in Africa, had forced millions of displaced persons to seek refuge in countries of asylum. The struggle for liberation in southern Africa had contributed to the tragic increase in the number of refugees and displaced persons in that continent.

41. Africa had been obliged to find food and shelter for more than half of all the refugees in the world. Sierra Leone, despite its limited financial resources, had given asylum to refugees from various countries and had also been helping resolve the problems which were the root causes of the flow of refugees.

42. Through the Commission on Human Rights, the United Nations had been able to keep itself informed of cases of violations of human rights. In that connexion, she said that the fact that the question of the status of the refugees was not being discussed showed contempt for the rights of those unfortunate sectors of the population. Her delegation hoped that Governments would respect the principles of the Charter and the Universal Declaration of Human Rights and respond to the problems of the refugees as they should.

43. Her delegation was grateful for the assistance given by international organizations such as UNHCR, UNICEF and the International Committee of the Red Cross, but it was seriously concerned by the lack of interest shown by the rest of the international community in helping those unfortunate human beings.

44. She expressed the hope that the agreement to hold a pledging conference for refugees in Africa in early 1981 would provide an opportunity for the international community to deal with the question of refugees in Africa in a more appropriate way.

45. Mr. HARTLING (United Nations High Commissioner for Refugees) welcomed the fact that the humanitarian and non-political character of the activities of his Office had been recognized. It was encouraging that the humanitarian approach had received such broad support. The comments on emergency aid and assistance to such vulnerable groups as women and children had been very useful. He was gratified by the support that the holding of an international pledging conference for refugees in Africa had received. His Office, in collaboration with the Secretariat of the United Nations and the Organization of African Unity, was

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(Mr. Hartling, UNHCR)

making every effort to ensure that that conference met the hopes that had been placed in it. Many African States had been most generous hosts to large groups of refugees, and it was essential that the rest of the international community should come to the aid of those States.

46. Miss RASI (Finland), introducing draft resolution A/C.3/35/L.47 on behalf of the sponsors, said that the increase in the number of refugees made the task of the High Commissioner more difficult each year. For that reason, in operative paragraphs 1 and 2 of the draft resolution, the sponsors expressed their gratitude to the High Commissioner for the work accomplished. However, the present situation of refugees required greater efforts on the part of the international community if the High Commissioner was to carry out his mandate. Therefore, paragraph 5 urged Governments to intensify their support for the activities of the High Commissioner in specific areas. Paragraph 6 reflected the concern of the sponsors for the situation of refugees in Africa, where there were more refugees than anywhere else in the world. Paragraph 7 expressed appreciation to the High Commissioner for his role in the repatriation of Zimbabwean refugees. The sponsors did not want to overlook the situation of refugees in South-East Asia, and in paragraph 8 they called upon all Governments to provide opportunities for durable solutions to those refugees. In view of the magnitude of the refugee problem, part B of the draft resolution asked the General Assembly to authorize the High Commissioner to allocate from the Emergency Fund up to \$US 10 million annually for refugees and displaced persons in emergency situations for which there was no provision in the Programmes approved by the Executive Committee.

47. Mr. VAN BOVEN (Director of the Division of Human Rights) said that agenda item 77 was of great significance to the human rights programme for it had given rise to an examination of the extent to which past approaches and assumptions were in need of updating, the nature and extent of current needs in the field of human rights and the directions for future action. In considering the progressive evolution of approaches, the nature and extent of present needs and the directions for the future, some fundamental concerns needed to be borne in mind. The Secretary-General had stated that the hopes placed in the United Nations in the field of human rights could only be realized if Governments complied with the principles of the Charter and the Universal Declaration of Human Rights. A number of positive steps had been taken in that field; unfortunately, however, there had also been a great number of human rights violations in the international community.

48. In its resolution 32/150 of 16 December 1977 the General Assembly had decided that the approach to future work with respect to human rights questions within the United Nations system should take into account the concepts contained in that resolution. In its resolution 34/46 of 23 November 1979 the General Assembly had reiterated those concepts and emphasized the need to create conditions at the national and international levels for the full promotion and protection of the human rights of individuals and peoples. The Assembly had also emphasized that

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(Mr. van Boven)

the right to development was a human right and that equality of opportunity for development was as much a prerogative of nations as of individuals within nations.

49. Violations of human rights were often symptoms of deeper causes of injustice. It was necessary to work for the establishment of just structures of society and for the elimination of the root causes of violations of human rights. The new international economic order which they were trying to achieve should go hand in hand with a new social and human order on the national, regional and international levels. In continuation of the efforts of the General Assembly and the Commission on Human Rights to examine the structural factors affecting human rights, the Division of Human Rights had organized in Geneva from 30 June to 11 July 1980 a seminar on the effects of the existing unjust international economic order on the economies of the developing countries and the obstacles which that represents for the implementation of human rights and fundamental freedoms. The report of that Seminar was to be found in document ST/HR/SER.A/8. The seminar had recognized the importance of the interrelationship between the right to development and the new international economic order for the complete realization of all human rights at the national and international levels and had concluded that the right to development was essential for the strengthening of independent nationhood, economic independence and cultural identity and was a necessary consequence of the realization of the right to self-determination. The seminar had recognized the paramount importance of the participation of people in all aspects of the promotion of human rights and decision-making in connexion with development, and therefore stressed the need for further research into the question of participation.

50. In its resolutions 32/130 and 34/46 the General Assembly had given absolute priority to the elimination of mass and flagrant violations of human rights of peoples and persons. In its resolution 34/175 the General Assembly had reaffirmed that mass and flagrant violations of human rights were of special concern to the United Nations and urged the appropriate United Nations bodies, particularly the Commission on Human Rights, to take timely and effective action within their mandates in existing and future cases of mass and flagrant violations of human rights.

51. At its last session the Commission on Human Rights had decided to consider at its next session the possibility of convening emergency sessions between its regular sessions in order to respond to reports of mass and flagrant violations of human rights of an urgent nature, which would be the task of the Commission's Bureau. Since the end of the Second World War, violations of human rights occurring within countries had resulted in levels of human suffering far greater than those ensuing from many disputes or conflicts between two or more States. In such circumstances, it could not be claimed that international peace existed since violations of human rights not only threatened international peace but obviously violated it. Every human being had the right to live in conditions of international peace and security, and flagrant and massive violations of human rights might lead the world into armed conflicts.

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(Mr. van Boven)

52. Since its establishment, the United Nations had adopted various policies to deal with violations of human rights. Communications or complaints procedures had been established and, in some instances, petitioners were heard by some of the organs mentioned. The Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities considered the question of violations of human rights in any part of the world as regular items on their agenda each year. Nevertheless there was little that the United Nations could do in response to violations of human rights, particularly in urgent situations. The Commission on Human Rights met once a year and could not revert to the subject until 12 months later. While some cases were occasionally considered in the Economic and Social Council or the General Assembly, there was no general item on the subject on the agenda of either of those bodies, with the result that the anguished cries of human beings in many parts of the world found no response.

53. He was convinced that the United Nations must devise appropriate ways and means of responding as urgently as possible to situations of gross violations of human rights. The possibility of convening emergency sessions of the Commission on Human Rights or its Bureau to consider violations of an urgent nature would be a step forward. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had suggested at its thirty-third session that consideration be given to approaches to the handling of urgent situations by the United Nations with a view to complementing the activities of the Commission on Human Rights by utilizing the possibilities of the various human rights organs which met outside the annual sessions of the Commission and by drawing upon the possible assistance of subsidiary organs such as the Sub-Commission itself. The Sub-Commission had also suggested that consideration be given to the possibility of the Secretary-General responding to reports on violations of human rights of an urgent nature.

54. He concluded with a plea to the General Assembly to consider at its present session ways and means of responding as urgently as possible to cases of violations of human rights.

54a. Mr. SHESTAK (United States of America) said there was no justification for being satisfied with the present condition of human rights. Torture and racial discrimination still persisted, as did repression of speech, religion and emigration. Disappearances, political prisoners and deprivation of social and economic rights were depressingly prevalent. At the same time, it had to be recognized that much progress had been achieved in recent years. First, human rights had assumed a more prominent place on the agenda of the international community and in many cases there had been a return to civilian democratic Governments. Second, there was a growing recognition that violators of human rights created their own instability; a number of particularly repressive Governments had been overthrown. Third, there had been an internationalization of human rights in which an ever-increasing number of nations were becoming concerned. Fourth, more and more bodies and organs of the United Nations system were becoming involved in the subject of human rights. Those trends were significant. In short, there was greater institutionalization, interdependence and internationalization.

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(Mr. Shestak, United States)

55. Among the ways and means which might prove fruitful in achieving effective implementation of human rights within the United Nations system an important role could be played by the use of good offices, which had been employed on frequent occasions by the Secretary-General and other agencies within the system, such as the ILO, UNHCR, UNESCO, ICRC, the Council of Europe and other international bodies. In the United Nations, the General Assembly and the Commission on Human Rights had frequently requested the Secretary-General to exercise his good offices. The United States delegation believed that the use of good offices should be employed more frequently. It was confident that good offices would not be used politically but objectively by the Secretary-General.

56. The High Commissioner for Refugees had an important role to fulfil, as did the Commission on Human Rights when emergency matters were involved. At present, the Commission was unable to deal promptly with emergency situations but consideration was being given to the possibility of the Commission holding intersessional meetings to deal with exceptional circumstances. Another important step forward would be to designate the Division of Human Rights as a Centre of Human Rights. Finally, it would be desirable to improve the process for drawing up the agenda for the sessions of the Commission on Human Rights and the Third Committee. In the past too much time had been spent on resolutions the outcome of which was not in doubt. Time limits should be imposed on discussions of items on which the views of delegations had been stated year after year, and one of those commissions should set up working groups to propose ways to streamline the work and increase its productivity in the interest of more effective enjoyment of human rights.

57. Surely one of the important contributions of the United Nations system was the building of the substantive international law on human rights. The rule of law became a unifying force that each nation could accept as a condition for participation in a system of world order. The preparation of international papers on human rights still remained a major task.

58. In order to avoid overlapping jurisdictions in the drafting of international human rights documents, his delegation suggested the following methodology: a planning group should be established which would evolve a comprehensive strategy for enlarging the substantive law of human rights and which would set priorities over a span of years; the initial efforts in regard to any draft convention would be undertaken by a working group of experts; once the experts had completed a draft convention, it would be reviewed by the Commission on Human Rights; the final draft convention would go to the Economic and Social Council for a more general review and for transmission thereafter to the General Assembly. That would permit the orderly development of the international law of human rights.

59. On the question of ways and means to evaluate complaints, his delegation considered that the procedures provided for in Economic and Social Council resolution 1503 (XLVIII) had been helpful but should be improved. One improvement would be to give the organization which had proposed the communication the opportunity to know the Government's response and to answer questions during the implementation of those procedures. Announcements might also be made at the end of *the private meetings; as matters stood, the public did not know what action had*

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(Mr. Shestak, United States)

been taken, and the announced list might contain a brief description of the situation and of the substance of the action taken. Another approach would be to set up working groups to report in depth on alleged violations; such working groups might benefit from a protocol to establish qualifications and independence, due process, evaluation of hearsay and various other guidelines. The progress which the Third Committee had made on the question of human rights could represent an important contribution to human dignity and development.

60. Mr. VAN DONGEN (Netherlands) reminded the members of the Committee that the Charter of the United Nations had imposed on all Member States the responsibility to promote and encourage respect for human rights. Unfortunately, the international community had not had the means to adopt practical and effective measures against violations of human rights, especially in cases in which gross violations had seemed to require some form of urgent action by the United Nations.

61. Progress in that regard had been hampered by the periodicity of the consideration of human rights situations by the appropriate bodies; thus organs such as the Commission for Human Rights could not respond to situations which might arise between sessions. It was only during the annual six-week sessions that the Commission could deal with such matters, and consideration had therefore been given to the possibility of creating an intersessional role for the Commission's bureau. In that connexion, the Commission might seek to specify the type of violation which would require a special meeting of the bureau. Difficulties might arise in that connexion, however, and an alternative approach would be to set up a series of one- or two-day meetings at 60-day intervals during the Commission's intersessional period; the problems involved in prescribing when and for what reason the bureau could be convened would thus be circumvented. It might, however, be difficult for all members of the bureau to attend all of the intersessional meetings, and allowance might therefore be made for alternates being sent in their place. The bureau's intersessional mandate could not go beyond the terms of reference of the Commission itself. The bureau's activity should be geared to responding, by means of telegrammes, letters, short resolutions or decisions, to reports of mass and flagrant violations of human rights of an urgent nature. Substantively, the bureau's activities should be more limited than those of the full Commission and should be directed mainly towards calling for an immediate cessation of the violations in question and requesting the Secretary-General to gather additional information and to use his good offices in the matter. The way would thus be paved for consideration of the question by the full Commission during its regular session.

62. His delegation considered that the convening of an emergency session of the Commission would entail considerable costs which would have to be borne by the regular budget; the workload of the Division of Human Rights, which was already under a heavy strain, would be substantially increased, and it would be troublesome for Member States to have to send delegations on short notice. On the other hand, situations might arise where human rights were being violated in such a way and on such a scale that an emergency session would be the only appropriate response by the United Nations. In order to strike a balance, it might be appropriate to require that such a meeting could be convened only by a majority decision of the Commission's membership and to stipulate that emergency sessions should not extend

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(Mr. Van Dongen, Netherlands)

beyond five working days. It would also seem advisable to authorize the bureau, when holding an intersessional meeting, to call for an emergency session of the Commission.

63. His delegation had frequently argued that the establishment of an office of High Commissioner for Human Rights would substantially raise the capacity of the United Nations to deal with human rights violations. During the previous year the General Assembly, in its resolution 34/48, had decided unequivocally that it would consider the establishment of such a post at the current session. In the view of his delegation, a High Commissioner for Human Rights would meet the need for urgent action in the field of human rights on a round-the-clock basis. Yet Member States had shown considerable reluctance to take a decision on the matter, in part because different ideas existed as to what the mandate of the High Commissioner should be.

64. His delegation wished also to point out that there was a third possibility within the United Nations context for dealing urgently with violations of human rights, namely the good offices function of the Secretary-General. While the function was not specified in so many words in the Charter of the United Nations, the Secretary-General had exercised a good offices function almost from the inception of his office. For example, on 5 November 1980, a statement by the President of the Security Council had made it clear that members of the Council fully supported the use of good offices by the Secretary-General in seeking to bring about peaceful negotiations between Iran and Iraq. In the field of human rights, the good offices role of the Secretary-General had generally been recognized for a long time. A United Nations press release issued on 29 April 1967 had stated that the Permanent Representatives of Poland and Czechoslovakia, on behalf of a group of socialist countries, had met with the Secretary-General on 28 April 1967 and had requested him to use his good offices with a view to ending persecutions in Greece and to preventing the possible execution of political leaders who had been detained; in particular, they had requested the Secretary-General to intercede to save the life of Mr. Manolis Glezos.

65. As far as gross violations of human rights were concerned, the good offices role of the Secretary-General had not been as fully developed as it had been in connexion with individual cases. However, in 1979 the General Assembly had adopted resolution 34/175 which had not only reaffirmed that mass and flagrant violations of human rights were a special concern of the United Nations but had also stressed the important role that the Secretary-General could play in such situations. The importance of the good offices role of the Secretary-General had also been recognized in Economic and Social Council resolution 1979/36. He wished to emphasize that all those resolutions had been adopted by consensus. His delegation therefore considered that significant progress could be made if the General Assembly adopted a resolution which would request the Secretary-General, when urgent situations of mass and flagrant violations of human rights arose, to consider establishing direct contacts with the Governments concerned. The resolution might also request the Secretary-General, in so far as he might deem it appropriate, to keep the President of the General Assembly, the Chairman of the

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Commission on Human Rights or the President of the Security Council informed of developments regarding such situations as well as any action which was to be undertaken in relation thereto.

66. Members of the Committee could rest assured that such a resolution would be based on the Charter of the United Nations. In that connexion, it might be recalled that the purposes of the United Nations included the achievement of international co-operation in solving international problems of a humanitarian character. Articles 2, 7, 10 and 12 of the Charter dealt with the question in one way or another. Moreover, under Article 98 of the Charter the Secretary-General, in addition to being the chief administrative officer of the Organization, also had the duty to perform such other functions as might be entrusted to him by the General Assembly, the Security Council, the Economic and Social Council and the Trusteeship Council.

67. His delegation therefore believed that the good offices role of the Secretary-General had an enormous potential and hoped that the General Assembly, as well as the Commission on Human Rights, would continue to play a vital part in trying to develop that particular function of the Secretary-General.

68. Mr. ESCOBAR-SIERRA (Colombia) said that his Government was very concerned that the rights, privileges and prerogatives of the human person should be respected, bearing in mind, in particular, that the dignity of the individual gave rise to rights and obligations which constituted a legal order having universal scope. Accordingly, it was essential that there should be an organized, free society with legitimate authority subject to norms of law and judicial or jurisdictional controls that made arbitrary behaviour impossible. The Colombian State was one in which the rule of law prevailed, as reflected in an independent, sovereign republic, based on representative democracy. The President of the Republic was elected by the people. Congress was also elected directly by the people as were the departmental assemblies and municipal councils. The judicial branch was autonomous and independent. The judiciary was self-appointed; in other words when a vacancy occurred in the high courts the other judges co-opted someone to fill it without interference from the Government or from Congress.

69. As democracy prevailed to the fullest extent in Colombia it was natural and only to be expected that all shades of political opinion and all views should be expressed and be covered by the same guarantees. Nevertheless, there were minority groups of extremists who believed that democratic action by the people was useless and who preferred armed rebellion with all that it entailed; they engaged in subversive and terrorist activities and in all forms of criminality. In order to preserve law and order it was essential that offenders should be punished. It was therefore indispensable that legal norms should prevail, for the authorities had the obligation to protect people's lives, honour and property. The Government of Colombia had done so in a manner that was consistent with the rights of society.

70. That conduct clearly reflected the legality of the nation and explained certain rules of positive law that had been enacted at the time of the assassination

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of a former member of the Council of Ministers, Rafael Pardo Buelvas, and were still in effect. In accordance with a sound criterion of social defence, the penalties for some crimes had been increased and various forms of the crime of kidnapping had been defined. The armed subversive opposition had then launched a campaign - orchestrated by international communications media whose extreme political views were well known - to discredit the Government. The army, which was responsible for preserving and maintaining public order, had been attacked in an attempt to distort both the civilian character of the office of the President of the Republic and the republican essence of Colombia's army. Subversive minority groups had seized a diplomatic mission by violent means, kidnapping by armed force diplomatic representatives of a large number of countries. The calm attitude displayed by President Turbay Ayala, his statesmanship and his scrupulous respect for international law had facilitated a bloodless and eminently peaceful resolution of the situation. The head of State had not bowed to terrorist pressure.

71. The armed subversive groups had publicized their belief that they could flout all human rights while at the same time invoking them on our behalf in order to disguise the fact that they were guilty before the law of all States and to ensure that their criminal actions went unpunished. They had had the temerity to demand the intervention of international bodies such as the Human Rights Committee which, acting in good faith, might, if it did not very carefully analyse the complaints and denunciations, be made to look as if it were covering up excessive, abusive and arbitrary behaviour, as had happened to non-governmental bodies supposedly dedicated to the defence of human rights. The Chief of State had offered amnesty to those armed minority groups. If it was approved by Congress and if its immediate and beneficial consequences were accepted by the revolutionary guerrillas, the state of siege could be suspended or lifted.

72. The United Nations should not support any action that violated the right of peoples to self-determination or any action designed to jeopardize the life of a nation or to destroy any of the rights and freedoms recognized in the International Covenants. That was the logical corollary to the principle that every individual was entitled to personal freedom and safety. What was true of individuals must also be true of the State or nation, which were legal entities with universally recognized rights and obligations.

73. The line between lawful and subversive actions did not seem to be very clearly drawn. The law in its practical application must decide fairly that delicate matter. People and individuals had a right to defend themselves, and Governments and States had the same right to do so in similar circumstances. That concept led to the need for martial law, special régimes and states of alert, of alarm and of siege which were aspects of an abnormal and temporary emergency legal situation and were recognized by public law under all systems of Government.

74. There were ways of determining the legitimacy of a Government that was based on the will of the people, just as there were ways of easily identifying a dictatorship or tyranny. Arbitrary conduct, failure to allow democratic consultations and capricious behaviour on the part of the ruler to whose will the law was subject were some of the criteria which could be used to distinguish between the two.

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75. The Human Rights Committee could not be viewed as a universal encyclopedia, full of detail and artifice, designed to assist violence-prone minorities in their attacks on legitimate Governments. It was not reasonable to subject Government reports to cunning interrogations requiring lengthy answers which could serve to delay consideration of the reports themselves. The word of a respectable State should be enough in itself: it represented a nation and it could not be invalidated by the accusations of armed groups that advocated violence.

76. Otherwise, it would be necessary to go to the heart of existing problems, to the essence of human rights, to what was vital and permanent and not to what was secondary and circumstantial. If a report was deemed inadequate, it would be preferable to request that it should be expanded or clarified. What was unacceptable was that it should be discussed in an indefinite way, particularly since the reports contained information concerning political values and situations which could be discussed for years and years.

77. Moreover, it would be useful to consider whether the rights of the human person could be enjoyed fully in those countries or States where there was no democracy and whether, in fact, human rights were inherent in man's very nature and were affirmed by the free and sovereign expression of the people through popular elections. The question then would be whether human rights were compatible with the various political systems which existed in the world. Such a study could determine impartially what was happening to those rights. It was not rational to condemn and blame some States and countries for violating human rights while at the same time concealing the deteriorating human rights situation, and the flouting of such rights by, other States because of purely tactical or political considerations.

78. The protection and defence of human rights could not be a political factor disturbing the equilibrium of the international community, nor should it be confused with a people's idiosyncrasies nor with its habits and customs; human rights should be ensured through rules of conduct that were applicable throughout the world.

79. The Government of Colombia proclaimed the same criteria at the regional level as it did at the international level. The "Riobamba Charter of Conduct" which had been signed on 11 September 1980 in Ecuador by the Presidents of Colombia, Ecuador and Venezuela and by the personal representative of the President of Peru, as members of the Andean Group - and which had been acceded to at the same ceremony by the Presidents of Costa Rica and Panama and the personal representative of the Spanish Government - reiterated the solemn affirmation that respect for human, political, economic and social rights was a fundamental rule of the internal conduct of the States of the Andean Group and that States had an international obligation to protect those rights and therefore joint action undertaken to protect such rights did not violate the principle of non-intervention. His delegation hoped that similar declarations would be made in other regions to strengthen nations' confidence in their own future.

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80. Colombia and the Colombian Government had taken the necessary steps to comply internally with the International Covenants and considered that the task of upholding those rights must be entrusted directly to senior officials. Thus, in 1979, a constitutional amendment had been adopted making the Chief Public Prosecutor responsible for defending human rights.

81. Colombia would help to uphold the International Covenants for it believed that it was necessary and urgent to strengthen and improve the machinery which facilitated the enjoyment of human rights. In the United Nations there must be a Department or Centre for Human Rights and consideration must be given to the possibility of devoting one or more session, to the matter and to studying whether special machinery was needed for urgent cases.

82. Mr. DJIGO (Senegal), speaking on behalf of the African group, introduced draft resolution A/C.3/35/L.51/Rev.1, under agenda item 78. The growing number of refugees in Africa was a cause for grave concern because of the social and economic burden it placed on African countries of asylum and because of the impact it had on their development. The Organization of African Unity, at its session in Freetown in June 1980, had adopted a draft resolution asking for assistance in organizing a pledging conference for refugees in Africa, under United Nations auspices. The Economic and Social Council had taken note of that resolution at its July 1980 session. Thus, the draft resolution now before the Committee suggested that the conference should take place in Geneva from 8 to 10 April 1981 and requested the Secretary-General to assist the concerned African countries in identifying priorities and preparing necessary documents and programmes for assistance to African refugees.

83. He drew attention to the additions to the ninth preambular paragraph and operative paragraph 8, referring to the need to assist countries of origin in the rehabilitation of genuine voluntary refugees.

84. Those paragraphs took into account the concern of two delegations in particular and it was to be hoped that the High Commissioner would pay particular attention to that reference to the genuineness of voluntary repatriation. He hoped that the draft resolution would be adopted by consensus and suggested that an official announcement be made regarding the conference in question at a solemn meeting attended by the Secretary-General, the President of the General Assembly, the High Commissioner for Refugees and the Executive Secretary of OAU.

The meeting rose at 6.40 p.m.