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Thirty-fifth session

SUMMARY RECORD OF THE 1491st MEETING

held at the Palais des Nations, Geneva,
on Thursday, 22 February 1979, at 10.30 a.m.

Chairman

Mr. BEAULNE

(Canada)

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The meeting was called to order at 11 a.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 6) (E/CN.4/1311; ST/HR/SER.A/1)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 7) (E/CN.4/Sub.2/415; E/CN.4/NGO/233)

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- (a) STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION; (b) IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE OF ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 20) (E/CN.4/1332 and Add.1; E/CN.4/Sub.2/L.679 and L.680; A/33/262; A/RES/3057 (XXVIII))

1. Mr. SANON (Deputy Director, Division of Human Rights) noted that the Commission had decided to consider agenda items 6, 7, 16 and 20 together.

2. Agenda item 6 would be introduced by the Chairman of the Ad Hoc Working Group of Experts, Mr. M'Baye. The report of the Group was found in document E/CN.4/1311. In 1978, the Group had again visited front-line countries in southern Africa in order to collect as much information as possible. It had participated actively in the Lesotho symposium on the exploitation of blacks in South Africa and Namibia and on prison conditions in South African goals, for which it had prepared four background papers. The conclusions and recommendations in the report of the symposium (ST/HR/SER.A/1) deserved close attention, as did the opening address by the Prime Minister of the Kingdom of Lesotho, whose courage was exemplary. Those conclusions and recommendations provided yet another confirmation of the dehumanizing and odious character of apartheid. In particular, the symposium had supported the proposal of the Prime Minister of Lesotho that an international convention on the rights of migrant workers should be considered as a matter of extreme urgency and had recommended that all Governments and financial and economic institutions should end economic collaboration with South Africa and that the economic strength and potential of the African countries should be used as a weapon against the apartheid régime so as to make it abandon its repressive policies; it had also called upon States which had not yet done so to ratify the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

3. With respect to agenda item 7, which would be introduced by Mr. Khalifa, Special Rapporteur, he drew attention to the report before the Commission (E/CN.4/Sub.2/415) which contained a provisional list identifying individuals, institutions, including banks, and other organizations or groups, as well as representatives of States, whose activities constituted political, military, economic or other forms of assistance to the colonial and racist régimes in southern Africa, drawn up in pursuance of Commission resolution 7 (XXXIII). The provisional list had been considered by the Sub-Commission in 1978 and submitted to the thirty-third session of the General Assembly, which in its resolution 33/23 had invited the Commission to give that report priority attention at its current session.

4. With regard to agenda item 16, which would be introduced in detail by the Chairman of the Group of three members of the Commission appointed in accordance with article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid, it would be recalled that the Commission, in its resolution 7 (XXXIV), had decided to maintain the question on its agenda as a standing item and had commended those States parties to the Convention that had submitted their reports under article VII of the Convention. Three documents were before the Commission for its consideration of the item: a note by the Secretary-General (E/CN.4/1326) concerning ratification of the Convention, to which 49 States were now parties; a note by the Secretary-General (E/CN.4/1327 and Add.1) concerning the implementation of Commission resolution 7 (XXXIV); and the report of the group of three established under the Convention (E/CN.4/1328). With regard to the latter report, attention should be drawn to the idea expressed in paragraph 9, namely, that representatives of States parties whose reports were being considered should be invited to participate in the group's meetings in a spirit of co-operation and dialogue. It should also be noted that the General Assembly, in its resolution 33/103, had welcomed the efforts of the Commission regarding the implementation of the Convention and had invited it to continue those efforts, especially with a view to preparing a list of individuals, organizations, institutions and representatives of States alleged to be responsible for crimes enumerated in article II of the Convention; it had also called upon the competent United Nations organs to assist the Commission in the performance of that task.

5. Turning to agenda item 20, he observed that the World Conference to Combat Racism and Racial Discrimination had endorsed many of the suggestions and recommendations in Commission resolution 8 (XXXIV) - for example, those concerning the ratification of international instruments, the use of education as a means of combating racism and racial discrimination, the establishment of recourse procedures, the denial of support to racist régimes and the establishment of an international fund financed by voluntary contributions. The Declaration and Programme of Action adopted by the Conference had been approved by the General Assembly in its resolution 33/99, which requested the Secretary-General to undertake a number of activities in 1979, including the convening of a regional seminar on recourse procedures available to victims of racial discrimination and of a round-table of university professors and directors of race relations institutions. The Commission would perhaps wish to be represented at those two meetings, which would be held in Geneva in July 1979 and November 1979 respectively. Furthermore, a report which was being prepared by the Division of Human Rights for submission to the Economic and Social Council contained a suggested programme of action for the second half of the Decade for Action to Combat Racism and Racial Discrimination.

6. At its thirty-first session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had recommended that the Commission should request the Economic and Social Council to authorize the Chairman of the Sub-Commission to appoint a working group to make specific proposals for the Sub-Commission's programme of work with regard to implementation of the Decade. The Sub-Commission had also decided to include the question in the agenda for its thirty-second session as a matter of high priority.

7. The documents before the Commission under agenda item 20 were the report of the Secretary-General on the World Conference to Combat Racism and Racial Discrimination (A/33/262), two preliminary reports submitted by the Secretary-General under

Sub-Commission resolution 3 (XXX) (E/CN.4/Sub.2/L.679 and L.680) and two annual reports submitted, respectively, by the ILO and UNESCO in accordance with Economic and Social Council resolution 1588(L) and General Assembly resolution 2785 (XXVI) (E/CN.4/1332). The Commission would perhaps wish to review the activities which, in the view of the General Assembly, should be carried out during the next five years in accordance with General Assembly resolutions 33/99 and 33/100.

8. Mr. M'BAYE (Senegal), Chairman of the Ad Hoc Working Group of Experts, introducing the Group's report (E/CN.4/1311), said that the Group had unfortunately perceived no signs of possible future improvement in the policy of apartheid and racial discrimination practised in southern Africa. On the contrary, all the facts at the Group's disposal indicated that the South African authorities and the illegal Salisbury régime were determined to pursue their criminal policy in South Africa, Namibia and Zimbabwe. Regarding capital punishment, massacres and other violations of the right to life, treatment of prisoners, removals of population, the "homelands" policy, the deplorable condition of workers and the acute difficulties encountered by students and schoolchildren, no significant measures had been taken in either South Africa, Namibia or Southern Rhodesia to ease the condition of the black population of those countries.

9. For the purpose of its investigation the Group had assembled a wealth of documents, publications, films and testimony. It had conducted missions to London and southern Africa and held several meetings in Geneva. On its behalf, he wished to thank the Director of the Division of Human Rights and his associates, as well as the Governments of the United Kingdom, Tanzania, Zambia and Lesotho, for their co-operation.

10. Before embarking on its mission, the Group had written to the Governments of the countries concerned and to the Organization of African Unity, and it had also contacted the liberation movements. Responding for the first time to a communication from the Group, the Government of South Africa had replied that it was unable to accede to the Group's request to visit South Africa and Namibia, due to the "tendentious nature" of the Group's progress report (E/CN.4/1270).

11. Turning to chapter I of document E/CN.4/1311, which concerned South Africa, he said that the return to power of the Nationalist Party by an overwhelming majority in the 1977 elections had resulted in a reinforcement of the policy of apartheid, racial discrimination and repression. South Africa continued to hold the world record for the number of prisoners in jail and the number of executions. In a special report prepared pursuant to Economic and Social Council resolution 2082 A (LXII), the Group had described in detail the arrests, mass killings and brutality perpetrated by the South African police at Soweto in June 1976 and September 1977. The Group had been particularly struck by the recrudescence of racist terrorism on the part of groups of whites during the period under review, the torture and ill-treatment of women and children in both South Africa and Namibia and the number of persons who had gone missing in South Africa. The Group had investigated closely the deaths of detainees, which usually occurred when the victim was in police custody and was generally attributed by the South African authorities to suicide, whereas the evidence accumulated by the Group in fact pointed to assassination.

12. There had been no improvement in the situation with regard to workers' rights during the period under review. It was clear from the testimony presented to the Group that, because of apartheid, the Code of Conduct of the European Economic Community would never be effective in South Africa. Black workers continued to be persecuted for their activities and denied the right to belong to trade unions. The Group was convinced that the solution to the problem lay in halting investments in South Africa.

13. Black students had launched a large-scale campaign against the Bantu education policy aimed at confining black South Africans in a cultural ghetto, but the movement had been brutally repressed by the South African authorities. Nevertheless, there was increasing awareness on the part of the black population, whose unity was being strengthened in the face of repression despite the "Bantu homelands" policy.

14. Turning to chapter II concerning Namibia, he said that during the period under review South Africa had taken measures to implement "independence" for Namibia on a unilateral basis. Since the reinforcement of the "interim" administrative structure, an unprecedented number of repressive acts had been perpetrated in the country. South Africa had increased its military pressure on Namibian territory, and both military and economic interests were at the root of the Government's attitude towards Walvis Bay. Despite its declaration of intent regarding the organization of free elections, South Africa clearly wished to turn Namibia into a Bantustan loyal to the racist Government (paragraphs 336-359). The situation called for continued vigilance on the part of the General Assembly, the Security Council and the Commission, despite the South African Government's declared willingness to accept an international settlement in accordance with Security Council resolution 435 (1978). SWAPO combatants and civilian supporters were being subjected to particularly relentless persecution. In general, the situation of Africans in the "homelands" had deteriorated badly during the period under review, and South Africa continued to pursue its policy of apartheid in Namibia. The Group had drawn up a list of persons guilty or suspected of being guilty of the crime of apartheid or of a serious violation of human rights (paragraph 444).

15. Chapter III of the report dealt with Zimbabwe where, contrary to expectations, the situation had not improved. In the Group's view, the so-called "internal settlement" announced by the illegal régime in Salisbury was nothing but a masquerade. Both the United Nations and the Organization of African Unity had rejected any settlement which excluded the Patriotic Front. The Security Council, in its resolution 423 (1978), had declared illegal and unacceptable any settlement under the auspices of the illegal régime and called upon all States not to accord any recognition to such settlement. The Group had collected information which bore witness to the illegal régime's determination to establish a loyal black administration. Guerrilla activities had increased as a result of the "internal settlement" and under the provocation of the Salisbury authorities. The Law and Order (Maintenance) Act, which established the death sentence and laid the onus of proving innocence upon the accused, continued to be enforced. Apart from the executions notified to the Group, it had been possible to draw up

a list of persons who had been arrested by the police and had disappeared. The atrocities perpetrated by the security forces against the civilian population included a massacre in which 100 people, for the most part women and children, had been killed. Large numbers of refugees were obliged to move to neighbouring countries such as Mozambique, Botswana and Zambia, which were then subjected to acts of aggression and odious attacks by the Salisbury régime, alleging the right of "hot pursuit". The Group considered that the Commission, the Economic and Social Council and the General Assembly should envisage the granting of special assistance to the countries concerned, which were obliged to channel to self-defence resources that would normally be used for development. Finally, it should be noted that the policies of "separate development", removals of population and establishment of "protected villages" continued to be applied by the illegal régime.

16. Chapter IV of the Group's report dealt with international action concerning violations of human rights in southern Africa; in that connexion, the Deputy Director had just referred to the symposium held at Maseru in July 1978. During that symposium, the economic and cultural exploitation of political detainees had been discussed and a number of recommendations had been made (ST/HR/SER.A/1). The Group had also participated in the World Conference to Combat Racism and Racial Discrimination, held in August 1978 as part of the Decade for Action to Combat Racism and Racial Discrimination. The Conference had adopted a Declaration and Programme of Action which had been communicated to the General Assembly (A/33/262). The measures recommended therein would contribute effectively to the struggle against apartheid and racial discrimination.

17. Chapter V of the report set out the Group's conclusions and recommendations. With regard to South Africa, the Group suggested that the Commission should ask the General Assembly to have a study made of the problem of the South African Government's legitimacy in view of its policy of apartheid and its systematic refusal to apply the principles of the Charter and of international law. It also drew the Commission's attention to the results of the Maseru symposium and of the World Conference to Combat Racism and Racial Discrimination. It recommended that the United Nations subsidiary organs concerned with the problems of apartheid and racial discrimination should meet each year for the purpose of discussing their respective experiences and co-ordinating their future activities, and that, at every session of every United Nations body, a special meeting should be devoted to the struggle against apartheid. In addition, a comprehensive study should be carried out on the action taken to implement the Commission's various recommendations arising from the Group's work. The Group further recommended that particularly serious violations of which it learned during its inquiries should immediately be brought to the attention of the Chairman of the Commission, with a view to appropriate action, and that consideration should be given to the establishment of an international tribunal to deal with the crime of apartheid. The Group looked forward to further collaboration with the United Nations Special Committee against Apartheid and hoped that a symposium on apartheid and social discrimination could be organized each year.

18. With regard to the recommendations concerning Namibia, it was suggested that the Commission should declare that the Namibian peoples' right to self-determination and independence could only legally be exercised in accordance with the guidelines laid down by the competent United Nations bodies and that Member States should assist SWAPO to take all necessary measures to safeguard that people's heritage and should give special attention to Namibian children on the occasion of the International Year of the Child.

19. With regard to Zimbabwe, the Group wished to draw particular attention to the plight of refugees, thousands of whom were forced to live in Mozambique, Botswana and Zambia in poor conditions rendered even more difficult by punitive expeditions carried out by the illegal Salisbury régime. An assessment of the refugees' needs should continue to be made, in collaboration with the United Nations High Commissioner for Refugees, and adequate measures should be adopted to safeguard them. Moreover, assistance should be given to the States concerned, which were obliged to devote sizeable sums to defence against the Salisbury régime's actions.

20. The situation still held out little hope for millions of people in South Africa, Namibia and Zimbabwe. Only firm measures would cause the régimes in those countries to modify their policies, and it was high time that the United Nations took appropriate decisions, particularly of an economic nature, in order to put a stop to the policy of apartheid.

21. Mr. AYENI (Nigeria) introduced the report of the Group of Three (E/CN.4/1328) on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid. He recalled that the Group, during its first session, had undertaken a preliminary examination of 12 reports received from States Parties in accordance with article VII of the Convention and had drawn up general guidelines concerning the form and contents of reports to be submitted by States Parties under the Convention. The Commission, in its resolution 7 (XXXIV), had requested that those guidelines should be followed by States Parties when submitting their reports. States Parties had likewise been requested to submit their initial reports within two years of the entry into force of the Convention for the States Parties concerned, and their periodic reports at two-yearly intervals, on the understanding that they could submit further interim information to the Group if they so wished.

22. Since the Group's first session, only five further reports had been received from the Governments of the Byelorussian SSR, Hungary, Madagascar, Poland and the Ukrainian SSR. The Group had expressed its appreciation for the co-operation extended to it by the representatives of those countries. Noting, however, that those reports had been submitted before the Governments concerned had received the general guidelines, the Group had decided to recommend, through the Commission, that those guidelines should once more be brought to the States Parties' attention.

23. The Group had decided to invite States Parties to attend meetings at which their reports were to be considered and to call upon the Commission and other United Nations organs to take more decisive action to encourage further ratifications

of the Convention, in view of the priority given by the international community and the United Nations to the suppression and punishment of the crime of apartheid.

24. The Group had also considered practical ways of performing its functions and had discussed the modalities of defining its terms and reference under the Convention. In that connexion, the Group thought that it should seek the assistance of the States Parties and ascertain their views on a number of substantive and procedural matters relating to the submission of reports under article VII, on the manner in which the Group might submit proposals to the Commission concerning the implementation of the Convention, and on ways in which the Group could draw the Commission's attention to obstacles to implementation. The latter point was of special importance, since the Convention itself provided no clear guidelines as to the Group's terms of reference and responsibilities concerning its implementation. Therefore, the Group had decided to draw the States Parties' attention, through the Commission, to the desirability of expressing their views and ideas concerning the Group's terms of reference under the Convention.

25. The Group deemed it important, for the full and effective implementation of the Convention, that the States Parties should adopt legislative, judicial and administrative measures as required under article IV, to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of, the acts defined in article II of the Convention, and should put forward suggestions concerning the application of article V, which provided that such persons could be tried by an international penal tribunal having jurisdiction with respect to those States Parties which had accepted its jurisdiction. The Group therefore reiterated its earlier recommendation in that connexion.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS (agenda item 8) (continued) (E/CN.4/1271; E/CN.4/1329; E/CN.4/1334; E/CN.4/1340)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 21)
(continued) (E/CN.4/1329; A/33/40)

26. Mr. GARVALOV (Bulgaria) said that the realization of economic, social and cultural rights in all countries was one of the most important of contemporary objectives, since it would undoubtedly have far-reaching benefits for millions of people everywhere. Although those rights stemmed directly from the inherent dignity of the human person, they had been persistently and flagrantly violated during the days of colonial empires and later under the vestiges of new forms of colonialism and imperialism. The International Covenant on Economic, Social and Cultural Rights had been ratified by almost one third of the United Nations membership, but it was noticeable that certain States which were lavish in their rhetoric about human rights seemed unwilling to ratify that instrument and abide by its provisions. Article 2 of that Covenant required each State Party to take steps to achieve the full realization of all the rights recognized in it by

all appropriate means, including particularly the adoption of legislative measures. However, the six dissenting votes and 10 abstentions recorded when the General Assembly, by resolution 3281 (XXIX), adopted the Charter of Economic Rights and Duties of States, reflected the opposition of the States concerned to the realization, within their own countries, of economic, social and cultural rights because of the impossibility of adjusting their own legislation so as to recognize and guarantee those rights.

27. The Commission, in its resolution 4 (XXXIII), had noted that full implementation of those rights was of crucial importance for the real and meaningful enjoyment of civil and political rights; that position had been reaffirmed by the General Assembly in paragraphs 1 (a) and (b) of its resolution 32/130.

28. There were two prerequisites for realization of economic, social and cultural rights. Firstly, a country's economic potential must be developed in the interests of its people as a whole. Secondly, those rights must be guaranteed in practice by the introduction of a range of legislative and administrative measures bearing on social relationships. Those prerequisites had been met in the socialist countries, including Bulgaria. The socialist society was the first to have succeeded in realizing and guaranteeing economic, social and cultural rights. As noted in Mr. Ganji's report on the realization of economic, social and cultural rights (E/CN.4/1131/Rev.1), the scope of individual rights had reached its maximum in the case of the socialist countries, where economic, social and cultural rights had been proclaimed as explicitly as those of a moral and political nature and, in most cases, were enunciated in the fundamental laws of the State. In Bulgaria, all basic economic, social and cultural rights had been proclaimed in the first Socialist Constitution of 1947 and were covered by juridical guarantees as well as by the material guarantees provided, for instance, by public ownership of the means of production and the abolition of economic crises and unemployment. The great strides in the increase of production forces and the improvement of social relations had made possible the adoption of a new constitution in 1971, which had raised the status of citizens, and in particular their economic social and cultural rights, to even higher levels. It had been noted, moreover, in a number of United Nations studies, that in many respects the guarantee of such rights in Bulgaria exceeded the explicit provisions of the International Covenants on Human Rights. Details about the realization of those rights had been given by the Bulgarian Government in the reports submitted to the Economic and Social Council under the International Covenant on Economic, Social and Cultural Rights.

29. The realization of those rights required the establishment of equitable socio-political conditions for all people. In many countries, however, such rights were not guaranteed, particularly in capitalist nations, where the status of those rights was incompatible with the economic potential or the Covenant's explicit provisions, where millions were denied rights such as those of employment, education and social security, and where, in a number of cases, women were still denied equal status.

30. One of the developing countries' main concerns was the realization of economic, social and cultural rights, for which purpose they must overcome the effects of colonial bondage and develop their national economies as a prerequisite for the exercise of human rights and fundamental freedoms. Some developing countries linked national economic development with progressive measures in the social and political spheres, which would bring tangible results in the promotion of the basic economic, social and cultural rights. In that connexion, Mr. Ganji had noted the developing countries' need for far-reaching and radical reforms in order to overcome poverty and achieve rapid and steady development; however, that task was rendered difficult by the obstacles raised by neo-colonialism, particularly by the multinational corporations.

31. The establishment of a new international economic order depended on the establishment of international peace and security. The Commission, in resolution 5 (XXXII), had stressed the right of everyone to live in conditions of international peace and security, and the United Nations had carried out a study on the economic and social consequences of disarmament and the ending of the arms race. Unless general and complete disarmament, under effective international control, was achieved, the economic, social and cultural rights of many peoples of the world would remain in jeopardy. Those rights could be realized only through action on an international scale. The Bulgarian Government's policies were aimed in that direction, and Bulgaria spared no effort to promote international co-operation with a view to achieving respect for and observance of human rights and fundamental freedoms.

32. Mr. POUYOUIROS (Cyprus) said that his delegation considered that items 8 and 21 provided an opportunity to review progress as well as the hopes and expectations felt in many parts of the world in the struggle to uphold human rights.

33. There were still some important barriers to the realization of economic, social and cultural rights in several countries. One was the unwillingness of some States to eliminate racial discrimination and apartheid; others were invasion and foreign occupation, colonial and neo-colonial domination and the exploitation of indigenous peoples' natural wealth. Such illegal practices not only prevented those rights from being realized but also flagrantly violated the civil and political rights of peoples in the areas concerned.

34. A new international economic order could not be achieved without the establishment of peace and security everywhere. Freedom from foreign domination, hunger, the use of armed force, human indignity and economic inequalities were basic prerequisites for the establishment of that order.

35. It was regrettable that few of the Organization's Member States had ratified the International Covenants on Human Rights, although that was no reflection on the Commission and other United Nations organs, which had carried out important work in the human rights field for many years. As one of the first States to ratify both International Covenants, Cyprus hoped that those States which had not yet acceded to those instruments would do so without delay. It was important to find ways and means of promoting the attainment of that objective. It was also important to encourage in all people, particularly the younger generation, a deep and sincere respect for human rights and fundamental freedoms, and in that connexion, his delegation noted with apprehension the valuable work done by the Human Rights Committee.

36. Mr. de ABRANCHES (Organization of American States), speaking on agenda item 21, said that the Secretary-General's report in document E/CN.4/1329 showed that the International Covenant on Civil and Political Rights had been ratified by 13 American States, of which 12 were members of the Organization of American States (OAS) and that 10 of those 12 States had ratified the Optional Protocol; the American continent was therefore the region where the Optional Protocol had obtained the greatest number of ratifications. In addition, 16 American States, including 15 members of OAS, had ratified the International Covenant on Economic, Social and Cultural Rights.

37. The international protection of human rights in the inter-American system was currently in a period of transition between two legal régimes, the first established by the OAS Charter and the American Declaration of the Rights and Duties of Man and the second, which had entered into force on 18 July 1978, deriving from the American Convention on Human Rights. The coexistence of the American Convention and the International Covenants raised a number of legal and practical problems which required consideration in order to achieve harmonization between the two spheres of competence - global and regional. He wished to point out one problem in particular. The English and French versions of article 5, paragraph 2 (a) of the Optional Protocol to the International Covenant on Civil and Political Rights provided that the Human Rights Committee would not consider any communication from an individual unless it had ascertained that the same matter was not being examined under another procedure of international investigation or settlement, whereas the Spanish version - the one most widely used in the Americas - provided that the Committee would not do so unless it had ascertained that the matter had not already been submitted ("no ha sido sometido ya") to another such procedure. The Spanish version should be brought into line with the others by applying the provisions of article 79, paragraph 2, of the Vienna Convention on the Law of Treaties. On the same subject, the American Convention stipulated, as a requirement for admissibility, that "the subject of the petition or communication is not pending in another international proceeding for settlement" (article 46, paragraph 1 (c)) and provided that the Inter-American Commission on Human Rights would consider inadmissible any petition or communication "substantially the same as one previously studied by the Commission or by another international organization" (article 47, subparagraph (d)). It would be appropriate to examine the exact meaning of the concept of "procedure of international investigation or settlement" and to harmonize interpretations of the respective rules on the subject.

38. Another possible source of conflicts of interpretation was the requirement regarding the prior exhaustion of domestic remedies, laid down both in the American Convention and in the Optional Protocol.

39. Although the provisions of article 16 of the International Covenant on Economic, Social and Cultural Rights were consistent with the corresponding provisions of the American Convention, it would be desirable, in order to avoid duplication of effort, to undertake a study of the best way to rationalize international co-operation at the world and regional levels and to co-ordinate the work of the respective implementing bodies.

40. Mr. CALERO-RODRIGUES (Brazil) noted that the Commission had before it a mass of material of varying quality which required more careful study than was possible in a matter of a few weeks. The right to development was a necessary consequence of the general rights of the human being, a synthesis of all the rights of man. However, the Secretary-General's report on the subject in document E/CN.4/1334 was too ambitious in scope and contained irrelevant material and unconvincing observations, especially in chapter II, section C. Chapter III, section D should have been shorter and more pragmatic. Sections D and E of chapter IV were far too topical. Any implication that the existing country could judge the human rights situation in the country receiving assistance was a distortion of the concept of co-operation. The recommendation for a study contained in paragraph 312 was an extremely controversial one and would best be taken up at a later date. Paragraph 314 suggested that the Commission might wish to consider ways and means by which the promotion of human rights, including the right to development, might be more fully integrated into the entire range of United Nations development activities. That would appear to be an impossible task. The "human rights impact statement" referred to in the same paragraph was impractical and might very well impede development projects or programmes. The suggestion regarding workshops in paragraph 315 might be a useful one for the future but could only be burdensome for the time being. In sum, the report was praiseworthy but far too diffuse, an image out of focus. It failed to identify what was really important. Development was a precondition for all human rights and emphasis should be placed on the removal of obstacles to development. Naturally, ways and means to promote development should include a human rights component, but the way to promote the right to development was co-operation.

The meeting rose at 1.05 p.m.