



SUMMARY RECORD OF THE 69th MEETING

Chairman: Mrs. MAIR (Jamaica)

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The meeting was called to order at 11.25 a.m.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/32/3, A/32/215; A/C.3/32/L.37, L.38/Rev.1, L.39, L.42, L.43, L.45, L.46, L.48, L.49 and L.50)

1. Mr. THUNEORG (Sweden) said that the aim of human rights must be to safeguard the individual against all kinds of oppression. Most people in the world lived in conditions in which the development of their personal situation was hampered by various kinds of oppression. Poverty forced millions of people to live a life of hunger and misery in a constant struggle for survival. Discrimination in various forms deprived people of fundamental rights and opportunities in life. In too many countries, totalitarian régimes denied citizens the right to influence society and their own lives, and torture and other forms of cruel and inhuman treatment had become instruments of power.
2. Liberation from oppression and poverty first of all required that a country achieve self-determination. However, it would be untrue to assert that self-determination automatically led to respect for human rights or the fulfilment of basic individual needs.
3. When questions were raised concerning oppression and violations of human rights in an individual State, in the United Nations or elsewhere, it was sometimes argued that such criticism was a form of interference in the internal affairs of the State. Violations of human rights, however, were the concern of all nations. That was the common point of departure of the Charter of the United Nations, as well as of the declarations, conventions and resolutions which had been adopted in that area. The principle of non-intervention must therefore not be used as an excuse for preventing debate and criticism.
4. The Swedish delegation was particularly concerned that in so many countries a large number of persons were detained on account of their political opinions. They were to be found in countries with the most varying forms of government. In that connexion, he recalled articles 9 and 19 of the Universal Declaration of Human Rights, which stipulated that no one should be subjected to arbitrary arrest, detention or exile, and that everyone had the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Those two fundamental articles were violated by many Governments, and unfortunately examples could be drawn from States with entirely different political systems.
5. It would be a task worthy of the United Nations to try to achieve agreed measures to improve the conditions of those persons. As a step in that direction, Sweden had submitted in the Third Committee a proposal on the protection of such persons, which had been issued as document A/C.3/32/L.42. It would be recalled that that proposal had been submitted at the preceding session of the Committee by the Swedish delegation. However, since a number of delegations had not had sufficient time to familiarize themselves with the proposal and there had not been enough time

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(Mr. Thunberg, Sweden)

for the necessary consultations, and because the aim had been to rally wide support so that the proposal could be adopted by consensus, the Swedish delegation, in agreement with the delegation of the Byelorussian Soviet Socialist Republic, which had also submitted a draft resolution under the item, had proposed to the Committee that further consideration of the two draft resolutions should be deferred until the current session.

6. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that at the thirty-first session of the General Assembly his delegation had submitted a draft resolution entitled "Protection of persons detained or imprisoned as a result of their struggle for self-determination, independence and social progress against colonialism, aggression and foreign occupation, racism, apartheid and racial discrimination". Unfortunately, owing to lack of time, it had not been possible to consider that draft resolution at the thirty-first session. The text was reproduced in annex I of document A/C.3/32/L.43. The preamble recalled General Assembly resolutions 3246 (XXIX) and 3382 (XXX), which had reaffirmed the legitimacy of the struggle of peoples for liberation from colonial and foreign domination by all available means, including armed struggle, and had demanded full respect for the basic human rights of all individuals detained or imprisoned as a result of their struggle for self-determination and independence, and their immediate release. In that connexion, it should be noted that the General Assembly had adopted two other resolutions on that subject - resolutions 31/34 and 32/14 - which should therefore also be mentioned in the preamble. The preamble also referred to Security Council resolution 392 (1976), which had strongly condemned the policy of apartheid as a crime against the conscience and dignity of mankind and as a serious breach of international peace and security.

7. The operative part of the draft resolution expressed solidarity with the fighters for national independence and social progress of peoples, against colonialism, apartheid, racism and foreign domination, and emphasized again that any attempts to suppress the struggle against colonial domination and racist régimes were incompatible with the Charter of the United Nations and the Universal Declaration of Human Rights. Paragraph 3 demanded the release of all individuals detained or imprisoned, and paragraph 4 insisted that the racist régimes of southern Africa should immediately and unconditionally release all individuals detained or imprisoned for their views or for their opposition to apartheid, racism and colonialism. Paragraph 5 called upon Member States to provide support and assistance to the peoples fighting for their liberation from colonialism, racism and racial discrimination, and paragraphs 6 and 7 requested the Commission on Human Rights to give particular attention to the question of the release of those individuals and to submit, through the Economic and Social Council, a report on the implementation of the resolution to the General Assembly at its thirty-second session (that part of the text should be altered to refer to the thirty-third session).

8. In other words, only minor changes were needed in the text of the draft resolution submitted at the thirty-first session: the inclusion in the preamble of a reference to General Assembly resolutions 31/34 and 32/14 and the replacement of the words "thirty-second session" in paragraph 7 by the words "thirty-third session".

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(Mr. Maksimov, Byelorussian SSR)

9. His delegation hoped that the draft resolution would be well received by States Members of the United Nations and would command wide support.
10. Mr. MEZVINSKY (United States of America), speaking on behalf of the parties concerned in the question of Cyprus, requested that the dead-line for the submission of proposals should be extended to noon on Wednesday, 7 December.
11. The CHAIRMAN said that, if she heard no objection, she would take it that the Committee granted the request made by the United States representative.
12. It was so decided.
13. Mr. SOBHY (Egypt) introduced an amendment (A/C.3/32/L.43, annex II) to the Byelorussian draft resolution reproduced in annex I of document A/C.3/32/L.43. The amendment, which was sponsored by Algeria, Egypt, Iraq and the Syrian Arab Republic, consisted in replacing paragraph 4 by the following text:

"4. Insists that Israel and the racist minority régimes in southern Africa should immediately and unconditionally release all individuals detained or imprisoned because of their struggle for self-determination and national independence, and against apartheid, all forms of racism and racial discrimination, colonialism and foreign occupation;"

That amendment was in line with the resolutions adopted by the Commission on Human Rights and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and he hoped that the Byelorussian delegation would have no difficulty in accepting it.

14. Mrs. WARZAZI (Morocco) proposed the following amendments to the draft resolution reproduced in annex I of document A/C.3/32/L.43. Firstly, in the title and in paragraph 3, the word "apartheid" should precede the word "racism" and the order of the last two phrases should be reversed, so that the wording would be:

Title: "Protection of persons detained or imprisoned as a result of their struggle against colonialism, aggression and foreign occupation, apartheid, racism and racial discrimination, and for self-determination, independence and social progress".

"3. Demands the release of all individuals detained or imprisoned as a result of their struggle against colonialism, aggression and foreign domination, apartheid, racism and racial discrimination, and for self-determination, independence and social progress of peoples;"

15. Mr. SOBHY (Egypt) supported the amendment proposed by Morocco, which highlighted the meaning of the draft resolution without changing its essence.

AGENDA ITEM 76: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS: REPORTS OF THE SECRETARY-GENERAL (continued) (A/C.3/32/L.28, L.32 and L.44)

Draft resolution A/C.3/32/L.28

16. The CHAIRMAN invited the Committee to consider the rest of the draft resolutions submitted under agenda item 76. She drew attention to draft resolution A/C.3/32/L.28, submitted by Belgium, and invited delegations that wished to do so to explain their vote before the vote was taken.
17. Mr. ALFONSO (Cuba) said that his delegation had some difficulties in connexion with draft resolution A/C.3/32/L.28.
18. In general, his delegation wished to express its concern at certain attempts made both in the Commission on Human Rights and in other bodies to limit the sovereign powers of States, and in his delegation's opinion, draft resolution A/C.3/32/L.28 was part of that trend, which might be summarized as an attempt to make States waive an essential aspect of their sovereignty and yield to an international authority that would be empowered to conduct investigations in their national territory. That was his delegation's general view of the draft resolution.
19. With regard to those specific aspects of draft resolution A/C.3/32/L.28 which caused his delegation some difficulty, he said that the draft resolution made reference to Economic and Social Council resolution 1503 (XLVIII) setting out the procedure for dealing with communications relating to violations of human rights and fundamental freedoms and recalled article 6 thereof, which provided, inter alia, for the appointment of an ad hoc committee to investigate any situation which appeared to reveal a consistent pattern of gross violations of human rights. But it was important to bear in mind the prerequisites: that the consent of the State concerned must be obtained, that all available means at the national level must first have been exhausted and that the situation must not relate to any other matter which involved the country concerned and was being dealt with under other procedures. The draft resolution made no mention of those prerequisites and amounted in fact to a request that a State should waive its sovereign attributes in advance, even before the Commission on Human Rights had decided that a presumed consistent pattern of gross violations of human rights existed. For that reason, his delegation believed that draft resolution A/C.3/32/L.28 implied a revision of Economic and Social Council resolution 1503 (XLVIII), since it omitted a whole series of prerequisites to the conduct of any investigation. Accordingly, since the draft resolution had no practical usefulness, his delegation would request that it should be withdrawn and that its sponsors should not press for a vote on it; if a vote was nevertheless taken, his delegation would have to vote against the draft resolution.
20. Mr. SMIRNOV (Union of Soviet Socialist Republics), explaining his vote before the vote was taken on draft resolution A/C.3/32/L.28, pointed out, first of all, that the implementation of Economic and Social Council resolution 1503 (XLVIII)

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(Mr. Smirnov, USSR)

had brought to light certain defects, particularly with regard to the observance of the confidential nature of the communications referred to in that resolution. Secondly, paragraph 10 of resolution 1503 (XLVIII) provided for a review of the procedure described in it if any new organ entitled to deal with such communications should be established.

21. Furthermore, it must be borne in mind that the draft resolution before the Committee gave an advantage to the Western European group of States: the waiver of right referred to in paragraph 2 of the draft resolution had no effect on those States, since there was a regional convention in the matter among them, so that the communications would not be considered by the Commission on Human Rights.

22. He therefore believed that it would be more appropriate from the procedural point of view that draft resolution A/C.3/32/L.28 should be examined by the Economic and Social Council, in view of the fact that that organ had adopted resolution 1503 (XLVIII) and was empowered to deal directly with those questions. His delegation asked the sponsors not to press their draft resolution in the Committee but to transmit it to the Economic and Social Council for consideration at its spring session. If his delegation's request was not accepted, it would not be able to support the draft resolution.

23. Mr. MERKEL (Federal Republic of Germany) said that while the procedure established in Economic and Social Council resolution 1503 (XLVIII) had its value, draft resolution A/C.3/32/L.28 would facilitate the decisions to be taken by the Commission on Human Rights under the procedure established in that resolution, since the Commission would know in advance whether the country concerned would accept the ad hoc committee to be appointed. The draft resolution was consistent with the draft resolution relating to Chile, in which it was deplored that the Chilean authorities had not permitted the Ad Hoc Working Group to visit the country. The Committee should not apply different criteria in the two cases.

24. Mrs. GEREB (Hungary) said that her delegation would prefer to see Belgium withdraw draft resolution A/C.3/32/L.28, since otherwise it would have to vote against it. In the first place, it considered the draft resolution completely unnecessary, since Economic and Social Council resolution 1503 (XLVIII) enabled every State to admit an investigating committee to its territory if it considered that appropriate and right; in the second place, it considered it dangerous for a State to waive its right in advance when it was impossible to know the basis on which the investigation would be conducted.

25. Mrs. MARICO (Mali) said that small countries, such as her own, were the most vulnerable and the ones which might be victims of such allegations. A decision on the questions referred to in paragraphs 1 and 2 of the draft resolution was within the sovereignty of each State. Her country, which was endeavouring to consolidate its independence, could not waive any part of its sovereignty. Accordingly, her delegation would abstain in the vote.

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26. Mr. DOUKOURE (Guinea) said that the sovereignty of States such as Guinea had been achieved at the cost of great struggle, and his delegation therefore could not agree to anything that would violate his country's sovereignty in any way; accordingly, it would vote against draft resolution A/C.3/32/L.28.

27. Mr. DIEZ URZUA (Chile) said that draft resolution A/C.3/32/L.28 did not follow a logical order, since it did not first establish the rules of competence, the rules of procedure and the guarantees States would have to ensure that the procedures would be applied universally, not only to small countries but also to powerful countries, which Europe did not dare to confront, concerning itself with human rights in small countries. Those small countries, lacking political power, had only the legal order as their defence. In addition, there was a problem of form which made it impossible for his delegation to support the draft resolution before the Committee. The right to refuse to admit an ad hoc investigating committee arose not out of resolution 1503 (XLVIII) but out of the sovereignty of each State. The draft resolution contributed nothing new and had a political connotation; consequently his delegation would not support it.

28. Mr. FUENTES IBÁÑEZ (Bolivia) said that his delegation would vote against the draft resolution; while it believed that every effort should be made to ensure the observance of human rights and fundamental freedoms, the procedure established in Economic and Social Council resolution 1503 (XLVIII) had not achieved its goal in practice but had instead given rise to situations of controversy and conflict which did not justify a request to less powerful States to waive their essential rights.

29. Mr. CASAS (Colombia) said that his delegation would abstain in the vote, since it shared some of the opinions expressed and felt some concern at the methods of work of some ad hoc investigating committees, which had often left a great deal to be desired.

30. Mr. ABOUL NASR (Oman) said that draft resolution A/C.3/32/L.28 was defective in form, since States derived the right to refuse to admit an ad hoc investigating committee not from resolution 1503 (XLVIII) but from their own sovereignty. His delegation would therefore vote against the draft resolution.

31. Mr. KEILAV (German Democratic Republic), explaining his vote before the vote was taken, said that his delegation was unable to support draft resolution A/C.3/32/L.28, since the draft resolution did not correctly interpret the provisions of Economic and Social Council resolution 1503 (XLVIII). As his delegation understood that resolution, it established that the right of the Commission on Human Rights to appoint investigative bodies depended on the consent of the State concerned. Moreover, draft resolution A/C.3/32/L.28 made no reference to paragraph 10 of resolution 1503 (XLVIII), according to which, especially after the entry into force of the International Covenant on Civil and Political Rights, that decision should be reviewed, at least with regard to the States that were parties to the Covenant.

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32. Mr. ALFONSO (Cuba) appealed to the Belgian delegation not to press for a vote on draft resolution A/C.3/32/L.28, which caused so much concern to some delegations.

33. At the request of the representative of Belgium, a recorded vote was taken on draft resolution A/C.3/32/L.28.

34. The draft resolution was rejected by 45 votes to 29, with 51 abstentions.

35. Mr. RAKOTONAIVO (Madagascar), explaining his vote, said that he had voted against the draft resolution because the measures it provided for constituted an infringement of State sovereignty. He fully agreed with what had been said by the representative of Guinea.

36. Miss MATTESON (United States of America) said that the United States had voted in favour of the idea, embodied in the draft resolution, that States should be requested to communicate the proposed statement of intent. However, that should not be taken to imply that the United States had taken any position on the content of the statement that the United States might make.

37. Mr. POEDJIOETOMO (Indonesia) said that his delegation had voted against the draft resolution because it considered that the right to give consent was a sovereign right of each country which could not voluntarily be waived.

Draft resolution A/C.3/32/L.32

38. Mr. GARVALOV (Bulgaria) said that in view of the limited time at the Committee's disposal, and in accordance with rule 116 of the rules of procedure, he proposed postponing the debate on the item.

39. The CHAIRMAN said that the Committee was not holding a debate but was taking a decision on draft resolution A/C.3/32/L.32.

40. Mr. GARVALOV (Bulgaria) said that it was his understanding that the Committee had just finished voting on draft resolution A/C.3/32/L.28 and was now considering A/C.3/32/L.32, not voting on it. He would like not only the debate, but also the vote on that draft resolution to be postponed.

41. Mr. O'DONOVAN (Ireland) recalled that at the previous meeting it had been said that a vote would have to be taken on the three remaining items. He therefore supported the Chairman's decision.

42. Mr. VELA (Guatemala), explaining his vote before the voting, said that Guatemala had always supported initiatives relating to respect for human rights. It was anxious to ensure, however, that in the development of international law and in the activities of the United Nations a balance was achieved which neither the most generous emotions nor the most high-minded enthusiasm could upset.

43. Draft resolution A/C.3/32/L.32 represented a good attempt to achieve that balance and the Guatemalan delegation felt that it would be very suitable to recommend that the United Nations should make such a study. It would therefore vote in favour of the draft resolution.

44. Mr. ALFONSO (Cuba) said that he would vote against the draft resolution because the task that would be assigned to the Secretary-General under operative paragraph 1 fell within the competence of the Commission on Human Rights or the General Assembly, in other words, intergovernmental bodies. The task could be undertaken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at the decision of those organs, but it could never be performed by individuals acting in their personal capacity.
45. Mr. DIOM (Senegal) said that in keeping with the principles underlying his country's policy he would vote against draft resolution A/C.3/32/L.32.
46. Mr. FERNANDES (Guinea-Bissau) said that he would be obliged to vote against the draft because the procedure proposed in it could very easily be carried out by the Commission on Human Rights. He noted the improvement in the situation concerning human rights in Chile and felt that the pressure that had been brought to bear on that country might have been one of the reasons for the submission of the draft resolution.
47. Mr. NOTHOMB (Belgium) said that the nine countries of the European Economic Community would abstain on draft resolution A/C.3/32/L.32 because it criticized, and sought to replace by another procedure, a system respected by all.
48. Mr. OZADOUSKY (Ukrainian Soviet Socialist Republic) said that there already existed a system for the consideration of communications concerning human rights violations which, despite its shortcomings, served the purposes for which it had been created. The Ukrainian Soviet Socialist Republic saw no need for the question to be studied by a group of 10 experts. It supported the views expressed by the delegations of Senegal, Guinea-Bissau and others and, since the investigation in question had already been carried out by various United Nations bodies, including the Economic and Social Council, the Commission on Human Rights and others, it would vote against the draft resolution.
49. At the request of the representative of Cuba, a recorded vote was taken on draft resolution A/C.3/32/L.32.
50. The draft resolution was rejected by 50 votes to 15, with 65 abstentions.
51. Mr. BYKOV (Union of Soviet Socialist Republics), explaining his vote on draft resolution A/C.3/32/L.17/Rev.1, which had been adopted at the previous meeting (A/C.3/32/SR.68), said that his delegation had voted in favour of that resolution. The widespread support it had received showed that it would be of great significance to future human rights activities and would help to intensify efforts to promote the effective enjoyment of human rights, taking due account of the contribution and experience of different States. The aims of the United Nations in that respect would be well served by operative paragraph 1 of the resolution, which embodied the basic concepts that should guide United Nations bodies in the promotion of international co-operation in that field. Those concepts spoke for themselves, and there was no need to make detailed statements on the provisions of the draft or its significance to peoples as regards guaranteeing economic and social rights and intensifying the struggle against flagrant and mass violations of human rights arising out of the perpetuation of colonialism, racism, aggression and foreign occupation and the refusal of certain Governments to respect human rights.

(Mr. Bykov, USSR)

52. Moreover, it was likely that, as a result of the establishment of a new international economic order, the number of States parties to the Covenants would increase, and the foundations would be laid for international co-operation in that respect. At the meeting held on 21 November 1977 (A/C.3/32/SR.50), the Soviet delegation had stated the arguments in favour of draft resolution A/C.3/32/L.17/Rev.1, emphasizing the supreme importance of giving people the right to establish their own political system and achieve their own economic and social development, and the need to continue activities designed to strengthen international peace and security so as to promote the effective enjoyment of human rights - all concepts which were set out in paragraph 1 of the draft resolution that had been adopted.

53. He trusted that the Commission on Human Rights would be able to carry out its obligations in the matter, undertaking an analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, in the light of the concepts mentioned. He also trusted that the observations and recommendations to be made by the Commission, in accordance with the resolution, would provide the basis for careful consideration of the question by the General Assembly, and he hoped that that would lead to the adoption of the appropriate measures.

54. Mr. MUTAURA (Kenya) said that if he had been present during the voting on draft resolution A/C.3/32/L.28 he would have voted against the draft.

55. The CHAIRMAN announced that the Committee had completed its consideration of agenda item 76.

AGENDA ITEM 75: WORLD CONFERENCE TO COMBAT RACISM AND RACIAL DISCRIMINATION
(continued) (A/32/3/Add.1 (part IV), A/32/197, A/32/206; A/C.3/32/L.47; E/5922)

56. Mr. SANON (Deputy Director, Division of Human Rights) recalled that, at the beginning of the current session, the Director of the Division of Human Rights had introduced an item entitled World Conference to Combat Racism and Racial Discrimination and that, although the Committee had completed its general debate on the item, it had not been able to take a decision on the draft resolution submitted to it by the Economic and Social Council in Council resolution 2057 (LXII), on the convening of the World Conference to Combat Racism and Racial Discrimination, which was to be held from 14 to 25 August 1978.

57. The points that remained to be decided were, first the venue of the Conference and, second, the participation of non-governmental organizations. Paragraph 4 (j) of the draft resolution recommended by the Economic and Social Council in document A/C.3/32/L.47 contained an invitation to non-governmental organizations in consultative status with the Economic and Social Council to participate as observers, and the annex to the draft resolution described the procedure for participation. As for the venue of the conference, operative paragraph 3 contained a blank space for the name of the place to be selected. It should be noted that the preparatory sub-committee for the Conference had recommended that it should be held in New York or Geneva, but preferably in Geneva since the Secretariat of the Conference and the Division of Human Rights were based there, or at any other place if a Member State decided to host the Conference.

The meeting rose at 1.10 p.m.