



SUMMARY RECORD OF THE 39th MEETING

Chairman: Mr. CHAVANAVIRAJ (Thailand)

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- (a) STUDY ON INTERNATIONAL CONDITIONS AND HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL
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The meeting was called to order at 6.20 p.m.

AGENDA ITEM 100: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (continued) (A/38/203, A/38/325, A/38/529)

- (a) STUDY ON INTERNATIONAL CONDITIONS AND HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (A/38/511)
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS: REPORT OF THE SECRETARY-GENERAL (A/38/416)

1. Mr. HOGUE (Australia) said that human rights discussions should not degenerate into long, academic orations. To speak about human rights was to speak about human beings and the many ways in which their lives were threatened and their dignity negated; in any consideration of the subject, the basic unit must always be the individual. The State existed to serve the individual and protect his rights. In turn, the individual had obligations to the community, but everyone was entitled to expect from Government the full protection of his fundamental rights in accordance with obligations under international law. That was not to deny the notion of collective human rights - for example, the right of self-determination. The right to development could also be conceived as having collective dimensions. However, collective rights derived solely from the rights and interests of the individuals gathered together in society, who must freely decide upon the manner in which they chose to exercise rights as a group or as a people. If human rights were attributed directly to collective abstractions such as the State, their validity was compromised and they could even become a mask for repression and the human rights violations it entailed. To stress the value of the individual was to focus on the common humanity which bound the multiplicity of Member States of the United Nations. The Governments and social structures chosen by peoples and nations in accordance with their right to political and social self-determination could well differ, but emphasis on collective political or ideological abstractions merely stressed the differences. Emphasis on the irreducible reality of the human person could serve to bring nations together and to place the human rights discussion on a sounder, if more complex, basis.

2. In his report (A/38/511), the Secretary-General had noted a recent trend towards convergence in the debate over humanitarian issues. Connections had been made between human rights, refugees, disaster relief and development activities. In those discussions, attempts had been made to define the relationship between human rights and fundamental freedoms and development. The promotion of human rights and the pursuit of other United Nations objectives such as development and peace must go hand in hand; there was nothing alien to Western philosophical tradition in the ideas put forward in connection with the new international economic order or the North-South dialogue. The need to relate the promotion of human rights to the urgent task of development had led in recent years to the notion of a "right to development", a question being dealt with by a Working Group of experts established by the Commission on Human Rights. The work of the Group

(Mr. Hogue, Australia)

should be supported because it could give a new dimension to international co-operation in the human rights field.

3. It was sometimes said that authoritarian Governments were necessary to achieve development. But there was no evidence to suggest that a denial of political and civil rights led to improved economic, social and cultural rights. All a dictatorial Government did was to compound the misery of the poor by adding political oppression. All rights were interdependent and indivisible and each of them was necessary for the full enjoyment of the others. It was true that the historical, social and economic factors which could prevent States from giving full effect to their human rights obligations should not be ignored. But it was the solemn duty of all Governments at all times to respect basic human rights, as stated in paragraph 23 of the Secretary-General's report (A/38/511). Consequently, arguments that one right was more important than another should be viewed with scepticism. His delegation believed that the General Assembly must continue to make it clear that the promotion of one right or set of rights could never be used to justify the denial of other rights.

4. Any serious violation of human rights was on principle a matter of concern to the United Nations, particularly mass and flagrant violations, even though it was sometimes difficult to decide at what point a violation qualified as mass and flagrant. While his delegation doubted that it was possible to establish perfectly consistent rules and guidelines on the subject, it believed that the fundamental importance and universal applicability of the Universal Declaration of Human Rights and the International Covenants on Human Rights should be kept firmly in mind and that the obligation of all Member States to co-operate with the United Nations in seeking to prevent or alleviate human rights violations should be constantly emphasized. As for the ways and means to be used, his delegation favoured the strengthening of the capacity of bodies like the Commission on Human Rights by providing, for example, for intersessional meetings of its bureau. It also supported a periodic survey of the global human rights situation which would put the various issues discussed in a clearer perspective. It found the current review of the activities of the Sub-Commission on Prevention of Discrimination and Protection of Minorities very useful in view of that body's heavy agenda and its important role as an independent and expert group. It also welcomed the upgrading of the Division of Human Rights to a Centre, thus strengthening the capacity of the United Nations in that fundamental area of its activities. Lastly, it remained essentially sympathetic to the idea of creating a post of High Commissioner for Human Rights.

5. At the regional level, support for human rights had proved to be of particular value in several parts of the world, allowing issues to be discussed in a less political atmosphere than the General Assembly. Australia had welcomed the contacts established for that purpose in the Asia/Pacific region. It should also be pointed out that ultimately, the enjoyment of human rights depended on the action of States at the national level. National institutions for the promotion and protection of human rights could play a very important role in enabling people to know what their rights were and how to obtain redress if they were breached.

(Mr. Hoque, Australia)

For its part, the Australian Government had announced its intention to introduce a bill of rights for Australians based on the Covenant on Civil and Political Rights. It also intended to strengthen the powers of the Australian Human Rights Commission described in the Secretary-General's report entitled "National institutions for the promotion and protection of human rights" (A/38/416) and it was also reviewing the Racial Discrimination Act with a view to enhancing its effectiveness.

6. In conclusion, he recalled that at its thirty-seventh session, the General Assembly had adopted two general resolutions on the item under discussion: Australia had been a co-sponsor of resolution 37/200 and it had been unable to vote for resolution 37/199 mainly for procedural reasons, as had been the case for many other delegations. His delegation hoped that a consensus could be reached on those issues at the current session.

7. Mr. BOUFFANDEAU (France) said that the item under discussion was one of the most important and complex before the Third Committee - one of the most important because the issue was to strengthen the promotion of the effective enjoyment of human rights, and one of the most complex because of the large number of factors which could help to improve the promotion and enjoyment of those rights. The right to development was one of the prime factors which could facilitate progress towards that goal. Without repeating the detailed analysis of the meaning of the term "right to development" presented by his delegation at the thirty-seventh session, he merely wished to remind the Committee that the vast majority of members of the international community had recognized the right to development as a human right.

8. He was gratified to find that the work of the Working Group of experts established by the Commission on Human Rights to draft a declaration on the subject was progressing well and considered that the Group should be encouraged to continue its work in the same spirit with the aim of arriving at a text acceptable to all the members.

9. With regard to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, he said that as a forum for reflecting on the issues, encouraging action and offering suggestions, it could very well complement the work of the Commission on Human Rights between sessions of the latter. He welcomed the decision to elect an alternate expert to replace the regularly appointed expert when the latter could not serve. It should be noted that the Commission on Human Rights unfortunately was unable to take decisions for 10 months out of the 12 and had no way of monitoring the follow-up on those it did take. Various procedures could be devised to fill that gap, for example, by having the Chairman report to the member States at regular intervals on the implementation of resolutions dealing with human rights violations wherever they occurred or on approaches made to him in connection with human rights violations, or else by authorizing the Chairman, with the unanimous consent of the other members of the bureau, to convey to the Government concerned the Commission's anxiety about violations it regarded as especially serious. Another way would be for the Secretary-General to report periodically on the status of human rights violations throughout the world. Limited but specific and efficacious measures should be worked out which would be

(Mr. Bouffandeau, France)

acceptable to everyone. It was too bad that the discussions on the matter in the Commission on Human Rights and in the specialized Working Group it had established had thus far yielded only partial results. However, it was encouraging to note that the Commission on Human Rights had decided to continue discussion of the question of creating a post of United Nations High Commissioner for Human Rights with a view to reaching a decision as quickly as possible.

10. At its thirty-seventh session, the General Assembly had adopted two resolutions on the item under discussion and his delegation had regretted that the sponsors of those two texts had failed to agree on a single text which could have been adopted by consensus, or at least by nearly all delegations. The purpose of the debate under item 100, the defence of human rights, imposed two complementary tasks on the Third Committee: the task of rallying the international community around widely recognized fundamental objectives and the task of not allowing itself to be divided and persuaded by one group or another to impose widely disputed positions in the human rights field.

11. At the last session, the French delegation had abstained in the vote on resolution 37/199 because it felt that it did not provide adequate safeguards with respect to three fundamental ideas to which France attached the greatest importance: striking a fair balance between individual and collective rights; striking a fair balance between civil and political rights, on the one hand, and economic and social rights, on the other; and rejection of any pre-condition for the enjoyment of civil and political rights. He hoped that delegations could get together and agree on a single text at the current session. The fact that a very large number of delegations had voted both for resolution 37/200 and for resolution 37/199 was a clear indication that there was a majority in favour of some compromise on the issue.

12. Mrs. RADIC (Yugoslavia) said that apart from the Charter, there were now a great many international instruments dealing with human rights which provided a firm basis for the protection and promotion of those rights all over the world. It should also be pointed out that the preparation of human rights instruments was proceeding apace with the drafting of a declaration on the rights of minorities, a convention on migrant workers and their families, a convention on the rights of the child and still others, all of which were important in their respective areas. It was to be hoped that those texts would be completed rapidly and, above all, that they would be internationally recognized by the Member States of the United Nations.

13. By adopting resolution 32/130 on the initiative of the non-aligned and other developing countries, the General Assembly had given fresh impetus to the search for alternative ways and means of improving safeguards for the effective enjoyment of human rights and fundamental freedoms. In that connection, her delegation wished to reiterate its total commitment to the concept of the indivisibility of all human rights, recognizing at the same time that national freedom and independence as well as a just international economic order were essential to the enjoyment of all human rights and freedoms by nations and the individuals belonging to them.

(Mrs. Radic, Yugoslavia)

14. Her delegation believed that popular participation in all its forms, including the participation of workers in management, was an essential factor in development and in the realization of human rights. The right to development was an important human right which belonged to all peoples and individuals. By virtue of that right, all human beings were entitled to participate in political, economic, social and cultural development.

15. Her delegation was pleased by the substantial progress made by the Working Group of experts engaged in the drafting of a declaration on the right to development and hoped it would be able to produce a final text in the course of 1984. Her delegation reaffirmed its support for the provisions of the draft resolution regularly submitted on the item by many non-aligned countries in the hope that, as in the past, it would garner very wide support by the members of the Third Committee.

16. Mr. HAMER (Netherlands) said that his delegation attached particular importance to the item under discussion. Thirty-five years after the proclamation of the Universal Declaration of Human Rights, arbitrary detention, torture, disappearances and summary executions were still extremely common in too many countries. The victims were often people who had exercised their fundamental rights of freedom of speech, freedom of opinion and freedom of association and peaceful assembly. Those human rights violations occurred not only in certain areas of the world like southern Africa or South or Central America; they were happening all over the world.

17. The United Nations had elaborated many international instruments dealing with human rights, but unfortunately it had failed in the effective implementation of those instruments. Consequently, it had to take a new look at the mechanisms for implementing the various existing international instruments and all Governments had to make a firm commitment to observe the letter and the spirit of the instruments to which they were parties.

18. The activities of the Organization in the field of human rights gave cause for some optimism. Thus, the Working Group was drafting a convention against torture and other cruel, inhuman or degrading treatment or punishment would probably be able to complete its work at the coming session of the Commission on Human Rights, and the Working Group of Governmental Experts on the right to development had made good progress. Mention should also be made of the elaboration of a draft body of principles on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms. Furthermore, it was good news that the Working Group on enforced or involuntary disappearances was continuing its important work, that the mandate of the Special Rapporteur on summary or arbitrary executions had been extended and that several other organs of the Commission on Human Rights were continuing their valuable work.

19. In fact, it was in the Commission on Human Rights that alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms should be studied. His delegation was pleased with the

(Mr. Hamer, Netherlands)

seriousness with which the Commission was applying itself to its task in that field. However, it believed that the Commission should come to a conclusion on some issues, including that of creating a post of High Commissioner for Human Rights, the urgent need for which had been stressed by his delegation over the years. A High Commissioner would be able to use his good offices through direct contacts with the Governments concerned.

20. His Government had always demonstrated its interest in the question of the right to development, and it therefore attached particular importance to the participation of a Netherlands expert in the Working Group established by the Commission on Human Rights to study the scope and content of that right. In his delegations view, all individuals should be accorded equality of opportunity in their access to the means and resources necessary for the exercise of the right to development, including their effective participation in decision-making for development and in the distribution of the benefits resulting therefrom. His delegation therefore believed that the Working Group should be given the opportunity to continue its work; the Committee, for its part, should avoid prejudging the Working Group's findings and conclusions.

21. His delegation was convinced that certain differences of opinion on how to improve United Nations involvement in human rights were matters more of form than of content. Thus, at the General Assembly's thirty-seventh session two complementary resolutions (37/199 and 37/200) had been adopted. He hoped that at the current session the Committee would adopt a single resolution reflecting the common concern of all delegations. It would be unquestionably detrimental to the work of the Organization to give people the impression that the ideas underlying the two resolutions adopted at the thirty-seventh session were mutually exclusive.

22. The General Assembly and other bodies had repeatedly reaffirmed the interdependence and indivisibility of all human rights. He hoped that political or semantic considerations would not detract from the recognition of that important aspect of the question. In that connection, some delegations, mostly from non-aligned nations, which had voted in favour of both resolutions at the thirty-seventh session would have a special role to play. His delegation, for its part, wished to assure the Committee that it would actively co-operate in the search for a unified approach to the pressing issues before the Committee.

23. Mr. FURLAND (United Kingdom of Great Britain and Northern Ireland) recalled that over recent years, gross and flagrant violations of human rights had continued, and in some respects intensified. The United Nations had in many cases had been unable to help the victims, a fact recognized by the Secretary-General in his report on the work of the Organization (A/38/1). The agenda item under consideration was designed to provide opportunities for improving the effectiveness of the United Nations in that field, and its title had arisen from the discussion of the question of creating a post of High Commissioner for Human Rights. His delegation believed that such a measure would be a great improvement to the present system. The High Commissioner could act promptly to help the victims of human-rights violations. His delegation therefore hoped that the Commission on

(Mr. Fursland, United Kingdom)

Human Rights would soon recommend the creation of a post of High Commissioner for Human Rights.

24. Much more also needed to be done to improve the existing machinery for the protection of human rights. The Commission on Human Rights, for example, generally worked very well. Unfortunately, some States refused to co-operate with it on the pretext that its actions represented interference in their internal affairs. His delegation, like most others, considered that argument unacceptable, particularly when it came from States which did not hesitate to urge the Commission to take similar action in respect of other countries whose Governments they happened to disapprove of. There must be a single standard for all States, big and small. In that connection, his delegation regretted that 17 delegations had voted against General Assembly resolution 37/200, in which the Assembly urged all States to co-operate with the Commission on Human Rights in its study of violations of human rights and fundamental freedoms in any part of the world.

25. The Sub-Commission on Prevention of Discrimination and Protection of Minorities was a body of independent experts, and that fact made it special. At the thirty-seventh session of the General Assembly, he had expressed concern at the indiscriminate replacement of those experts by unelected alternates, often governmental officials. His delegation had introduced a draft resolution providing that alternates should be elected only on the same basis as the independent experts. By an overwhelming majority, the Commission had recommended that reform to the Economic and Social Council, which had adopted it; that would no doubt help to maintain the Sub-Commission's special qualities.

26. The Sub-Commission's voting procedures also had to be reviewed. At present, the voting was public; as a result, the members of the Sub-Commission were exposed to political pressures, from their own Governments and from others, and the independence of their judgement could thus be affected. He therefore proposed voting by secret ballot and hoped that the Commission on Human Rights would consider that question at its next session.

27. In recent years, increasing attention had been given to the concept of the "right to development". His delegation had supported and would continue to support the work of the Working Group of Governmental Experts established by the Commission on Human Rights to study the scope and content of the right to development. However, it hesitated to endorse that concept until the definition had been worked out. It was struck by the fact that those industrialized countries which devoted the least resources to assisting development in poorer countries were among the loudest advocates of the right to development. At the 1983 Pledging Conference for development activities, his delegation had announced increased or maintained pledges to UNDP, UNICEF and UNFPA, and it hoped that the industrialized countries which were contributing little to the financial stability of those agencies would reconsider their position.

28. The Commission on Human Rights, which was currently studying the question of the "right to development", tended increasingly to adopt its resolutions by



(Mr. Fursland, United Kingdom)

consensus, a fact which was understandable in view of the lack of any agreed definition. His delegation had supported recent Commission resolutions on that issue.

29. At the thirty-seventh session of the General Assembly, a draft resolution which had subsequently become resolution 37/199 had been formulated in terms unacceptable to most of the industrialized countries which did the most to promote development. If a similar draft resolution was put to the vote at the current session, his delegation - and doubtless many others - would again be unable to support it. It therefore hoped that a more realistic approach would be taken and emphasized that if the resolutions adopted were to be effective, they must take account of the real world outside the Committee chamber and of the views of all the main participants in the development process. His delegation was always ready to join in constructive negotiations on that basis.

The meeting rose at 7.15 p.m.