

2169th meeting

Tuesday, 25 November 1975, at 3 p.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/SR.2169

In the absence of the Chairman, Mrs. Shahani (Philippines), Vice-Chairman, took the Chair.

AGENDA ITEM 73

Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms: report of the Secretary-General (*continued*) (A/10235, A/C.3/645, A/C.3/L.2188, 2189 and Corr.1, 2191)

1. Mr. SPEEKENBRINK (Netherlands) said that, since the item under consideration was one of the most important on the Committee's agenda, his delegation deeply regretted that there was so little time to consider it in depth.

2. In discussing procedures for furthering the protection of human rights and fundamental freedoms, an important distinction should be made between procedures involving conference diplomacy which was open to public scrutiny, as in the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, the Economic and Social Council and the Committee, and procedures which came within the framework of the private diplomacy which could be exercised through the good offices, conciliation or even mediation of international civil servants.

3. With regard to public conference diplomacy, his delegation noted that, over the years, there had been a shift in the emphasis of the work carried out in the field of the protection of human rights and fundamental freedoms. Initially, such work had been concentrated upon the formulation of international standards, which had found their expression in the Universal Declaration of Human Rights and in the International Covenants on Human Rights (General Assembly resolution 2200 A (XXI), annex). Subsequently, there had been a shift towards procedures to ensure the implementation of such standards, in particular when the Economic and Social Council had adopted resolutions 1232 (XLII) and 1503 (XLVIII) and the Commission on Human Rights had established, by its resolution 2 (XXIII),¹ an *Ad Hoc* Working Group of Experts on South Africa, whose mandate was subsequently broadened. A further significant step would be taken with the entry into force of the International Covenants and the establishment of the Human Rights Committee provided for in article 28 of the International Covenant on Civil and Political Rights, which would be able to inquire into the implementation of those instruments by the contracting parties. The Human Rights Committee would deal only with States which had become parties to the International Covenants and the Optional Protocol, thus supplementing existing procedures,

which would nevertheless continue to be necessary in order to deal with States which were not parties to those instruments.

4. In order for such implementation procedures to work, it was essential for the necessary information to be available to all the bodies concerned. Thus, the individual concerned must know what his human rights and fundamental freedoms were and, to that end, the co-operation of Governments and non-governmental organizations was essential. It was also on the basis of information received that difficulties and obstacles with regard to the enjoyment of human rights could be identified and the appropriate action could be taken. In that connexion, he drew attention to the views expressed by his Government in paragraph 136 of the report of the Secretary-General (A/10235).

5. A second important aspect of the process of collecting information was the communications procedure. Currently, little action could be taken on the many communications received annually, most of which could serve only as background information for discussions of a general nature. It would therefore be necessary to review the communications procedure established in accordance with Economic and Social Council resolution 1503 (XLVIII) because, under the current system, far too many delays occurred in the handling of communications. That situation was particularly unsatisfactory since the communications appeared to reveal a consistent pattern of gross violations of human rights. Procedures should be worked out to enable the various bodies concerned to examine the communications on a more regular and timely basis. Provision should also be made for notifying the sender of the communication and the Government concerned of any decisions taken with respect to the communication.

6. The third important aspect of information-gathering was fact-finding. There was currently no generally accepted procedure for fact-finding in the field of human rights. Special arrangements, such as the establishment of the *Ad Hoc* Working Group of Experts set up in accordance with resolution 2 (XXIII) of the Commission on Human Rights and the *Ad Hoc* Working Group to inquire into the present situation of human rights in Chile, had proved their merit and constituted valuable examples of procedures for investigating human rights situations of great concern, but the future effectiveness of fact-finding procedures would undoubtedly depend largely upon the co-operation of Governments.

7. With regard to private diplomacy, which could include advice, good offices, conciliation or mediation by international civil servants, he noted that such functions were carried out between sovereign States and the international community and related to situations which might exist in certain countries. The very sensitive nature of such proce-

¹ See *Official Records of the Economic and Social Council, Forty-second Session, Supplement No. 6*, chap. IV.

dures required that information on them should not be made public. His delegation was of the opinion that more emphasis should be placed upon such methods, by which the United Nations could exercise moral influence and serve as a channel of communications. In that connexion, further consideration should be given to such alternative approaches as the establishment of a High Commissioner for Human Rights, the establishment of regional commissions for human rights and the strengthening of the good offices function of the Secretary-General.

8. Referring to alternative approaches which would involve structural changes, he said that the Commission on Human Rights should be authorized to hold special or emergency sessions to deal with urgent situations involving mass violations of human rights. Consideration might also be given to the possibility of transforming the Trusteeship Council into a human rights council, thus raising human rights issues to the level of the questions dealt with by the Security Council and the Economic and Social Council. His delegation noted with some surprise that in chapter III of the Secretary-General's report (A/10235) no mention was made of a proposal to that effect made by his delegation at the twenty-eighth Session of the General Assembly.

9. His delegation was of the opinion that the report of the Secretary-General should have reflected the individual contributions of States which had replied to the questionnaire sent by the Secretary-General in accordance with General Assembly resolution 3221 (XXIX). Moreover, it found the contribution of the Secretary-General to the thinking process on alternative approaches somewhat lacking in depth and had not been able to determine from the report exactly what the contribution of non-governmental organizations had been. Some of those questions might be answered if the Secretariat were to publish an addendum to the report which would contain a description of individual contributions and be submitted to the General Assembly at its thirty-first session.

10. Lastly, since his delegation hoped that at the thirty-first session, the Committee would be able to devote to the question the attention it deserved, it fully supported draft resolution A/C.3/L.2188.

11. Mr. GRAEFRATH (German Democratic Republic) said that the picture presented in the Secretary-General's report did not reflect the work actually done by and the tasks facing the United Nations in the field of human rights. While chapters II and III rightly noted the importance of national implementation measures concerning conventions, declarations and resolutions on human rights and their promotion by the United Nations, they were not dealt with in sufficient depth in the report. The report mentioned only briefly the extremely important task of safeguarding economic, social and cultural rights. The same applied to the right of peoples to self-determination: the report contained no assessment of the effectiveness of the relevant procedures and measures. On the other hand, it was overloaded with proposals and suggestions which had been made during the past 30 years but which had never been adopted as alternative approaches by the majority of States.

12. The report was concerned mainly with a variety of procedures which had the common aim of converting the

United Nations into a supervisory body which would be concerned with violations of civil and political rights of individuals in a given country. In his delegation's opinion, the report did not provide balanced guidelines for future deliberation on the question in either the Commission on Human Rights or the Third Committee.

13. Under Articles 55 and 56 of the Charter of the United Nations, it was the task of the United Nations to promote co-operation between States in ensuring universal respect for, and observance of, human rights and fundamental freedoms for all without distinction, with a view to the creation of peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples. The obligation to co-operate in that field was based on the assumption that the safeguarding of human rights fell within a State's domestic jurisdiction and was implemented in every country in accordance with its social system and national and cultural traditions. Because that was the task of every State, the safeguarding of human rights had become the subject of international co-operation, as envisaged in Chapter IX of the Charter. The various human rights conventions, the International Convention on the Elimination of All Forms of Racial Discrimination (General Assembly resolution 2106 A (XX), annex) and the International Covenants on Human Rights had been drafted accordingly. They did not authorize the United Nations to uphold the rights of individuals against those individuals' countries, but rather imposed international obligations on States. Neither the Charter nor the various human rights conventions transformed the United Nations into a supervisory body for the implementation of respect for human rights within States. Even where one or another provision of a convention was violated, the United Nations was not competent to deal with the case; what was involved was the implementation procedure established by that convention. It could not be otherwise, for, if it were, a situation would arise in which States not parties to a convention would pass judgement on the observance of its provisions by contracting parties.

14. Quite different from the functions envisaged in Articles 55 and 56 of the Charter was the competence of the United Nations in situations where gross and systematic violations of human rights created a situation which was likely to impair friendly relations between nations or endanger peace and which was therefore of international concern. That was the basis of the actions undertaken in connexion with General Assembly resolution 1514 (XV) and the establishment of *ad hoc* groups to inquire into the violation of human rights in South Africa, Chile or the territories occupied by Israel. Similarly, the relevant Economic and Social Council resolutions did not provide for the treatment of individual cases of violations of human rights, but called for an examination to determine whether there existed a situation which revealed a consistent pattern of violations of human rights.

15. Failure to differentiate between the promotion of human rights, the safeguarding of which was the responsibility of the respective States, and the violation of the commitment of States to peace, or a gross or systematic violation of human rights of concern to the international community, would lead to a fundamental change in the meaning of Article 55 of the Charter, which was closely

connected with Article 2, paragraph 7. The obligation of peaceful co-operation on the basis of the sovereign equality of States would then be replaced by the possibility of interference in the domestic affairs of sovereign States. That was a danger inherent in all attempts to make the United Nations or its bodies competent to investigate individual cases of violations of human rights. The proposal contained in draft resolution A/C.3/L.2189 should therefore be rejected.

16. If a State was prepared to authorize an international body to investigate special cases or communications, that could easily be done. In that regard, he noted that various international conventions and covenants provided for such procedures. However, a State could not be subjected to such a procedure by a majority decision, particularly if that majority was not composed of a majority of the contracting parties.

17. It should be borne in mind that some States which placed great emphasis on the treatment of individual communications and cases were not even parties to the main human rights instruments and that some of them had rejected the concept of universal penal jurisdiction in connexion with the International Convention on the Suppression and Punishment of the Crime of *Apartheid* (General Assembly resolution 3068 (XXVIII), annex), alleging that it was not a matter of international concern. With regard to the deliberations in the Security Council on South Africa and Southern Rhodesia, some countries had declared explicitly that the existence of a racist State or the establishment or maintenance of a colonial régime was not of international concern. Thus, the same people who claimed competence to investigate individual cases of violations denied such competence in cases of systematic mass violations of human rights. If attempts to divert the Committee's attention from systematic mass violations of human rights and fundamental freedoms likely to impair friendly relations among nations succeeded, attention would no longer be focused on *apartheid*, racism, racial discrimination and colonialism. Concern for those issues would be replaced by investigations into undefined individual cases in a given country, which would undoubtedly lead to interference in the internal affairs of States. Such attempts were often closely connected with the attitude that one country or some two dozen countries were the yardstick for measuring freedom and democracy in the world. It was essential to bear in mind that States with different social systems had equal rights in the United Nations.

18. Human rights in the United Nations were not limited to civil and political rights. The right to self-determination and sovereignty over natural resources were fundamental human rights, whereas the protection of private property or means of production was no longer regarded as a universal human right. For his country, a socialist State, the safeguarding of human rights started with the expropriation of privately owned means of production. For it, capitalist society was not a yardstick for the implementation of human rights. Indeed, it was capitalist society which had been responsible for colonialism, racism and two world wars and was now unable to provide full employment.

19. His delegation was convinced that the purposes of the Charter would not be met by a confrontation in the field of human rights or recourse to political propaganda. In its opinion, the safeguarding of human rights did not depend so much on the quantity and quality of international implementation measures as on the social basis and policy of States and observance of the basic principles of international law, especially the maintenance of peace.

20. With regard to the question of implementation measures, he said that there already existed a number of different reporting procedures in the United Nations and its specialized agencies. His delegation was of the view that the effectiveness of the existing procedures could be improved considerably by the adherence of additional States to the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of *Apartheid* and the International Covenants on Human Rights. Also, a more careful evaluation could be made of the numerous reports submitted by Member States, in particular the voluminous material available concerning economic, social and cultural rights.

21. A new situation would arise with the entry into force of the two International Covenants on Human Rights, since the existing implementation measures would be enlarged. A new body, the Committee on Human Rights, would be established and contracting States would have to report on two levels. While that new Committee would discuss only the reports of the contracting parties, the reports of States which were not parties to the International Covenant on Civil and Political Rights would be submitted to the Commission on Human Rights. His delegation thought that it would be desirable to consider the reports of States which were not parties to the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political Rights in the Commission on Human Rights in the same way that reports of the contracting parties would be considered in the committee in question. The system of utilization of the reports concerning the implementation of economic, social and cultural rights should also be improved; that would increase the effectiveness of the existing reporting procedure.

22. In conclusion, he said that his delegation felt that alternative approaches and ways and means for ensuring respect for human rights should be considered on the basis of comprehensive data reflecting the experience gained in the implementation of existing instruments.

23. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that his Government's position on the item under consideration was set forth in the reply sent to the Secretary-General in response to his request for the views of Member States.

24. In the 30 years of its existence, the United Nations had made great efforts to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion. The most significant result had been the drafting within the framework of the United Nations and the adoption by the General Assembly of a

whole series of important international legal instruments aimed at achieving that goal, such as the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide (resolution 260 A (III)), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Political Rights of Women (resolution 640 (VII)) and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*. Under the auspices of the United Nations, a large number of bodies had been set up to deal with questions concerning respect for human rights and fundamental freedoms.

25. In his delegation's view, the activities of the United Nations in that field could, on the whole, be regarded as positive. The Secretary-General's report (A/10235) described that situation briefly but the picture it gave was not complete.

26. It was known that the question under consideration had been included in the agenda of the General Assembly after a proposal by the Consultative Council of Jewish Organizations for the establishment of a High Commissioner for Human Rights had been examined and rejected. His Government had repeatedly expressed its opposition to that proposal and to the very idea of the establishment of a United Nations system of supranational bodies whose activities might be used by a certain group of States for open or covert interference in the internal affairs of other States. In addition to the obvious negative consequences for international co-operation in the field of human rights and freedoms that would flow from the establishment within the United Nations system of such a supranational post, his delegation wished to point out that the proposal was clearly aimed at giving the erroneous impression that the United Nations was not able to solve by itself all or most of the problems concerning the protection of human rights and freedoms. It should be borne in mind that the activities of the United Nations concerning the promotion of human rights and fundamental freedoms depended primarily on the extent to which the Member States themselves strove to implement the goals set forth in the Charter and the extent to which their internal and external policies were in keeping with those goals. Attempts to confer on the United Nations the basic responsibility for the implementation of human rights and freedoms on a world scale were being used by certain States to conceal the fact that their policies did not promote universal respect for human rights. In that connexion, he noted that many Members of the United Nations which spoke of the need to promote human rights had not signed or ratified such instruments as the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights.

27. The activities of the United Nations in that field could not be considered in isolation from its other functions. On the contrary, international experience convincingly demonstrated that the effectiveness of efforts to ensure respect for human rights, including measures taken by the United Nations, depended directly on the general situation in the world. It was no accident that flagrant mass violations of human rights took place where there was a policy of aggression, colonialism and racism and where the workers were subjected to capitalist exploitation. Thus, the more

consistently the United Nations fought for the strengthening of peace and security and against all manifestations of aggression, colonialism and racism, and the more actively it took a position in support of national liberation and democratic movements and defended the interests of the working masses, the more favourable would be the conditions created for enhancing the effectiveness of its activities in the field of human rights and freedoms.

28. His delegation wished to draw attention to the following approaches to improving the effective enjoyment of human rights and fundamental freedoms. The first was mobilization of world public opinion against gross mass violations of human rights. The United Nations should constantly keep such violations of human rights within its purview. Examples of positive action in that respect included the Programme for the Decade for Action to Combat Racism and Racial Discrimination (General Assembly resolution 3057 (XXVIII), annex), General Assembly resolution 3219 (XXIX) on the protection of human rights in Chile, and resolution 1 (XXX)² adopted by the Commission on Human Rights on the violation of human rights in the territories occupied as a result of hostilities in the Middle East.

29. The second approach related to ensuring the maximum effectiveness of existing international agreements on human rights. In his delegation's opinion, an important place in United Nations activities should be given to measures designed to increase the number of parties to basic international legal instruments on human rights and their conversion into universal international agreements. In that connexion, he referred to the International Covenants on Human Rights and said that their prompt entry into force and ratification by the largest possible number of States would constitute a significant advance in United Nations activities in that field. The same applied to other instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (General Assembly resolution 2391 (XXIII), annex) and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*. Participation in such instruments by a significant number of States belonging to various social and economic systems and situated in different regions would not only increase their effectiveness, but would also help to raise the level of United Nations activities in the field of human rights and fundamental freedoms as a whole.

30. The third approach consisted of the preparation of new international legal instruments for the protection of human rights. Such activities should be designed to resolve urgent problems involving the enjoyment of human rights and the creation of the necessary international conditions. The effectiveness of United Nations activities would depend largely on the extent to which new efforts at codification of norms relating to human rights were aimed at strengthening democratic principles in international law, and on the degree to which they reflected positive changes in the international situation and were in keeping with the interests and aspirations of progressive forces in the world. In that connexion, he stressed the importance of the

² *Ibid.*, Fifty-sixth Session, Supplement No. 5, chap. XIX.

proposals put forward by the USSR in the Commission on Human Rights, at its thirty-first session,³ on the right of everyone to live in conditions of international peace and security, on legal guarantees and international measures aimed at ensuring economic and cultural rights, on the negative consequences of the activities of transnational monopolies for the enjoyment of human rights and on the rights and freedoms of trade union organizations.

31. The fourth approach related to the improvement of the activities of existing United Nations bodies concerned with human rights questions. In that connexion, he said that it was essential to find ways of concentrating the attention of those bodies on the most important questions within their fields of competence and of eliminating duplication. That could be achieved, for example, by a more precise delimitation of functions between bodies such as the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination and the Commission on the Status of Women.

32. Referring to the proposals contained in document A/10235, his delegation regretted that only 18 States had replied to the Secretary-General's request, which indicated that a large number of Member States were apparently not interested in the consideration of the question under examination. The proposal concerning the strengthening of the capacity of existing United Nations bodies to promote the effective enjoyment of human rights and fundamental freedoms should be considered, bearing in mind the early entry into force of the International Covenants on Human Rights.

33. His delegation considered that the systems of periodic reports on human rights mentioned in chapter IV, section D, of the report of the Secretary-General required close study, since the International Covenants also established a system for the submission of periodic reports. In that regard too it was essential to avoid overlapping.

34. The report also drew attention to the procedures for considering communications. As a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, he had participated in the deliberations of a working group which had dealt with the question of communications. He could assure members that the system had worked properly. All the proposals referred to in the report had been considered in the Commission on Human Rights and had been rejected as being unlikely to enhance the work of the Sub-Commission. In that connexion, he said that unfortunately the principle of the confidential nature of communications had been violated, since *The New York Times* had published, on 10 March 1974, a full record of the communications transmitted to the Sub-Commission for its consideration. As a result, the Sub-Commission had drawn special attention to the need to respect the confidential nature of such communications.

35. Referring to draft resolution A/C.3/L.2188, he said that his delegation wished to propose the deletion in operative paragraph 2 of the word "all" and the words "and in particular those", since in its view the States involved

were those which had not replied to the Secretary-General's request. In addition, his delegation proposed the deletion in operative paragraph 4 of the words "with high priority", since in its resolutions 3136 (XXVIII) and 3221 (XXIX), the General Assembly had not accorded priority to the item in question.

36. Miss DUBRA (Uruguay), referring to the report of the Secretary-General (A/10235), said it was unfortunate that the important proposals contained in chapter III had not received sufficient support from Member States. Some of those proposals had been based on resolutions of the International Conference on Human Rights held at Teheran in 1968 and others had been made on the initiative of Governments, which had introduced new ideas and criteria out of a real concern for the protection and promotion of human rights. The proposals had, however, encountered opposition from countries which had invoked the principle of non-interference in their internal affairs, maintained that it was neither necessary nor advisable to adopt new criteria and shown little enthusiasm for the elaboration of declarations or conventions of a purely humanitarian nature on matters such as the protection of journalists engaged in dangerous missions or the elimination of all forms of religious intolerance.

37. Her delegation attached particular importance to the question under consideration and had always been prepared to take further measures to ensure the effective enjoyment of human rights and fundamental freedoms. Thus, at the fifth session of the General Assembly, her delegation had submitted a proposal⁴ for the establishment of the office of Attorney-General for Human Rights. In 1965, Costa Rica had made a similar proposal,⁵ using the title "High Commissioner for Human Rights". Although many delegations had supported that initiative, it had yet not been possible to create a system for improving the effective enjoyment of human rights and fundamental freedoms. In her delegation's opinion, however, it was essential to create more effective machinery than the United Nations currently had.

38. Her delegation would not press for the establishment of a High Commissioner for Human Rights and was prepared to accept the establishment of any other similar office whose purpose would be the promotion and protection of human rights and which would work in close co-operation with States, the United Nations bodies concerned and regional organizations. A High Commissioner for Human Rights should not be considered as a kind of judge whose task would be to criticize sovereign States. Rather, he should be an instrument for the promotion of human rights whose main functions should be to provide services, assistance and advice in connexion with human rights issues and to act as an impartial mediator for cases in which local and regional remedies had been exhausted.

39. It might be said that the United Nations already had procedures, such as those provided for in Economic and Social Council resolution 1503 (XLVIII), which made it

³ See E/CN.4/1168, para. 38.

⁴ See *Official Records of the General Assembly, Fifth Session, Annexes*, agenda item 63, document A/C.3/L.74 and Add.1.

⁵ *Ibid.*, *Twentieth Session, Annexes*, agenda item 98, document A/5963.

unnecessary to establish the post of High Commissioner for Human Rights. Her delegation was, however, of the opinion that that resolution was insufficient, particularly since the Sub-Commission on Prevention of Discrimination and Protection of Minorities was not able to examine all of the many communications and replies it received from Governments. It should also be kept in mind that, because of their composition, bodies which dealt with human rights seemed to have an unfortunate tendency to consider human rights issues within a political context. Such issues should be considered without reference to political matters and without discrimination as to the legal system or the size of the country in question. Moreover, with the possible exception of the progress achieved in the elimination of racial discrimination and the promotion of the right of all peoples to self-determination, that tendency on the part of some United Nations bodies had had the effect of neutralizing the positive influence of the United Nations in the solution of problems relating to the promotion of human rights. For that reason, her delegation supported draft resolution A/C.3/L.2189, which contained a constructive proposal for the appointment of a group of experts in which the different geographical areas would be represented and the different legal systems would be taken into account, for the purpose of preparing a study on the establishment of a system for investigating allegations of violations of human rights. That proposal represented a step forward in efforts to provide adequate machinery not only for investigations of allegations of violations of human rights, but also for the prevention of such violations and the promotion of human rights and fundamental freedoms.

Mrs. Burnley (United Republic of Cameroon), Vice-Chairman, took the Chair.

40. Mr. BAHNEV (Bulgaria) said that his delegation regretted the fact that there was insufficient time to discuss item 73 in detail. In discussing the item, it was logical to consider first the foundations on which the work of the United Nations should be based. His delegation considered that the expression "within the United Nations system" in the title of item 73 referred to the Charter of the United Nations, the framework of all the activity of the United Nations. The Preamble to the Charter expressed the determination of the peoples of the United Nations to reaffirm faith in fundamental human rights and in the dignity and worth of the human person, and the promotion and encouragement of respect for human rights and fundamental freedoms for all was listed as one of the purposes of the United Nations in Article 1, paragraph 3. That same goal was reaffirmed in Article 55 c in the context of international economic and social co-operation, and in Article 56 all Members pledged themselves to take action for the achievement of the purposes set forth in Article 55. However, Article 2, paragraph 7, contained a very important reservation. The basic conclusion that emerged was that all the work of the United Nations in the sphere of human rights should be based on the co-operation of all States. Those basic principles had of course been developed in the practice of the United Nations bodies. The Charter also contained provisions on matters connected with human rights or other questions which threatened international peace and security. It had been confirmed in United Nations practice that systematic and mass violations of human rights by Member States were contrary to the

Charter and to its basic provisions on international co-operation in promoting respect for human rights. The United Nations therefore reacted to situations involving aggressive action, the struggle against colonialism and for the liberation of peoples or the odious policy of *apartheid* in southern Africa.

41. Like many other delegations, his delegation considered that there were short-comings in the activity of the United Nations in promoting respect for human rights and fundamental freedoms; however, those short-comings derived not from inadequacies in the Charter or in the structure of United Nations bodies, but from a lack of co-operation on the part of Member States based on strict observance of the provisions of the Charter. His delegation did not believe that the establishment of new organs in the United Nations would help to eliminate such short-comings; the United Nations would still be confronted with the same problem of lack of co-operation with which it had to contend in existing organs.

42. With regard to the suggestion of the representative of the Netherlands that the Commission on Human Rights should be authorized to hold special sessions on aspects of the human rights situation, although that would be technically possible his delegation did not believe that it would be an effective solution to the problem. It also disagreed with the idea of the Netherlands representative that the Trusteeship Council should be transformed into a human rights council. The Trusteeship Council had been given special powers under the Charter because, at the time when the Charter had entered into force, the colonial Powers owned a large part of the world and the right of the peoples to self-determination was therefore of paramount importance. For the same reason his delegation would oppose the establishment of the post of High Commissioner for Human Rights. It believed that that would be contradictory to the Charter and to the basic principle of the international co-operation of States in promoting the observance of human rights.

43. At the preceding meeting, the representative of Sri Lanka had rightly drawn attention to the wide variety of social and economic conditions prevailing in the countries which were Members of the United Nations and had pointed out that the effective realization of basic human rights and fundamental freedoms essentially required overall development and the improvement of living conditions, especially in developing countries. He recalled that representatives of African, Asian, Latin American and socialist countries had often insisted on that aspect. Because of the variety of levels of development, a common denominator was needed on which all Member States would agree. His delegation considered that the International Covenants on Human Rights constituted precisely that common denominator and therefore believed that the United Nations should strive to make those Covenants universal. Some delegations had observed that there were regional conventions which went further than the International Covenants, but the Covenants were very broad in scope and covered all aspects of economic, social, cultural, political and civil rights. His delegation believed that the existing system of United Nations bodies would be supplemented and improved if the International Covenants were universally implemented. For example, if the system of reporting provided for in article

40 of the International Covenant on Civil and Political Rights was fully implemented it would provide for a new United Nations activity. His delegation considered that its approach was the most realistic and reflected current international conditions, the Charter of the United Nations and the norms of contemporary international law. It agreed with the representative of the German Democratic Republic that the question under consideration should be examined on the basis of experience in implementing the International Covenants on Human Rights and it also considered that any overlapping in United Nations bodies in the sphere of human rights should be avoided.

44. His delegation recognized, as did others, that draft resolution A/C.3/L.2188 was a procedural draft resolution because there had not been enough time to make more detailed studies of the question. He hoped that the delegation of the United Kingdom would accept the two amendments submitted by his delegation in document A/C.3/L.2191. As to draft resolution A/C.3/L.2189, his delegation considered that it contradicted the Charter of the United Nations and had been motivated entirely by narrow political considerations which had nothing to do with the protection of human rights and fundamental freedoms. Furthermore, similar proposals had already been turned down on several occasions in various United Nations bodies, including the General Assembly.

45. Mrs. DE BARISH (Costa Rica) said that, when the Charter of the United Nations had been adopted, it had been decided that one of the goals of the Organization would be to promote the effective enjoyment of human rights and fundamental freedoms. Her delegation attached great importance to the formulation of international legal instruments as a means of ensuring the protection of human rights and implementing the provisions of the Universal Declaration of Human Rights. It was currently more necessary than ever for the United Nations to elaborate conventions which would later become part of the legislation of Member States and to urge States to ratify the conventions already elaborated, in accordance with decisions such as resolution XXII⁶ of the International Conference on Human Rights, on the universal accession by States to international instruments relating to human rights. Although some progress had been achieved with regard to accession to the International Convention on the Elimination of All Forms of Racial Discrimination, the same was not true of the International Covenants on Human Rights and the Optional Protocol, which had been open for signature since 1966. It was, however, encouraging that the International Covenant on Economic, Social and Cultural Rights had obtained the number of ratifications necessary for its entry into force, and her delegation hoped that the International Covenant on Civil and Political Rights and the Optional Protocol would also enter into force in the near future, particularly since only one more ratification was needed.

46. With regard to chapter III of the report of the Secretary-General (A/10235), which included proposals for the strengthening of the capacity of existing United Nations organs and a proposal for the establishment of a United

Nations High Commissioner for Human Rights, her delegation continued to feel that the latter proposal would help to strengthen United Nations institutional machinery for the promotion of the effective enjoyment of human rights and fundamental freedoms. It had been for that reason that, in 1965, her delegation had submitted a proposal for the establishment of such a post.⁵ The progress made on that proposal was described in paragraphs 77 to 87 of document A/10235 and, according to chapter IV of that report, it seemed that the establishment of a High Commissioner for Human Rights was still considered feasible by many countries.

47. In that connexion, she said that her country had replied to the Secretary-General's questionnaire because it considered it would be useful to receive information on the views of other countries in the same way. Thus, for example, paragraphs 160 to 162 of document A/10235 contained very positive comments by the Governments of Norway, the United States and the United Kingdom; the latter had stated, in particular that it was willing to consider the possibility of several human rights commissioners rather than a single one. Her delegation agreed with the opinion of the Government of Italy, expressed in paragraph 163, that the action of the High Commissioner would not constitute interference in domestic affairs, since violations of human rights were currently considered a fully legitimate concern of the international community. Paragraph 164 contained suggestions by Italy on the mandate of the High Commissioner for Human Rights and on the way in which the Commissioner would co-operate with the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights. Paragraphs 165 and 166 referred to interesting alternative approaches suggested by the Federal Republic of Germany, the Netherlands, Italy and Belgium for the establishment of a High Commissioner for Human Rights or a board of human rights commissioners. In that connexion, she noted that her country's original proposal had provided for a group of experts which would give advice and information to the High Commissioner for Human Rights. The Government of Belgium had also expressed the view that the good offices function of the Secretary-General was very important and her delegation shared that view, which was reflected in paragraphs 179 to 181. With regard to the suggestions of non-governmental organizations (para. 185) she noted that the International Commission of Jurists had suggested that the Sub-Commission on Prevention of Discrimination and Protection of Minorities should consider the existing relationship between human rights and Article 2, paragraph 7, of the Charter, with a view to establishing criteria under which violations of human rights could be considered as matters for legitimate international concern. The International Union of Students had expressed the view that, within the framework of a general review of the Charter of the United Nations, Article 2, paragraph 7, should be thoroughly studied to ensure that Member States did not in any way use that provision to avoid their responsibilities for violations of human rights.

48. With regard to the consideration of item 73 at the current session, her delegation shared the view of other delegations that it was always the discussion of the substantive aspect of the question which was postponed from year to year, regardless of the title of the item. It

⁶ See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No. E.68.XIV.2), p. 17.

therefore supported draft resolution A/C.3/L.2188, which stressed the need to give the item high priority at the thirty-first session of the General Assembly. The draft resolution submitted by Chile (A/C.3/L.2189) represented a positive approach to the problem and her delegation was prepared to support it because it provided for specific means of making progress in the study of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. If the Committee decided, however, to postpone consideration of the item, her delegation considered that the Chilean proposal should be included as one of the alternative approaches contained in the report of the Secretary-General.

49. Miss BEAGLE (New Zealand) said it was regrettable that the Committee had again been unable at the current session to hold a substantive debate on the item under consideration. Her delegation had looked forward to the important and wide-ranging discussion of improvements in the field of human rights which was to have taken place as a result of the draft resolution submitted by the representative of the United Kingdom at the twenty-ninth session and subsequently adopted as General Assembly resolution 3221 (XXIX). In accordance with that resolution and in anticipation of such a discussion, her Government had submitted its comments to the Secretary-General on the question of alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms. It therefore welcomed the report of the Secretary-General (A/10235), which had been issued despite the disappointingly small number of countries which had replied to the questionnaire.

50. Since its establishment, the United Nations had made impressive progress in identifying and defining human rights standards. The gap between principle and practice was, however, often very wide and there was little doubt that implementation procedures were in need of radical improvement. In that connexion, her country continued to feel that the authority of existing United Nations bodies could be most effectively strengthened by the establishment of a United Nations High Commissioner for Human Rights. As an independent authority, a High Commissioner for Human Rights could act as an intermediary between existing United Nations bodies and non-governmental organizations and could approach Governments directly to negotiate the settlement of disputes and encourage the ratification of human rights conventions. He could also provide specific means of controlling and processing communications received on violations of existing conventions. As a result of the appointment of a High Commissioner, it would be possible to streamline and depoliticize the processing of communications on human rights, in accordance with the recommendations of the Group of Experts on the Structure of the United Nations System. Moreover, such an appointment would contribute more to improving the protection of human rights within the United Nations system than would the creation of additional bodies.

51. She drew the attention of those delegations which remained opposed to the establishment of a High Commissioner for Human Rights to the obvious parallel between the establishment of such a post and the establishment of the United Nations High Commissioner for Refugees. When

the High Commissioner for Refugees had been appointed, there had been many expressions of doubt about the viability of such an office. Currently, however, few would dispute the fact that the United Nations High Commissioner for Refugees had made a major contribution to the alleviation of human suffering throughout the world. Her delegation believed that a High Commissioner for Human Rights could make a similar contribution.

52. Her country was, however, prepared to be completely flexible in considering alternative approaches and hoped that other countries, too, would be prepared to consider any proposal which might improve or promote the effective enjoyment of human rights and fundamental freedoms. In that connexion, her delegation regretted that, during consideration of agenda item 12, the United States had withdrawn its draft resolution on amnesty for political prisoners (see 2166th meeting), which had gone directly to the heart of the whole question of human rights and should have been dealt with as a strictly humanitarian issue. In the same light, her delegation had taken note with interest of draft resolution A/C.3/L.2189 and reserved the right to comment further on it at a later stage.

53. Universal standards and conventions on human rights could not ensure the effective enjoyment of human rights unless they were nationally and regionally implemented and internationally accepted. Thus, in view of the importance of national laws and social customs in promoting the implementation of existing conventions on human rights, her country was in favour of the establishment of regional commissions for human rights. As a Pacific country, New Zealand was aware of the impracticality of trying to impose a western European administrative structure on the Polynesian social, cultural and legal traditions of neighbouring States. Regional commissions could provide a solution to such a problem by promoting the implementation of international conventions in specific societies or geographical areas. Her country did not, however, see any need for a number of regional commissioners and felt that a single High Commissioner for Human Rights could more appropriately be responsible for links between regional bodies and the United Nations.

54. Her delegation hoped that draft resolution A/C.3/L.2188 would be adopted by consensus. It did not agree with the Soviet delegation that item 73 should not be given high priority at the thirty-first session of the General Assembly, because one of the Committee's primary responsibilities was to continue the search for ways and means of protecting and promoting human rights and fundamental freedoms.

55. Mr. ALLAGANY (Saudi Arabia) recalled that when in the past the Committee had discussed the question of establishing a post of High Commissioner for Human Rights, a majority, including his own delegation, had opposed the idea. Although the Committee was currently discussing alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, it seemed that some delegations were continuing to press the idea of establishing a post of High Commissioner for Human Rights which had already been rejected, as was shown by the report of the Secretary-General

(A/10235). For that reason, his delegation supported the proposal of the delegation of the Soviet Union that, in operative paragraph 4 of draft resolution A/C.3/L.2188, the words "with high priority" should be deleted; it further proposed that in the same paragraph "thirty-first" should be changed to "thirty-second". If the amendment by the USSR was not accepted by the United Kingdom delegation he would ask for a separate vote on it.

56. Mr. SRINIVASAN (India) said that draft resolution A/C.3/L.2189 contained so many suggestions it would require a lengthy discussion. Moreover, the suggestions were so sweeping that his Government would have to consult various ministries before it could send him instructions. The draft resolution set a precedent by condemning a system established by the Economic and Social Council—namely that set up by Council resolution 1503 (XLVIII)—for not fully achieving the objectives for which it had been created; however, no one would think of claiming that that system was infallible. He knew what the reaction of any sovereign country would be to the stipulation in operative paragraph 2 of draft resolution A/C.3/L.2189 that the system provided for in that draft should be compulsory for all Member States. In accordance with the provisions of operative paragraph 3, the Group of Experts would have to complete its work in about 10 months, which would be virtually impossible.

Statements in exercise of the right of reply

57. Mrs. PALTÍ (Israel), speaking in exercise of the right of reply to some statements made at the 2167th meeting, said she wished to thank the representative of Iraq for having clarified certain points about Israel. In Israel there were both Jews and Arabs among pimps, prostitutes, burglars, drug traffickers and other criminals, and there were both Jews and Arabs among the policemen whose task it was to arrest suspected criminals. The police in Israel, like their counterparts in other places, did not enjoy interference in the pursuit of their activities, especially if they were dealing with experienced criminals who, in democratic societies, could expect the courts to investigate a charge of maltreatment by the police. As the Iraqi representative had pointed out, however, the police station in question was situated in a residential district and detainees were brought into an open courtyard; if there had been any truth in the charges of police brutality that would not have been so. Israel did not have the isolated fortresses and sound-proof cellars which existed in a number of countries, but had citizens who were sensitive to any infringement of human rights, journalists who voiced their concern, a free press and a judicial system to remedy unlawful behaviour, whether by professional criminals or by uniformed police. As to the quotation given at the 2167th meeting from statements made by Ms. Langer, she referred the Committee to the reply of the representative of Israel to the Iraqi representative's quotation from the same source at the 2165th meeting.

58. In contrast to the state of affairs in Israel, when dissidents in Iraq were singled out for "treatment" by the secret police they were considered fortunate because, more

often than not, Iraqis who did not agree with their Government were simply put to death. To cite only one example, the official Syrian news agency SANA had reported at the end of May 1975 that 81 Iraqis had been executed for opposing their Government's agreement with a neighbouring country. The Government of Iraq not only lacked the moral basis from which to pronounce on the observance of human rights but also had little credibility in the eyes of the world as well as of fellow Arabs. Tahsin Bashir, a spokesman for President Sadat of Egypt, had put it quite simply when he had said on 10 September 1975, as reported by United Press International from Cairo, that the Iraqis had been known for their inaccuracies.

59. Mr. ZAHAWIE (Iraq), speaking in exercise of the right of reply, said that the views of the representative of Israel on Iraq were quite irrelevant to his statement. The irrefutable evidence was that Israel was an aggressor which was subjugating and expelling the indigenous people of Palestine. It was also occupying the territories of three neighbouring Arab States and carrying out expulsion, mass reprisals and torture. Those facts were known to everyone.

60. *The New York Times* of 5 April 1974 had reported that Dr. Israel Shahak, Chairman of the Israel League of Human and Civilian Rights, testifying before the Subcommittee on International Organizations and Movements of the Foreign Affairs Committee of the United States House of Representatives on the previous day, in connexion with the maltreatment of Arab civilians by Israeli authorities in the occupied territories, had described his horror at the blowing up of Arab houses by Israeli demolition squads. At the same hearing, the Israel League of Human and Civilian Rights had reported on the disappearance of prisoners and had given the example of five persons who had been arrested on 5 January 1974 and whose fate was unknown. Furthermore, the International Committee of the Red Cross (ICRC) had stated that at the commencement of hostilities in October 1973, it had sent communications to the Governments of the Syrian Arab Republic, Iraq, Egypt and Israel asking them to apply the draft protocol for the protection of civilians. The Governments of the Syrian Arab Republic, Iraq and Egypt had agreed to do so but, on 19 October 1973, the Government of Israel had refused. That was reflected in detail in the ICRC official press releases which had been published at the time.

61. Mrs. PALTÍ (Israel), speaking in exercise of the right of reply, said that if any sane person—she was excluding Kurds, for obvious reasons—on being accused of a serious offence, was offered a choice between facing trial or perhaps imprisonment in Iraq or in Israel, it was obvious where he would choose to go.

62. Mr. ZAHAWIE (Iraq), speaking in exercise of the right of reply, said that the statement made by the representative of Israel showed the extent of Israeli attempts to interfere in the internal affairs of Iraq. He noted that the insurgents in Iraq used Israeli arms, as had been reported in the local press and the Western press.

The meeting rose at 6.10 p.m.