



---

SUMMARY RECORD OF THE 59th MEETING

Chairman: Mr. GARVALOV (Bulgaria)

CONTENTS

AGENDA ITEM 77: 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)

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued)

---

\*This record is subject to correction. Corrections should be sent under the signature of a member of the delegation concerned *within one month of the date of publication* to the Chief of the Official Records Editing Section, room A-3550, 866 United Nations Plaza (Alcoa Building), and incorporated in a copy of the record.

Corrections will be issued after the end of the session, in a separate fascicle for each Committee.

**Distr. GENERAL**  
A/C.3/35/SR.59  
1 December 1980  
ENGLISH  
ORIGINAL: SPANISH

The meeting was called to order at 10.50 a.m.

AGENDA ITEM 77: 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/35/333, 389, 607; A/C.3/35/L.53, L.58, L.59)

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/C.3/35/L.45/Rev.2, L.46/Rev.1, L.48/Rev.1, L.49/Rev.1, L.50, L.55, L.57)

1. Ms. FAWTHORPE (New Zealand) said that the protection and promotion of human rights and fundamental freedoms was a central responsibility both of Governments and of the international community. In 1979, her delegation had supported the adoption of General Assembly resolution 34/47 calling for the redesignation of the Division of Human Rights as a Centre for Human Rights. Both the Commission on Human Rights and the Economic and Social Council had subsequently endorsed that request. Since the Division already met the technical criteria for a Centre, her delegation hoped that action would soon be taken accordingly. It also hoped that the programme budget for the biennium 1982-1983 would reflect the concerns expressed in recent years by many delegations, including her own, in an increased allocation for the Division of Human Rights.
2. Many delegations had been wanting to see greater account taken of the demands imposed by the need for economic development. At the same time, there was wide support for the view that the goal of any development strategy must include a recognition of and respect for the rights of the individual as well as those of society. Economic development must be paralleled by the development of political participation in association with the great range of human rights and fundamental freedoms set forth in the Charter, the Universal Declaration and the two Covenants on Human Rights.
3. In its resolution 32/130, which New Zealand had co-sponsored, the General Assembly had affirmed the complete interdependence and indivisibility of civil and political and economic, social and cultural rights. Her delegation was pleased to see that conviction reaffirmed in the preamble of draft resolution A/C.3/35/L.53, although it would like to see the importance of both categories of rights set in a truer balance, since in its view the two International Covenants on Human Rights were complementary.
4. Her delegation was especially interested in the possibility of a fuller use of the good offices of the Secretary-General. It therefore welcomed the Secretary-General's undertaking to continue to assist in every way he could in the exercise of his good offices in human rights matters. Several countries facing human rights problems had received visits from special representatives of the Secretary-General. The precedents for such actions, and the firm basis in terms of the Charter, should remove any doubts a Government might have of interference in its domestic affairs. New Zealand would support any resolution formalizing support for the Secretary-General's exercising that role.

(Ms. Fawthorpe, New Zealand)

5. Another central aspect of United Nations human rights activities was the wide-ranging work being carried out in the Commission on Human Rights. Her delegation was particularly interested in seeing positive recommendations put forward on such questions as more frequent sessions; development of the Division's programme of advisory services; information programmes and education in human rights; improvement of the Commission's capacity to respond to human rights violations; regional arrangements for human rights promotion; and the valuable contribution of non-governmental organizations in human rights activities nationally and internationally.
6. Her delegation had welcomed the establishment, at the last session of the Commission, of the Working Group to Investigate Cases of Involuntary Disappearances and would support an extension of the mandate of the Group.
7. Mr. VOICU (Romania) said that his delegation had already had an opportunity to state its general views on the item under discussion during the debate on the International Covenants on Human Rights. The reports submitted by Romania regarding implementation of the Covenants clearly showed that Romania was complying with all their provisions and co-operating with the United Nations bodies responsible for examining the reports, in accordance with the obligations assumed under the Covenants. The far-reaching revolutionary changes which had taken place over the last few decades in Romania had made it possible to establish full and genuine equality of rights for citizens and equitable economic and social relations. A historic achievement of the Romanian people was the opportunity afforded to all citizens, without distinction as to sex, race or nationality, to participate effectively and directly in the conduct of public affairs.
8. Because of its belief in the need for the full realization of the right to life, to peace and to a free and independent existence, his delegation had participated at the thirty-fourth session of the General Assembly in the drafting of resolution 34/46, which expressed the profound conviction that all human rights and fundamental freedoms were indivisible and interdependent, and that equal attention and urgent consideration should be given to the implementation, promotion and protection of both civil and political and economic, social and cultural rights. The significance of the provisions of that resolution was more apparent than ever when one considered the realities of the world of today, in which many harmful phenomena directly affecting the human condition continued to exist.
9. The value of the debate on item 77 depended on the extent to which it could contribute to the implementation of resolution 34/46, in which the General Assembly emphasized the need to create conditions at the national and international levels for the full promotion and protection of human rights. In that connexion, it was clear that the concern of Member States should also extend to situations which were so serious as to require special attention. One example was the situation in South Korea, where the current régime was resorting to extreme repressive measures against the democratic forces which were waging a determined struggle against the military dictatorship for the establishment of a democratic government in the country.

/...

(Mr. Voicu, Romania)

10. Resolution 34/46 also constituted a call to refrain from considering marginal and insufficiently prepared institutional aspects involving the purely formal protection of human rights and fundamental freedoms. Thus, it was premature to resuscitate the proposal for the establishment of a post of High Commissioner for Human Rights before the results of the over-all analysis called for in that resolution were available. The same applied to the proposal regarding the redesignation of the Division of Human Rights as a Centre for Human Rights. In his view, the Division would be better able to cope with the additional tasks which would fall to it in the future with regard to the promotion and encouragement of human rights if its activities were better organized. The viability of any institutional structure depended on the positions adopted by States and groups of States. Any proposal for the establishment of new institutional structures in the field of human rights could be viable and effective only if it commanded a consensus.

11. Mr. O'DONOVAN (Ireland) said that in recent years it had been difficult to assess the progress of the United Nations in the field of human rights, not because of indifference or declining interest but, on the contrary, because of an explosion of ideas and proposals. That interest in human rights had manifested itself in two themes: first, human rights as a concept of basic guarantees by the State to the individual and, secondly, human rights as an affirmation of the value and dignity of man against organized structures which were designed to serve him but which sometimes repressed his freedom. The second theme involved the affirmation of man's value and dignity not only in relation to the State but also in relation to the international order.

12. The present international order did not provide adequate conditions for the protection and promotion of human rights and fundamental freedoms for all. Nevertheless, today, more than ever before, it was recognized that the international community had a duty to concern itself with violations of human rights wherever they existed. Even the recent warnings to the effect that human rights should not be used as a pretext for interference in the internal affairs of States were themselves an indication that the international community could and should accept responsibility for seeking to remedy human-rights abuses within States when it appeared that progress could be achieved by so doing. It was equally true that the promotion of a new and more just international order must not be allowed to cloak serious human-rights abuses within States. His delegation was concerned at the possibility that the efforts to emphasize the collective rights of nations might confuse, and might even be aimed at confusing, the separate concepts of collective and individual rights in such a manner as to undermine the safeguards against oppression and abuse of power by States. In that regard, his delegation had noted the contents of draft resolution A/C.3/35/L.53, which it considered inadequate, since it demonstrated little effort to achieve a balanced approach. He hoped that that draft could be the subject of consultations and could be revised in the light of those consultations.

13. With regard to the question of the implementation of human rights, he said that the issue of the exercise of the Secretary-General's good offices had already arisen. Every Secretary-General of the United Nations had regarded the question of good offices as one of the most important aspects of his role and had

(Mr. O'Donovan, Ireland)

emphasized the importance of discretion in its exercise. Secretary-General Waldheim had stated that because of the very nature of the problem of good offices, in many cases little or nothing could be said publicly about the efforts made if those efforts were to have any hope of succeeding. The Secretary-General had also stated that Governments were prepared to respond positively to a discreet approach, based on humanitarian grounds, if their own problems and responsibilities were sufficiently understood.

14. In the past, various United Nations bodies, including the General Assembly, had suggested to the Secretary-General in specific cases that he should intervene. Early in 1980 the Commission on Human Rights, in its resolution 27 (XXXVI), had requested the Secretary-General to continue and intensify that aspect of his function. Obviously, the question of the good offices of the Secretary-General was not a new theme. It was also clear that the essence of the exercise of good offices was discretion, informality and personal contact. There could be no rigid rules or restrictions for that role.

15. Another question related to the exercise of good offices was the creation of a post of United Nations High Commissioner for Human Rights. The appointment of a High Commissioner would help to resolve some of the difficulties which lay in the way of the exercise of the Secretary-General's good offices because it would help to remove humanitarian issues from the political arena. His delegation believed that the Commission, at its next session, should examine what might be the terms of reference of the High Commissioner, so that misunderstandings could be cleared up.

16. The Secretary-General reaffirmed in his report (A/35/607) the view he had already given in his report on the work of the Organization (A/35/1), that respect for human rights and fundamental freedoms must be at the heart of the greatest task at the United Nations. In that connexion, his delegation believed that the increase in the resources allocated to the Division of Human Rights had not kept pace with the expansion of the Division's activities. The needs of the Division of Human Rights were exceptional, not only because of the importance of the work it did and the place which that work had in the Charter but also because of the demands made on it.

17. His delegation believed that it was high time for the Division of Human Rights to be transformed into a Centre for Human Rights. That elevation in category involved no financial implications or increase in staff, and, furthermore, the Division already more than met the criteria on nomenclature proposed by the Secretary-General in document A/C.5/32/17 and endorsed by the General Assembly in resolution 32/204.

18. The Secretary-General had stated in his report that further consideration of the matter was required. His delegation believed that the current session of the General Assembly provided the opportunity for that further consideration and that following the adoption of General Assembly resolution 34/47, resolution 22 (XXXVI) of the Commission on Human Rights and Economic and Social Council decision 1980/132, all of which were in agreement, the Secretary-General should be requested to proceed with the change of title. Failure to do that would create the impression that human-rights programmes were not being given their true importance in the United Nations.

/...

19. Mrs. FLOREZ PRIDA (Cuba), referring to the seminar held recently at Geneva on the effect of the present unjust international economic order on the economies of developing countries and the obstacle that that constituted for the implementation of human rights and fundamental freedoms, recalled that the agenda of the seminar had also included an analysis of the right to development as a human right and equality of opportunity to achieve it. The seminar had adopted by consensus 16 recommendations and conclusions which should be taken into consideration in the discussion of the item in the Committee. One of those recommendations was that the United Nations should consider the possibility of holding in 1981 a seminar on the ties linking human rights, peace and development. Her delegation believed that that recommendation should be endorsed by the General Assembly.

20. The indivisibility and interdependence of all human rights had been affirmed conceptually in resolution 32/130, adopted by the General Assembly in 1977, in which it was also established that the realization of the new international economic order was an essential element for the promotion of human rights and fundamental freedoms. Development was not only agriculture and industrialization, but primarily the attention of the human being, who had to be the protagonist and object of any development effort, as stated before the General Assembly in 1979 by Fidel Castro, President of the Council of State of Cuba.

21. Since 1978, the Commission on Human Rights had been carrying out an over-all analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. In that connexion, activities should be centred on the search for solutions to the problems of mass and flagrant violations of the human rights of peoples and individuals in situations such as apartheid, the various forms of racial discrimination, colonialism and neo-colonialism, foreign domination and occupation, aggression and threats to national sovereignty, national unity and territorial integrity, as well as the refusal to recognize the fundamental right of peoples to self-determination and of all nations to the exercise of full sovereignty over their wealth and natural resources.

22. At its most recent session, the Commission on Human Rights had considered the need for convening emergency sessions in order to consider responding in cases of mass and flagrant violations of human rights. In the relevant resolution, it had decided to seek the views of Governments on the most appropriate means of dealing with that type of situation. It was therefore necessary that the Commission on Human Rights should continue its work on the over-all analysis for the further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission. In that connexion, mention should be made of the desire of the non-aligned countries to participate actively in the implementation of measures decided on within the existing structure of the United Nations, as reflected in paragraphs 260 to 266 of the Final Declaration of the Sixth Conference of Heads of State or Government of Non-Aligned Countries.

23. With regard to the creation of new bodies on human-rights matters, Cuba's position had always been very clear: the creation of new bodies such as the office of a High Commissioner or any similar post, of disputable efficacy, was unnecessary

(Mrs. Florez Prida, Cuba)

and would be neither viable nor advisable. Instead, the present bodies and procedures of the United Nations system entrusted with human-rights questions should be improved and strengthened.

24. Her delegation regarded as pertinent the views expressed by the Secretary-General in document A/35/607 with respect to the need to give further consideration to the proposal to redesignate the Division of Human Rights as a Centre for Human Rights. The Commission on Human Rights had decided to establish a working group at its next session to study that matter, together with other proposals submitted. Her delegation was prepared to give its full support to the work of that group.

25. Miss CAO-PINNA (Italy) said that, in the light of the widespread revival of violations of human rights, consideration of agenda item 77 had become more urgent than ever. It could not be approached adequately without raising three questions: where should a start be made, what was the present situation and what was to be achieved?

26. The starting point was the United Nations Charter, in which the general principles were set out in broad terms, and the Universal Declaration of Human Rights, which provided the broadest set of principles concerning human rights and fundamental freedoms. In 1966 those principles had been complemented by the adoption of the two International Covenants on Human Rights and the Optional Protocol, which contained provisions relating to the right of peoples to self-determination and to free use of their natural resources as conditions for the enjoyment of rights by the individual. Later, the economic situation of the developing countries had led the international community to recognize the need to establish a new international economic order and to elaborate on a new concept, the right to development, as a condition for the enjoyment of human rights.

27. With regard to the second question, she said that in discussions of the achievements and failures of the United Nations in the field of human rights reference was made only to action taken by the United Nations and not to achievements and failures at the level of Member States. In those circumstances, what had been accomplished by the United Nations had been identified primarily with the declarations and conventions which had been adopted, the entry into force of legal instruments, the establishment of new bodies according to the terms of conventions, the establishment of procedures for dealing with human-rights violations, studies undertaken and seminars held. Until recently, therefore, the assessment of action taken by the Organization had been highly positive.

28. But the same could not be said with regard to what remained to be done. As examples, she cited the extremely lengthy exercise of drafting a declaration on the elimination of religious intolerance, the lack of any detailed principle on freedom of expression and freedom of information, and the initial reluctance to regard torture as one of the fields most urgently requiring action.

29. Today the issue of torture was recognized as a priority question, and the elaboration of a draft convention was well under way. However, torture was not



(Miss Cao-Pinna, Italy)

the only form of human-rights violation. In his report on the work of the Organization (A/35/1), the Secretary-General had also indicated cases of summary executions without due process of law, arbitrary detention, forced migration and hostage-taking, logically leading to frustration within the Organization and disillusionment among the public at large.

30. The third question involved, first of all, the ways and means currently available to combat violations of human rights, namely, the procedures established in such international legal instruments as the Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination, the procedures established by Economic and Social Council resolution 1503 (XLVIII), the establishment of fact-finding bodies, and the good offices of the Secretary-General.

31. The procedures established by legal instruments were optional, since they were binding only on the States parties to those instruments. They were therefore not suited for dealing with human-rights violations of an urgent nature. In other words, they were the most appropriate procedures for a still distant future.

32. The procedures established by Economic and Social Council resolution 1503 (XLVIII) were applied by the Sub-Committee on Prevention of Discrimination and Protection of Minorities and by the Commission on Human Rights in closed session and in co-operation with the Governments concerned. Her delegation had voted in favour of their adoption but was beginning to feel doubtful as to their validity. Its feelings were shared by the Director of the Division of Human Rights since those procedures did not serve the purpose of bringing prompt action in cases of flagrant violations of human rights, nor any other positive solution. Clearly, such urgent situations required the establishment of fact-finding bodies.

33. Fact-finding activities were a United Nations practice as old as the Organization itself. Their extension to the field of protection of human rights had been a major achievement in the discharge of the responsibility established under the United Nations Charter for the promotion and protection of human rights. Furthermore, the conclusions of the fact-finding bodies set up so far had usually met with overwhelming approval in the General Assembly. It was therefore her delegation's intention to submit a draft resolution passing a largely positive judgement on those activities and stressing their importance in the context of United Nations actions for the protection of human rights.

34. As to the question of the "good offices" of the Secretary-General, there was no doubt that the exercise of good offices in cases of gross human-rights violations enabled the United Nations to be speedily informed about the facts of any situation creating international concern, so that it might take timely and effective action on its humanitarian aspects. Reaffirming its position with regard to General Assembly resolution 34/175, her delegation was ready to support any appeal to the Secretary-General to intensify his exercise of good offices in present and future cases of gross violations of human rights.



(Miss Cao-Pinna, Italy)

35. As requested in General Assembly resolution 32/130, the Commission on Human Rights had decided in 1979 to consider at its next session the possibility of creating an intersessional role for the Commission's Bureau and the possible need for the Commission to convene emergency sessions in order to consider responding to urgent reports of mass and flagrant violations of human rights. Her delegation had already communicated with the Secretary-General, expressing, in principle, a positive attitude towards the establishment of an intersessional role for the Commission's Bureau, and had indicated some of the conditions and modalities which it believed should be considered carefully before adopting the proposed new measures. The adoption of such measures should not prejudice the possibility of again considering other measures which would ensure continuity of action, such as the creation of a post of High Commissioner for Human Rights. Accordingly, her delegation would welcome and support any proposal for further consideration of the establishment of such a post.

36. Mr. OKELLO (Uganda) said that the subject of human rights which was of particular importance to Uganda, since it was only one and a half years since his country had been delivered from a long eight-year period of gross violations of human rights. His delegation appreciated the meritorious work done by the Commission on Human Rights and other international bodies but wished to state that those efforts might not be adequate if further action was not taken. It therefore remained the duty of nations and the international community as a whole to find additional satisfactory alternative approaches in the search for a solution to the problem of human rights violations. In that connexion, he drew attention to the efforts of the Organization of African Unity to conclude a convention on human rights.

37. On the question of establishing national institutions for the protection of human rights, his delegation wished to reaffirm the position it had expressed in 1979, namely, that the creation of national institutions of the nature proposed could produce positive results only when the States and leaders concerned accorded them the respect they needed to operate effectively. Uganda had extensive experience in that field, and in its view, such institutions could operate effectively only if their authority was supplemented by an international commission under the over-all supervision of a United Nations official with broad powers and appointed specifically for the purpose. His delegation wished to reaffirm the proposal for creating the office of the United Nations High Commissioner for Human Rights.

38. His delegation had noted with concern the slow progress made by the Commission on Human Rights in carrying out timely investigations in areas of massive and flagrant violations of human rights and its inconsistency in taking action in a few cases while completely neglecting others despite outstanding evidence. What had happened in the case of Uganda between 1971 and 1978 was a notable example of the slowness of the United Nations system in responding to gross violations of human rights. When Justice Charles D. Anyeama had been appointed to carry out the Commission's mandate, a war of liberation had already broken out in Uganda, and his work had been obstructed by the fascist régime he had been sent to investigate.

/...

(Mr. Okello, Uganda)

39. Article 55 of the Charter of the United Nations had stipulated the Organizations's clear responsibility to promote universal respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. It must be asked how much longer the United Nations would remain silent while Governments represented in the Organization continued to perpetrate atrocities against their own peoples.

40. His delegation accordingly wished to reiterate its full support for all the efforts which were being made to find solutions to the problem created by numerous mass and flagrant violations of human rights. In particular, it supported the proposal for the immediate establishment of the office of United Nations High Commissioner for Human Rights as it had been put forward during the thirty-fourth session of the General Assembly.

41. Mr. CASCAIS (Portugal) said that his country, as a party to the principal United Nations instruments and, in particular, to the International Covenants, had accepted certain standards guaranteeing its citizens the rights and fundamental freedoms stipulated by the Covenants. His Government had also committed itself to creating social and economic conditions in which its citizens could enjoy a standard of living that would allow them the full exercise of those fundamental human rights.

42. Situations arose, however, in which, under one pretext or another, the fundamental human rights of individuals were ignored or denied. A number of speakers had contended that the United Nations should play a less active role in that field and had interpreted the preoccupation of the international community with the promotion and restoration of respect for human rights in all parts of the world as interference in the internal affairs of sovereign States. Portugal did not share that view.

43. Portugal, as a member of the Commission on Human Rights, could say that the work of the Commission - in spite of the obvious differences in the systems and philosophies of its members - was an excellent example of international co-operation in the field of human rights. Other nations shared that belief, as was witnessed by the fact that the Commission's membership had recently been increased from 32 to 43 members.

44. The size and workload of the Division of Human Rights justified its designation as a Centre for Human Rights, as had been recognized by the General Assembly in its resolution 34/47, which had asked the Secretary-General to consider that possibility. In his reply (A/35/607) the Secretary-General had stated that he was more convinced than ever that respect for human rights and fundamental freedoms must be at the heart of the greatest task confronting the United Nations and that he was prepared to consider all useful suggestions for strengthening the contribution of the Secretariat in that field; he had, however, concluded that, while the Division met the technical criteria for designation of a Centre, further consideration of the matter might be required. His delegation, for its part, considered that the time had come to strengthen the services of the Secretariat and was therefore ready to support a step which would be no more than the recognition of an existing reality.

/...

(Mr. Cascais, Portugal)

45. On the question of the right to development, which had been contemplated in articles 25 and 28 of the Universal Declaration of Human Rights, his delegation wished to reaffirm that real progress for humanity required a balance - admittedly difficult to achieve - between the spiritual and the material components of development. Both elements were necessary, and advancement in one must be paralleled by improvement in the other.

46. In a world in which human rights continued to be violated in many places, his Government considered that the good offices function of the Secretary-General offered possibilities which had not yet been fully utilized and represented a practice which should be developed further.

47. Mrs. RODRIGUEZ (Venezuela) said that in a world in which certain mobilizations took place that disregarded the sovereignty of peoples lacking the power to defend their independence, and in which conflicts erupted that threatened the major achievements of mankind, the struggle to safeguard human rights took on a new urgency.

48. In that connexion, her delegation wished to draw attention to the Riobamba Charter of Conduct which had been signed in September 1980 in Riobamba, Ecuador, by the Presidents of several Latin American countries. That document had stated clearly and precisely that a subregional political order must be secured on the basis of a democracy which had its roots in the people and which was clearly participatory in character, without prejudice to the principles of the self-determination of peoples, non-intervention and ideological pluralism. As the Presidents signing the document had noted, new efforts designed to bring about integrated development should be initiated which, inspired by the principles of social justice, would lead to change in the still existing unjust structures. The Riobamba Charter of Conduct had also contained a solemn pledge to the effect that respect for human, political, economic and social rights represented a basic standard for the internal conduct of States. It had also stipulated that the defence of those rights was an international obligation with which States must comply and that joint action for the protection of such rights did not violate the principle of non-intervention. In that connexion, it should be emphasized that the existence of an unjust international economic order represented a serious obstacle to the realization of such rights and that the future work of the United Nations system on human rights must take into account, inter alia, the fact that the achievement of the new international economic order was an essential element in the effective implementation of the fundamental rights and freedoms of the individual and that it must accordingly be given priority.

49. The Presidents of the Dominican Republic and Venezuela had also signed a joint declaration recently in which they had reaffirmed their faith in representative democracy; had stated that they adhered firmly to the principles enshrined in the Universal Declaration of Human Rights, the American Convention on Human Rights and other similar legal instruments; and had expressed their conviction that a real spirit of friendship, good-neighbourliness and co-operation would have as its goal the consolidation of a system of individual freedom and social justice in each country within the framework of democratic institutions. They had also agreed to

/...

(Mrs. Rodriguez, Venezuela)

stress their joint intention to support the process of institutionalizing freedom and democracy in Latin America and had expressed their concern regarding the political situation in Central America.

50. Her delegation accordingly attached the greatest importance to and supported with keen interest the work of the Commission on Human Rights as an essential element in the search for a path towards peaceful coexistence between nations.

51. Mr. DIEZ URZUA (Chile) said that the difficulties which had frustrated efforts to achieve the stated purpose of the item under consideration had in large measure been caused by the unsuitable approach to the legal aspects of the matter. The serious imbalance between substantive rules which had enumerated and defined human rights and rules of an adjectival character which regulated their implementation, exercise and interrelationship were becoming clearer every day. While the substantive instruments were proliferating and becoming more complicated, increasingly serious procedural shortcomings, both organic and functional were continuing to make themselves felt. A mere listing of the international agencies with competence in the field of human rights and their widely differing procedures would serve to illustrate the complexity and gravity of the problem.

52. More than ten international agencies had general or specific competence in the field of human rights. Within the United Nations system itself there were the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, the Economic and Social Council, the Third Committee and the General Assembly. In addition, there were the specialized agencies of the United Nations system with responsibilities in a number of fields, the agencies created under covenants or conventions and, finally, the regional agencies recognized by the United Nations.

53. All those agencies had different procedures; for example, the organs of the United Nations system followed the procedures stipulated in Economic and Social Council resolution 1503 (XLVIII) while those of other agencies and instruments followed those established in their own resolutions, treaties, statutes and so forth. A country which had signed most of the substantive instruments, such as Chile, could find itself under the simultaneous jurisdiction of eight or nine different agencies, often with competing responsibilities and always with different procedures. That situation, together with the increasing practice of replacing established procedures by procedures adopted on a case-by-case basis had produced a situation with many negative implications ranging from ineffectiveness and loss of prestige in the case of the international agencies to the possibility that the rights of the States involved, as Member States, might be diminished.

54. There were two serious omissions of a legal nature in the procedure established for the United Nations system itself in Economic and Social Council resolution 1503 (XLVIII). In the first place, that resolution stipulated that violations considered in the first instance by the Sub-Commission on Prevention of Discrimination and Protection of Minorities should be reliably attested. However, there was no mention of an essential element of proof, namely its careful

/...

(Mr. Diez Urzua, Chile)

weighing and evaluation - in other words, the objective standards by which the investigating body should abide in seeking to establish the facts. In the second place, there was a shortcoming common to nearly all the procedures mentioned, which was that they did not lead to any final settlement. However, what his delegation regarded as perhaps the chief defect of resolution 1503 (XLVIII) was of a negative character: either it was not applied, or it was partially applied, or - what was even worse - attempts were made to apply it in certain cases together with ad hoc procedures. Nevertheless, he felt that despite its serious defects that procedure embodied many positive elements and if its omissions and deficiencies were remedied it could become a sound and effective instrument. The procedures of other international organizations and instruments had their virtues and defects, but unless those procedures reflected some common minimum norms their effect would be largely nullified.

55. Any human rights procedure should specifically take into account the following elements, as a minimum: competences should be clearly defined; the admissibility of complaints should be a common requirement for all organs; precise rules governing the action of States, non-governmental organizations and individuals should be laid down; as far as the United Nations itself was concerned, references to the fundamental principles of the Charter and to the general principles of law consideration should be given to the possibility of including rules to facilitate speedy and effective action in cases of serious and obvious violations; and rules making it possible to bring consideration of the relevant issues to a definite conclusion should be improved or established.

56. In the opinion of his delegation, the most obvious deficiency in the Organization was the lack of a continuing creative study aimed at perfecting and updating the enormous and unco-ordinated system of legal regulations prevailing at the present time. As a first step to that end, a study should be made of the effective exercise of human rights in the various regions and countries, not for the purpose of criticizing or judging but simply by way of making a diagnosis. Account should also be taken of the main world-wide problems relevant to the issue, such as the fact that terrorism in all its manifold forms was permitted to make use of international forums. Lastly, once a diagnosis had been made specific recommendations should be formulated, but without losing sight of the important fact that there were differing realities in the present-day world.

57. He regretted that the United Nations body which ought to carry out that task, the Commission on Human Rights, had not fully lived up to its responsibilities, but in many cases had tended to follow political rather than legal criteria. In that connexion, he recalled that in November 1975, his country had submitted a draft resolution proposing the appointment of a group of experts to prepare a study on the establishment of a system for investigating violations of human rights. Although the draft resolution had not been adopted, the problem was essentially a legal one and therefore a complete diagnosis of the present situation should be made, by persons of recognized legal standing. Once the procedures had been perfected and co-ordinated, however, they would have to be respected. In his opinion, the reason for the lack of success of the proposal to appoint a High Commissioner for Human Rights was the mistrust felt by countries at the abuse of existing human rights procedures.

/...

58. Miss BELLS (Australia) drew attention to resolution 28 (XXVI) of the Commission on Human Rights. In her opinion the ideas set forth in operative paragraphs 2 and 4 of the resolution were of great importance. However, in connexion with operative paragraph 4, while she recognized the force of the argument that intersessional activity carried out by the Bureau should enable the Commission to respond effectively to reports of mass and flagrant violations of human rights of an urgent nature, she also recognized the delicate political issues involved in allowing a body of five persons to exercise the functions and powers of the Commission itself. A solution might be to give the Bureau power to convene an emergency session of the Commission to consider reports of mass and flagrant violations of human rights.

59. The Commission on Human Rights was a central organ of the United Nations in the field of human rights. She therefore hoped that the Commission would be given a comprehensive account of the extent to which human rights activities and programmes were being conducted throughout the United Nations system and, more important, the extent to which those activities took into account the recommendations of the General Assembly, the Economic and Social Council and the Commission on Human Rights for the promotion and protection of human rights and fundamental freedoms.

60. While it was acknowledged that priority should be given to the search for solutions to mass and flagrant violations of human rights, the system-wide co-operation in the search for such solutions was inadequate. For example, in South Africa the lack of progress in ameliorating the situation suggested that effective co-ordination had been lacking. It also suggested that not enough attention had been given to the human rights dimensions of apartheid. There was scope for a study of the connexion between outside interests and the suppression of human rights in South Africa.

61. In studying situations of gross violations of human rights, the Commission on Human Rights had demonstrated at its most recent session that its responsibility went well beyond simple statements of condemnation. The Commission could play a positive and helpful role, as in the case of Equatorial Guinea.

62. One of the significant developments in the work of the Commission on Human Rights had been the emphasis it placed on the "good offices" role of the Secretary-General in promoting human rights. The exercise of the Secretary-General's "good offices" function reflected the extent to which human rights concerns were integral to the activities of the United Nations. The resolutions adopted in the Third Committee, the Commission on Human Rights and bodies such as ILO and UNESCO clearly demonstrated the central position of human rights questions on the international agenda. An example was consideration of the right of all people to self-determination and the right to development as a human right. At its most recent session the Commission on Human Rights had renewed its invitation to the competent economic and social organs of the United Nations to take account of the study on the right of development as a human right in their respective activities. In particular, the Commission had invited the Preparatory Committee for the International Development Strategy for the Third United Nations Development Decade to pay due attention to the integration of human rights in the development process.

(Miss Wells, Australia)

63. Another aspect of the focus on human rights by the Commission on Human Rights and the Economic and Social Council related to the public information activities of the United Nations. Australia shared the concern of many Governments to see increased publicity for human rights and for the activities of the United Nations in promoting them. Her delegation would be most interested in the report to be submitted by the Secretary-General to the Commission on Human Rights on the implementation of resolution 1980/30 of the Economic and Social Council and trusted that the report would also include comments from Governments, regional governmental organizations, non-governmental organizations and United Nations information centres on their activities in promoting human rights.

64. Co-operation in the elaboration and implementation of international human rights instruments was equally important. Consideration must be given to improving procedures and consultative mechanisms for the elaboration of such important instruments as those at present under consideration by the Commission relating to torture, the rights of the child, religious intolerance and the rights of minorities.

65. Regarding the proposal for upgrading the Division of Human Rights to the level of a Centre for Human Rights, her delegation considered that the wide geographical coverage and humanitarian importance of its work warranted its redesignation and hoped that it would take place before the end of the year.

The meeting rose at 1.10 p.m.