

2155th meeting

Tuesday, 11 November 1975, at 3.30 p.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/SR.2155

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

AGENDA ITEM 12

Report of the Economic and Social Council [chapters III (sections F, G, I, L and M), IV (sections A and C) and V] (continued) (A/10003, A/10284, A/10285, A/10295, A/10303, A/C.3/637, A/C.3/639, A/C.3/640, A/C.3/642, A/C.3/L.2168/Rev.1, 2172)

HUMAN RIGHTS QUESTIONS (continued)
(A/10003, chap. V, sect. B)

Draft declaration on the rights of disabled persons
(A/C.3/L.2168/Rev.1)

1. Mr. NOTHOMB (Belgium) said that he wished to make two comments on the English text of the draft declaration on the rights of disabled persons (A/C.3/L.2168/Rev.1). First of all, the Philippine delegation wanted the parentheses appearing on pages 2 and 3 of the English text, round such words as "or she", "or her", "or herself", to be deleted because in the context of the International Women's Year that deletion seemed necessary. Furthermore, the representative of Australia had said that in operative paragraph 6 he would prefer to see the word "education" in the English text instead of "schooling", which might not cover advanced studies or certain specialized studies. That request seemed justified and he believed that, in order to ensure uniformity in the texts, the word corresponding to "education" should be used in all language versions. If the other sponsors of the draft resolution had no objections, the text could be so amended.

2. The CHAIRMAN said that if she heard no comments from the sponsors of the draft resolution, she would take it that they agreed to the request by the representative of Belgium.

3. Miss DAHLIN (Finland) noted with satisfaction that the amendment proposed by her delegation (A/C.3/L.2171) had been included in the revised version of the draft declaration. Believing that the rights of disabled persons should be considered in terms of the development of society, her delegation found it essential to add the planning element to the draft declaration. Disabled persons, like other members of society, had the right to a meaningful life with regard both to work and leisure. But it was not enough to adapt certain functions of society in order to make them available to the handicapped. By giving consideration to the special needs and problems of the handicapped at the planning stage, it would be possible to avoid many solutions that were unsatisfactory from the point of view of the individual and economically bad from the point of view of society. Having heard the proposai of the Belgian

delegation, her delegation was ready to accept the new version of the text and wished to be included among the sponsors of the draft declaration.

4. Miss GONZALEZ MARTINEZ (Mexico) said that her delegation, which was one of the sponsors of draft resolution A/C.3/L.2168/Rev.1, welcomed the amendments to the text introduced at the request of the representative of Belgium. Noting with satisfaction that the document had been accepted by a very large number of delegations that had become sponsors, she wished to suggest that the draft declaration be adopted without a vote.

5. Miss MARKUS (Libyan Arab Republic) thanked the representative of Belgium for the clarifications he had provided at the preceding meeting concerning operative paragraph 9 of the draft declaration, dealing with the residence of the disabled, because it was obvious that disabled persons had the right to live in the environment that was most beneficial to them.

6. Miss BEAGLE (New Zealand) welcomed the introduction of the draft declaration on the rights of disabled persons because that document reflected the changing attitudes towards those persons. Since 1949, the year in which the Commission for Social Development first considered the problems associated with disabled persons, the concept of the disabled had changed markedly. In the late 1940s, the Commission had taken up the subject largely in response to the urgent need to rehabilitate the maimed victims of war and its sole objective had been to give them full functional and economic independence. However, it was now recognized that the aim of rehabilitation must be to ensure the maximum physical and psychological adjustment of each disabled person. That awareness that the primary goal was the readjustment of the whole person was reflected in legislation which had just been passed in New Zealand to co-ordinate policy in that area. That legislation defined the Government's responsibilities as promoting social, emotional and physical adjustment to enable the disabled person to live as normally as possible within the community. It laid down guidelines for the necessary social support services and improved existing provisions for support to voluntary organizations concerned with the disabled and to parents of severely disabled children, and for subsidies to organizations engaged in the training, employment and day care of disabled persons. The establishment of an advisory council for the community welfare of disabled persons was an innovation which might be of interest to other delegations. The Council would investigate and make representations to the Government on any matter relating to services and facilities to promote the welfare of disabled persons in the community. Rehabilitation schemes could not operate effectively in isolation; they must be incorporated in general health, education, social welfare and employment programmes and adapted to the eco-

nomic, social and cultural conditions of each country. Her delegation believed that in that field, to be successful, programmes must be based on a partnership of government, voluntary organizations and public understanding and support. It was most important to seek to obtain the widest possible community involvement.

7. As the representative of Madagascar had clearly pointed out (2147th meeting), developing countries were faced with various difficulties in initiating action in that area in view of the many national priorities, the expense and the professional expertise required. New Zealand's experience had shown that co-operation between the Government and voluntary organizations could be successful in minimizing the problem of limited resources. Her delegation was pleased to be one of the sponsors of the draft resolution and it commended the Belgian delegation for the work it had done and for the readiness with which it had accepted the suggested amendments. She hoped that the Committee would adopt the draft by consensus.

8. Mrs. MASSON (Canada) said that her delegation was glad to be associated, as a sponsor, with the draft declaration, one of whose principal merits was that it drew the attention of the public and of Governments to the problems of a particularly vulnerable social group. Canada had long espoused the cause of physically and mentally handicapped persons, with a view to enabling them to participate fully in the life of society, and that concern was reflected in the work on the reform of social security arrangements which had been carried out in recent years. Of late, services for disabled persons had been recognized as a priority need. Canada was currently engaged in drawing up new legislation which dealt, *inter alia*, with the establishment of a full range of rehabilitation services and other supplementary measures for the physically and mentally handicapped. The adoption of draft resolution A/C.3/L.2168/Rev.1, which would be an admirable supplement to the series of instruments drawn up by the United Nations for the protection of human rights, would certainly constitute a decisive step forward in the effort to integrate disabled persons into society.

9. Mr. FERNANDEZ ESCALANTE (Argentina) said that his delegation would vote for the draft resolution although it did not entirely subscribe to the provisions of operative paragraph 1. Nevertheless, it considered that the text had been considerably improved by all the contributions made by many delegations.

10. Mr. LIBERA (Rwanda) said that he was pleased to note that, even if they had no binding force, the recommendations of the Third Committee at least played an undeniable part in arousing awareness of humanitarian and social issues. It was on the recommendation of the Committee that in 1971 the General Assembly had adopted resolution 2856 (XXVI), containing the Declaration on the Rights of Mentally Retarded Persons. The scope and importance of that Declaration could not be underestimated, but it did not cover the physically handicapped. Having unshakable faith in respect for human rights, Rwanda had constitutional and institutional provisions guaranteeing to all without distinction equality before the law and the enjoyment of human rights and fundamental freedoms, so as to ensure the harmonious development of

each and all. The Government had made many efforts and considerable sacrifices to achieve that end: rehabilitation and re-education centres had been established for the physically disabled and a centre for the mentally handicapped had been in operation for about five years, thanks to the joint efforts of the Government and friendly countries, notably Belgium, to which Rwanda wished to pay a special tribute. As several previous speakers had observed, certain developing countries could devote only limited efforts to the proposed action and it was therefore desirable that the international community should heed their appeal on behalf of the disabled. In that connexion, it was gratifying to see that the ILO was increasing and intensifying its efforts in the field of rehabilitation, re-education and vocational training of the disabled. That edifying example should not only elicit admiration but should also be followed by all those whose consciences urged them to come to the aid of their fellows who felt cut off from society. His delegation, which was happy to be a sponsor of the draft declaration, hoped that the Third Committee would adopt it by acclamation.

11. Miss ILIĆ (Yugoslavia) said that she wished to withdraw her delegation's amendment (A/C.3/L.2170), since the sponsors of the draft resolution had accepted it and incorporated the substance in the revised text. As a result, Yugoslavia had become one of the sponsors of the draft resolution.

12. Mr. ABDELKERIM (Chad) reaffirmed his country's keen interest in the physically handicapped and mentally retarded. The Government of Chad had always endeavoured to integrate the disabled into society without any discrimination on the basis of sex, race, colour, language or religion. His delegation, which had studied the text of the draft resolution very carefully, particularly approved of the provisions of the seventh preambular paragraph, since the least wealthy countries were not necessarily the least sensitive to human problems.

13. In spite of its inadequate means, several years ago Chad had set up an artificial limb supply centre in order to help the disabled to become self-reliant and ensure their well-being. As previous speakers had already mentioned, the contribution of the United Nations and its specialized agencies would be a welcome reinforcement to the humanitarian measures taken to assist the disabled in the least wealthy countries. His delegation, which was one of the many sponsors of the draft resolution, hoped that the document would be adopted by acclamation.

14. Mr. BYKOV (Union of Soviet Socialist Republics) said that the question of the rights of disabled persons was of extreme importance to millions of people who, as a result of illness, accidents or other causes, had become disabled. It was also evident that it was not sufficient to proclaim the rights of disabled persons but that it was necessary to ensure the actual enjoyment of those rights. The Soviet Union had always worked towards that goal. Several institutions had been established to that end and an entire series of measures had been taken in an endeavour to improve the life of the disabled. The social security organs of the Soviet Union were chiefly responsible for helping the disabled and they provided training, rehabilitation and reintegration facilities, in accordance with the wishes of

those concerned. Steps had been taken in that direction within the framework of the country's development plans. Furthermore, there was a complete network of vocational training schools which provided training for the disabled and were entirely financed by the Government. Disabled persons who required orthopaedic devices could obtain them free of charge or at very low prices. It was very important that international texts should be drawn up in the United Nations and other organizations because that would make it possible to protect the rights of the disabled in all countries, in the interests not only of the disabled themselves but of society as a whole. It was therefore only natural that the idea of a declaration on the rights of disabled persons should be of particular interest to his delegation. It should, in fact, make it possible to solve certain specific problems facing disabled persons and the declaration might constitute a measure of progress in the safeguarding of their rights. Several delegations had made some interesting comments on the substantive part of the draft declaration which showed that they were anxious to make it as effective and useful as possible.

15. His delegation shared the views expressed by various delegations about the desirability of transmitting the text of the declaration to Governments for their comments. It would thus be possible to take account of the views of various countries. All countries had competent institutions dealing directly with the problems of the disabled, and their comments on the declaration could be very useful. Some delegations, such as those of Yugoslavia, Finland and Iceland, had made proposals or expressed reservations with regard to the original text of the draft declaration which showed their desire to improve the text, and he was glad that the sponsors of the draft had taken them into account in preparing the revised text. Nevertheless, in his delegation's opinion, the text still called for significant additional work, since it had some weak points. Bearing in mind the international texts already adopted in the field of human rights, it would be recognized that the range of rights which could be exercised by disabled persons was still too limited. It was stated in the revised text that disabled persons had the same civil and political rights as other human beings, and the reference to civil rights was an improvement on the original text. On the other hand, no mention was made of the exercise of cultural, social and economic rights on an equal footing with other persons; yet those rights were vitally important, and the provisions on that subject in paragraph 2 were too general in nature. That omission diminished the practical value of the document. His delegation also felt that the text should contain provisions requiring countries to safeguard the exercise of all those rights. In its view, the draft declaration should be further studied so as to take account of the various comments that had been made and to remedy the omissions which still existed.

16. Mr. RIOS (Panama) wished to express his delegation's appreciation to Belgium for its initiative in submitting the draft resolution under consideration. The text was particularly important to Panamanians, since it gave a new impetus to the work that had been going on for many years in their country for the benefit of the disabled. The work had begun with the establishment of a rehabilitation institute which had subsequently expanded and become the Panamanian Institute for Specialized Rehabilitation. The main

rehabilitation centre was in the capital, but a number of schools already existed in the country and others were planned. Some of the measures envisaged in the draft declaration had already been adopted by the Panamanian Institute for Specialized Rehabilitation, and a section of the population which had previously been cut off from the community was now playing a useful part in society.

17. Mr. GRAEFRATH (German Democratic Republic) pointed to his country's experience in the matter of care for the disabled, which had shown that with regard to disabled persons it was not enough to say that they had the same political, civil, economic, social and cultural rights as all other citizens or to proclaim special rights for them. Society and the State must make special efforts to enable disabled persons really to enjoy their rights and to lead "a decent life, as normal and full as possible", as specified in the draft declaration.

18. There were 566 schools for handicapped children in the German Democratic Republic, divided into separate sections for the physically and the mentally disabled, with approximately 70,000 pupils. Many schools had a vocational training department for group vocational training, and the Humboldt University of Berlin had a department for rehabilitation pedagogics to train teachers. There were also schools or classes for children who had to be hospitalized or placed in special institutions for long periods. Factories were obliged by law to employ a certain percentage of disabled persons, and experience was being gathered with houses in which the first floor was equipped in accordance with the special requirements of disabled persons.

19. The draft declaration contained in document A/C.3/L.2168/Rev.1 had certain short-comings, especially when compared with the Declaration of the Rights of the Child (General Assembly resolution 1386 (XIV)), which also dealt with persons who, by reason of their physical and mental immaturity, needed special safeguards and care, including legal protection. For example, principle 7 of the Declaration provided that the child was entitled to receive education, which should be free and compulsory, that he should be given an education which would promote his general culture and enable him to become a useful member of society and that society and the public authorities should endeavour to promote the enjoyment of those rights. He stressed in that connexion that the draft declaration on the rights of disabled persons mentioned only "the right to . . . education . . . which will enable them to develop their capabilities and skills to the maximum" and that the word "culture" did not appear in it. Furthermore, paragraph 10 of the draft declaration provided protection only against "all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature", whereas the second paragraph of principle 9 of the Declaration of the Rights of the Child also stated specifically that the child should in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental or moral development. The same principle provided that the child should be protected against all forms of neglect, and that was of special importance for disabled persons.

20. In spite of those reservations, his delegation was prepared to join in the consensus on the draft declaration.

21. The CHAIRMAN invited the Committee to take a decision on draft resolution A/C.3/L.2168/Rev.1 and recalled that paragraph 6 had been amended, that Finland had joined the sponsors and that the representative of Mexico had proposed that the draft should be adopted without a vote. If there was no objection, she would take it that the draft resolution was adopted.

Draft resolution A/C.3/L.2168/Rev.1 was adopted without a vote.

22. Dr. MALAFATOPOULOS (World Health Organization), speaking at the invitation of the Chairman, said that WHO attached great significance to the draft declaration on the rights of disabled persons, which would unquestionably further the interests of such persons. The question of the disabled and of the measures to be taken in their favour had been one of WHO's major concerns, particularly in recent years. The text just adopted contained a definition of the term "disabled person" which, despite the consultations which had taken place between the sponsors of the draft and WHO, differed from WHO's definition. For WHO a "disabled person" was any person who, as a result of an impairment of a mental or physical nature, was unable to function in a way regarded as normal in the socio-cultural setting in which he or she lived and in accordance with his or her age and sex, and was unable to perform those functions which were generally accepted as essential components of daily living. WHO's approach emphasized social and functional considerations so as to make it possible for the disabled not only to take care of themselves but also to have social relations and productive activity.

23. Interest in the problem of the disabled should be maintained, and measures should be taken to implement the declaration on the rights of disabled persons at the national and international levels. The problems and the numbers of the physically and mentally disabled were far greater than generally realized. WHO estimated that about 7 per cent of the world's population could be considered disabled. Past methods of dealing with that problem had turned out to be not only insufficient but inefficient. The notion that it was possible to transfer wholesale rehabilitation programmes from one society to another had been rejected. The problem was to determine which techniques were transferable into a given environment. New methods no longer concentrated only on comprehensive rehabilitation services and treatment. They rested rather on the principle that services must concentrate on disability prevention in the community at the level of primary medical care. Health authorities at the national and international levels should intensify their efforts of co-ordination, co-operation and research in order to arrive at better programmes of disability prevention and rehabilitation of the disabled. Those programmes could not be divorced from the context of over-all socio-economic planning. Furthermore, prevention of disability and rehabilitation of disabled persons should be integrated with the health services at the community level with community participation.

24. Mr. LI Wen-chuan (China) said that although his delegation had been in favour of the draft declaration

which had just been adopted, it nevertheless had certain reservations, feeling that some of its provisions and recommendations ought to have been studied more carefully. His delegation could not take a position on the substance of those provisions, which it had not had an opportunity to study.

25. Mr. AZIZ (International Labour Organisation) said that he wished to thank the representative of Belgium and the other sponsors of the draft declaration, as well as all the members of the Committee, for having received favourably the suggestions made in that connexion by ILO.

Protection of human rights in Chile (continued) (A/10285, A/10295, A/10303, A/C.3/639, A/C.3/640, A/C.3/642, A/C.3/L.2172)

26. The CHAIRMAN suggested that the Committee should vote on draft resolution A/C.3/L.2172 and announced that the Byelorussian Soviet Socialist Republic and Hungary joined the list of sponsors.

27. Mr. REIBER (Director, Division of Human Rights) said that he wished to clarify a point with regard to draft resolution A/C.3/L.2172. Operative paragraph 4 of the draft stated that the General Assembly invited the Commission on Human Rights to extend the mandate of the *Ad Hoc* Working Group established under resolution 8 (XXXI) to enable it to report to the General Assembly at its thirty-first session and to the Commission on Human Rights at its thirty-third session on the situation of human rights in Chile and in particular any developments which occurred to re-establish respect for human rights and fundamental freedoms. It was obvious that while complying with the mandate given it by the General Assembly, the Commission on Human Rights could, in its turn, clarify the scope of that provision. On the other hand, with respect to the practical aspects of extending the mandate of the *Ad Hoc* Working Group, he noted that the Working Group was to report to the thirty-first session of the General Assembly and that the Commission on Human Rights was to meet in February and would submit its draft resolutions to the Economic and Social Council, which was to meet in April. The financial authorities also had to comment on the financial implications which such a decision might have. The experience of the preceding session had shown that if such a group was to function properly, it must have sufficient resources to commence its work long enough in advance to make the inquiries necessary to the preparation of its reports. That was why he had requested the competent authorities to consider the matter without further delay. He read out the following statement reflecting the reply which he had received:

"A decision by the General Assembly to invite the Commission on Human Rights to extend the mandate of the *Ad Hoc* Working Group does not carry any financial implication, since the operative decision will be the one to be taken next year by the Commission.

"I have been assured and can assure the members of the Committee that, should the Commission on Human Rights decide to extend the mandate of the *Ad Hoc* Working Group, administrative machinery exists which will ensure that the work of the Group can continue without interruption.

"For the information of the Committee, the cost of the *Ad Hoc* Working Group in 1975 was approximately \$140,000."

28. Mr. ALLANA (Chairman, *Ad Hoc* Working Group) said he hoped that a dialogue could finally be initiated between the Working Group and the Government of Chile. First of all, he would like to clear up a few points, as he thought he might have been misinterpreted at the preceding meeting when he had referred to a statement he had allegedly made at Karachi. What he had intended to say was that that statement, which had never been publicized from Karachi, was probably the work of the Chilean press; he had in no way meant to imply that the Chilean Government had been responsible for it, and he regretted that his statement had been misconstrued. In reply to the representative of Chile, who had asked whether his statement and the report transmitted by the Chilean Government (see A/C.3/639 and A/C.3/642) would be taken into consideration by the Working Group in drawing up its report, he said that those two documents would indeed be taken into account at that time. He requested the representative of Chile to inform his Government that the Working Group would be glad to confer with representatives of the Government of Chile in Geneva with a view to clarifying certain facts and discussing the documents in question.

29. Mrs. DIALLO (Guinea) said that the refusal of the Chilean Government to permit the *Ad Hoc* Working Group to enter Chile showed that the Chilean authorities were guilty of the crimes which had been condemned by world public opinion and were displaying contempt for the United Nations. Being firmly devoted to respect for human rights, her country condemned the Chilean junta for its infringements of the fundamental rights of the Chilean people. To show its indignation, her delegation had sponsored draft resolution A/C.3/L.2172. Despite the monstrous repression to which they were being subjected by the reactionaries, the valiant people of Chile remained determined to struggle against the reign of terror with the support of the progressive peoples of the world. Her delegation hoped that all peoples devoted to justice, freedom and progress would unite in defending the interests and rights of the Chilean people by supporting the draft resolution.

30. Mr. MONTENEGRO MEDRANO (Nicaragua) said that he would like to explain his delegation's vote before the vote on the draft resolution under consideration. His delegation had already stated its view on the subject at the 2148th meeting of the Committee. It had stated then, and wished to reiterate, that it did not associate itself with the conclusions of the Working Group, which in its analysis of the situation in Chile had not been as impartial as it should have been. Under political pressure, the Working Group had formed preconceptions about the attitude of the Chilean Government and the situation of the people. Accordingly, his delegation could not support the draft resolution which was about to be voted upon because, in several respects, it was contrary to the principles of the Charter of the United Nations, particularly in that it undermined the principle of non-intervention in the internal affairs of a State. It was also contrary to the principle of the equal rights of peoples and to the principle of self-determination. His delegation could not vote for a draft resolution which stated in its

seventh preambular paragraph that the General Assembly was convinced that the progress report contained evidence on which to conclude that flagrant and constant violations of basic human rights and fundamental freedoms had taken place and continued to take place in Chile, because the evidence gathered by the *Ad Hoc* Working Group could not withstand analysis and was of no legal value. Operative paragraph 2(a) said that the state of siege or emergency must not be used for the purpose of violating human rights and fundamental freedoms. However, it was well known that, under Chilean constitutional law, a state of siege was a legal measure which could be taken in exceptional circumstances that required the Government to exercise its sovereign power at a particular time in the history of the country. The state of siege thus did not mean that human rights and fundamental freedoms were being systematically violated. In the letter dated 6 October 1975 which he had addressed to the Secretary-General (A/10295, annex), the representative of Chile had placed things in their proper perspective; he had given the Secretary-General assurances with regard to constitutional safeguards, and he had affirmed that the Chilean Government was seeking at the present time to restore the country to normality. His delegation also could not accept the language used in paragraph 2(b), which referred to the "institutionalized practice of torture", because it was convinced that in a country where the concepts of law, justice and human rights had always prevailed, in keeping with the best democratic traditions, torture could not be institutionalized.

31. If adopted, the draft resolution under consideration would constitute a violation of the sovereignty of Chile through interference in its internal affairs and would give a distorted picture of the world community of which the latter could not be proud. He also questioned the procedure used in arriving at the findings of the report, for it was clear that the Working Group's conclusions were influenced by the international campaign being conducted against Chile. His delegation would therefore vote against draft resolution A/C.3/L.2172.

32. Mr. BARREIRO (Paraguay) said that his delegation stood by the view it had already stated in the Committee. It therefore rejected the draft resolution under consideration, which constituted interference by certain countries in the internal affairs of Chile. A number of the countries which hypocritically expressed their concern at the situation of human rights in Chile were not so scrupulous when it came to their own affairs. The activities of the *Ad Hoc* Working Group constituted outright interference in the internal affairs of a country. The conclusions of the report and the presentation of it by the Chairman of the *Ad Hoc* Working Group were biased and had been prompted by an international campaign of political defamation. It would have been desirable for the concern expressed with regard to human rights to be extended to other geographical areas.

33. His delegation would therefore vote against draft resolution A/C.3/L.2172.

34. Mr. GIAMBRUNO (Uruguay) said that his delegation could not accept the draft resolution which was before the Committee. He had studied it with care and had hoped that other delegations, after the long discussion which had

disclosed the numerous defects in the text, would be willing to acknowledge them. It was regrettable that the delegations in question were persisting in their incorrect view of the matter.

35. Starting with the preamble, the draft resolution was subject to criticism, because it did not fairly present the situation. It was totally lacking in balance, and the formulation of the fifth preambular paragraph was not only wrong but wilfully tendentious in that it stated that the Commission on Human Rights had decided to establish an *ad hoc* working group to inquire into the current situation of human rights in Chile on the basis of all available evidence, including a visit to Chile; thus, what was secondary and what was primary had been confused. The Working Group's mission had been, first of all, to visit Chile and, secondly, to gather and verify evidence there. Like other delegations, his delegation thought it was regrettable that that had not been done, but that was a fact which could not be overlooked. There was therefore no justification for the seventh preambular paragraph, which stated that the General Assembly was convinced that the progress report contained evidence on which to conclude that flagrant and constant violations of human rights and fundamental freedoms had taken place and continued to take place in Chile. The draft resolution continued with specious logic in operative paragraph 1, which stated that the General Assembly expressed its profound distress at the constant, flagrant violations of human rights, including the institutionalized practice of torture, cruel treatment or punishment to which the progress report brought additional evidence, which had taken place and, according to existing evidence, continued to take place in Chile. That paragraph involved the same error of accepting the conclusions of the Working Group's report even though it had not been possible to verify them.

36. At no point did the draft resolution state that the Chilean representative had denied, with supporting evidence, some of the Working Group's conclusions. Was it not the duty of the Chairman of that Group to compare the testimony it had gathered with that furnished by the Chilean Government? The Third Committee, whose function was to ensure protection of human rights, was thus directly infringing upon one of those rights, namely the right of any accused party to defend itself. It was to be feared that in the future, the Committee, following the same path, would not, for instance, accede to the request of the representative of Chile that his statement should be reproduced *in extenso* in the summary records of the relevant meetings. In view of that attitude, one might well wonder what would happen when the final report of the Working Group was examined. It was to be hoped that the Committee would then act in conformity with what each of its members had the right to expect of it. It would be particularly desirable if the Division of Human Rights and the *Ad Hoc* Working Group could at that time have the benefit of an authorized legal opinion, in order to avoid repeating such a regrettable error.

37. There was no question of accusing the Chairman and members of the Working Group of bad faith. On the contrary, his delegation was convinced of their good intentions and therefore hoped that they would be sensitive to its arguments and would weigh their conclusions more

carefully in the final report. In that connexion, he reminded the Committee that another United Nations body whose good faith could no longer be questioned, namely the Office of the United Nations High Commissioner for Refugees, which had done admirable work at the time the refugee question had been worked out, had issued a report paying a tribute to the objectivity shown by the Chilean authorities towards foreign refugees in Chile and to the collaboration of the Chilean Government, which had made it possible to ensure the safety of thousands of persons.

38. In future, the Committee would have to exercise the greatest caution so as not to commit similar errors. It was essential that it should weigh its future decisions more equitably and wisely if it wished to maintain a spirit of collaboration among Governments, without which the functioning of the international machinery established to guarantee human rights would be seriously compromised. As matters stood, his delegation could only vote against draft resolution A/C.3/L.2172.

39. Mr. GARMENT (United States of America) said that his delegation would vote in favour of draft resolution A/C.3/L.2172. It would do so because it believed that respect for human rights, in accordance with the Charter of the United Nations and with the International Covenants on Human Rights, should be universally guaranteed. His delegation felt extreme concern, after reading the report of the Working Group, at testimony concerning violations of human rights which, according to various entirely reliable sources, were occurring in Chile. It believed that the United Nations had the duty to take measures to end such practices. For that reason, it had been glad that an *ad hoc* working group had been established to travel to Chile and investigate the situation and that the Chilean Government had promised to receive that group in its territory. It had regretted that Government's reversal of its decision, which had occurred at a time when his delegation had hoped that the Working Group would be able to confirm the Chilean Government's assertions by reporting that the situation in Chile had improved. Thus, it was in part the attitude of the Chilean Government which led his delegation to vote in favour of the draft resolution. Nevertheless, the resolution did not satisfy his delegation entirely, and its vote was not without reservations. In the first place, the approach was questionable. Chile was currently in a particular situation, and in future resolutions which could give rise to the counter-argument that they interfered in the domestic affairs of a country should be avoided. Secondly, some of the circumstances currently existing in Chile with respect to human rights were also found elsewhere, in particular in certain countries whose representatives had spoken out most strongly against events in Chile. Their action was pure hypocrisy, and his delegation condemned that attitude and did not wish to associate its vote with it. It would have been desirable and more honest to word the draft resolution in more general terms.

40. After weighing the pros and cons at great length, his delegation had decided that it should take a position in favour of respect for human rights in Chile, in the hope that by voting for the draft resolution it would further strengthen the cause of human rights.

41. The CHAIRMAN announced that the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist

Republics had become sponsors of draft resolution A/C.3/L.2172.

42. Mr. ABDELKERIM (Chad) said that Chad had always supported the cause of human rights but that his delegation would not participate in the vote, since it had not had sufficient time to study the draft resolution.

43. Mr. DIEZ (Chile), speaking on a point of order, requested, first, that a roll-call vote should be taken on draft resolution A/C.3/L.2172 and, second, that the possibility should be explored of publishing *in extenso* Chile's defence, presented during the 2152nd and 2153rd meetings.

44. The CHAIRMAN said that she took note of Chile's first request and that she would investigate the financial implications of the second and offer the necessary clarifications to the Committee the following day.

45. Mr. SMIRNOV (Union of Soviet Socialist Republics) requested that the Secretariat's report on those financial implications should be accompanied by information concerning the General Assembly resolution to be followed by United Nations bodies in such cases. He emphasized that the General Assembly's rules of procedure made no provision for summary records *in extenso* except for meetings of the General Assembly and the First Committee. Moreover, General Assembly resolution 2538 (XXIV) emphasized the need to reduce the volume of documentation, and, to that end, paragraph 10(e) of that resolution provided that "speeches or statements by representatives... may be reproduced *in extenso* in summary records or as official documents only if they serve as bases for discussion". He stressed the need to apply to the letter the recommendations of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly, in order to reduce the volume of documentation. The Advisory Committee on Administrative and Budgetary Questions, for its part, had indicated that summary records of meetings should be limited to 15 pages. He hoped that the Secretariat would take account of those recommendations by the General Assembly and by other competent bodies and would submit them in writing to the Committee.

46. The CHAIRMAN requested the Secretariat to take the observations of the Soviet representative into account when it reported on the financial implications of the Chilean proposal.

47. Mrs. OGATA (Japan) said that her delegation would be obliged to abstain from the vote, since it had not had sufficient time to study the draft resolution.

At the request of the representative of Chile, a roll-call vote was taken on draft resolution A/C.3/L.2172.

The Union of Soviet Socialist Republics, having been drawn by lot by the Chairman, was called upon to vote first.

*In favour:*¹ Union of Soviet Socialist Republics, United Arab Emirates, United Kingdom of Great Britain and

Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Australia, Austria, Bahamas, Bahrain, Bangladesh, Belgium, Bhutan, Botswana, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Canada, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Dahomey, Democratic Yemen, Denmark, Ecuador, Equatorial Guinea, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Iran, Ireland, Italy, Ivory Coast, Jamaica, Jordan, Kenya, Kuwait, Laos, Lesotho, Libyan Arab Republic, Luxembourg, Madagascar, Mali, Mauritania, Mexico, Mongolia, Mozambique, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Senegal, Sri Lanka, Sudan, Swaziland, Sweden, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukrainian Soviet Socialist Republic.

Against: Uruguay, Argentina, Bolivia, Brazil, Chile, Dominican Republic, El Salvador, Guatemala, Nicaragua, Panama, Paraguay.

Abstaining: United Republic of Cameroon, Venezuela, Zaire, Barbados, Costa Rica, Egypt, Fiji, Honduras, Indonesia, Japan, Lebanon, Liberia, Malaysia, Nepal, Niger, Papua New Guinea, Saudi Arabia, Singapore, Spain, Uganda.

Draft resolution A/C.3/L.2172 was adopted by 88 votes to 11, with 20 abstentions.

48. Mr. FERNANDEZ ESCALANTE (Argentina) recalled that his delegation had voted against the draft resolution and said that Argentina had always held that all States had a duty to respect human rights in accordance with the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant legal instruments, but considered that violations of human rights should be condemned in all cases, wherever they occurred. When some violations were ignored and others severely condemned, it was obvious that political considerations had come into play. The protection of human rights must be uniform and indivisible in all parts of the world, and United Nations action should be based on that principle. His delegation's negative vote in no way implied a value judgement on its part.

49. He also wished to emphasize that Argentina maintained its traditional support of the principle of non-interference in the internal affairs of States, as was required by standards of international conduct in general and the provisions of the Charter in particular.

50. With regard to the allegations concerning acts involving Chilean nationals which had supposedly occurred in Argentina and had been mentioned by the representative of Chile, they represented the personal opinions of that representative or of the news agencies to which he had referred.

51. Mr. ZAHAWIE (Iraq) said that his country would be one of the sponsors of the draft resolution when it was submitted to the General Assembly.

¹ The Moroccan and Iraqi delegations later informed the Secretariat that, had they been present during the voting, they would have voted for draft resolution A/C.3/L.2172.

52. Mrs. DE BARISH (Costa Rica) said that her country, which had always defended the ideals of the United Nations as set out in the Charter of the United Nations and in the Universal Declaration of Human Rights, had made tireless efforts to ensure that the legal instruments adopted to ensure their application entered into force. Costa Rica had always held that the protection of human rights must have a universal character, which must be maintained if the defect of partiality, which would deprive the United Nations of all credibility, was to be avoided. A trend which was extremely dangerous for the Organization could currently be observed: violations of human rights seemed to be increasing throughout the world, but the efforts to combat them were focused exclusively on certain situations, while others, involving equally serious and persistent violations, were ignored. The refusal to view the problem in a universal context demonstrated tolerance, not to say quasi-complicity, with regard to certain countries. That was reflected in the reactions to the specific suggestions made regarding measures to ensure better application of the legal instruments relating to human rights: all kinds of arguments had been adduced in opposition to the proposed measures, which had been criticized, among other things, because they were said to constitute interference in the internal affairs of States. The proposal to create the post of United Nations Commissioner for Human Rights, in which Costa Rica had long been interested and which provided sufficient guarantees to protect States against any infringement of their sovereignty, had been considered "dangerous". Her delegation could not refrain from observing that the mandate of the *Ad Hoc* Working Group was broader than that which would have been given to the High Commissioner, since it was not only expected to conduct on-the-spot inquiries but had reported to the Assembly without having held private consultations with the Government concerned. That report, which had been widely publicized, went so far as to make suggestions to that Government concerning the measures to be taken. Her delegation felt that if the same measures had been suggested to certain Governments whose delegations had been very active in connexion with the consideration of that question, those Governments would not have accepted them, any more than they would have accepted the presence of a commission of inquiry in their territory. It should be borne in mind that the *Ad Hoc* Working Group had formulated those recommendations when it had made only a preliminary report and had been unable to verify the accusations on the spot.

53. When the General Assembly had adopted resolution 3219 (XXIX) on the protection of human rights in Chile, her delegation had expressed concern about the fact that so much was being made of the case of a country that was going through a special and transitory phase, for it was well-known that Chile had never been noted for defending violations of human rights; on the contrary, its entire history showed that it had respected those rights and promoted their exercise. Her delegation wished to repeat that, while acknowledging the sincerity of the concerns of some of the sponsors of resolution 3219 (XXIX), it questioned whether that resolution had been inspired by purely humanitarian objectives or by a genuine concern for human rights in Chile. The recent debate undoubtedly showed that the treatment of the question of human rights in Chile had been influenced by political publicity aimed at

well-defined political goals. It was for that reason that her delegation had abstained in the vote on draft resolution A/C.3/L.2172, and hoped that the international community would finally realize that, in order to promote the effective exercise of human rights, it was essential to set up machinery that would make it possible to ensure the attainment of that objective not only in Chile but in every country in the world. Her delegation was prepared to continue the search for viable and practical means to that end.

54. Mr. DUMAS (Trinidad and Tobago) said that his delegation had voted for the draft resolution on the protection of human rights in Chile with a heart that was not altogether light. It was not that his delegation was in any doubt as to what position to take on the question of violations of human rights: his country was immutably against such violations and firmly for the ideals enshrined in the Charter and the Universal Declaration of Human Rights, which were written into its Constitution and which it practised. But his country was persuaded that human rights should be regarded as a principle and that violations of that principle should be treated as impartially as possible and condemned with equal vigour so far as possible. Compromises were sometimes unavoidable in practice, but the United Nations should not depart too frequently from that principle because its validity would then be weakened. Within the sphere of human rights, his delegation had observed with alarm two recent trends which diminished the strength of that principle. The first was attachment to certain political ideals which led to behavioural contradictions: thus, for example, persons committing the same acts could be considered freedom fighters or terrorists, according to the angle from which they were viewed. The second trend was to be seen in certain countries, usually Western European countries, which opposed violations of human rights only, or largely, when they occurred in certain other countries, generally other Western European countries or countries whose inhabitants were of Western European origin: currently the case in point was Chile; recently it had been Spain, and before that Greece and Brazil. According to his delegation, the confluence and occasional overlapping of those two trends had produced the unusual coalition which in the past several days had expressed its unhappiness over the undoubted violations of human rights in Chile. That coalition often gave the impression, unwittingly no doubt, of performing a role of accusatory selectivity. That was surely not what was wanted in the United Nations. Violations of human rights anywhere should be the concern of all nations.

55. Mr. GRAEFRATH (German Democratic Republic) said that his delegation had voted in favour of the draft resolution on the protection of human rights in Chile because it had been amply proved that, with its systematic and massive violations of human rights, the Fascist régime in Chile was constantly violating the principles of the United Nations and creating a situation which endangered friendly relations among nations. The progress report of the *Ad Hoc* Working Group provided additional evidence that constant flagrant violations of human rights were being committed, including the institutionalized practice of torture, cruel, inhuman or degrading treatment or punishment, arbitrary arrest, detention and exile. His country emphatically supported the demand which the General Assembly

was once again addressing to the Chilean authorities to take, without delay, all necessary measures to restore and safeguard basic human rights and fundamental freedoms in Chile and to that end to terminate the régime of terror which had persisted for two years, to abolish the Directorate of National Intelligence (DINA) and the other institutions which had made torture and inhuman treatment a system and punish those responsible, and to release political prisoners and abolish the emergency laws and the arbitrary rule of the military judiciary. The release of Luis Corvalán and the other political prisoners would provide a criterion by which his country would judge the attitude of the Chilean authorities to the General Assembly resolution.

56. Mr. BARONA (Colombia) said that his delegation's vote in favour of draft resolution A/C.3/L.2172 had not been a political act, since Colombia traditionally supported the principle of non-interference in the internal affairs of States. However, Colombia could not be indifferent to the fate of the Chilean people, to which it was attached by unbreakable ties, and it hoped that the human rights situation in Chile would be promptly normalized.

57. Mr. GROS (France) said that he had voted in favour of the draft resolution. However, his delegation considered it regrettable that in the seventh preambular paragraph the word "charges", which it had stressed would be most appropriate at the current stage of proceedings, had not been retained. That change would have avoided the legal contradiction of making conclusions about a progress report. Furthermore, his vote should not be interpreted as acquiescence in interference in the internal affairs of a Member State, or in a politicization of the question of the human rights situation in Chile, which was viewed only on a strictly humanitarian level. Lastly, he recalled the importance his delegation attached to the extension of the mandate of the *Ad Hoc* Working Group as currently constituted: the wording of operative paragraph 4 did not imply that the irreplaceable means which the Commission on Human Rights had devised in order to establish the truth and contribute to the return of fundamental freedoms was superfluous.

58. Mr. DIEZ (Chile) thanked the countries which had voted against the draft resolution and had thus shown their moral worth by supporting a small and defenceless country. He was also grateful to those delegations who had abstained in the vote, for they had refused to approve a hypocritical resolution sponsored by countries which were trying to absolve themselves in respect of human rights by using Chile as a scapegoat.

59. Chile had voted against the draft because it believed that it was being treated unjustly. Accusations had been made against the Chilean Government although the *Ad Hoc* Working Group had not put a single question to it or had any consultation with it; that amounted to a gross violation of the principle of non-interference in the internal affairs of States and of the principle of the self-determination of peoples. Furthermore, a judgement had been made in advance without taking the accused country's defence into account. The evidence presented by the Chilean Government had been ineffective against the political prejudice of some and the moral cowardice of others.

60. Secondly, the draft resolution was not only false but also gratuitously unjust and insulting in assuming that there was an institutionalized practice of torture of a degrading nature in Chile. Thirdly, the so-called "testimony" adduced by the *Ad Hoc* Working Group constituted a violation of Chile's right to determine its own destiny and an intrusion in its internal affairs. He noted that article 4 of the International Covenant on Civil and Political Rights (General Assembly resolution 2200 A (XXI), annex) authorized States Parties to take measures derogating from some of its provisions in exceptional circumstances, such as the state of siege which had been proclaimed in Chile. Chile had recognized the competence of the United Nations bodies concerned with human rights, it had brought its problems in that respect to the Commission on Human Rights, and it had drawn attention to the progress which it had, with difficulty, succeeded in making; none of that was reflected in the draft resolution. Chile wished to stress that its accusers included countries which had signed the International Covenants on Human Rights without any intention of ever applying them and which were violating, *inter alia*, articles 6, 7, 8, 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights, although article 4 did not authorize any derogation from those articles.

61. Nevertheless, Chile would continue to abide by the Charter of the United Nations and respect human rights, as it had done so far; it knew that it would be alone but that it could count on the moral support of some States.

62. Mrs. MASSON (Canada) said that her delegation had voted in favour of the draft resolution which had just been adopted. However, it could not regard the conclusions of the Working Group's report as final because they were based on incomplete information, as the Group had not been able to visit Chile. Moreover, although it deplored the practice of torture, her delegation had reservations about the term "institutionalized" used in operative paragraph 1 of the draft resolution.

63. Mr. MOUNGUEN (United Republic of Cameroon) said that, true to its policy of non-alignment and non-interference in the internal affairs of other States, and respecting the principle of the self-determination of peoples, his country had abstained during the vote on the draft resolution (A/C.3/L.2172). However, it remained prepared to struggle with all its strength for the respect of human rights and dignity.

64. Mr. CHORFI (Morocco) said that if, as the representative of Chile had informed the Committee, life in that country had begun to return to normal and human rights were being exercised, his delegation could only express its satisfaction and hope that fundamental human rights would be rigorously respected in future. However, that statement by the representative of Chile was not sufficient to call into question the contents of the progress report of the *Ad Hoc* Working Group, whose members and Chairman enjoyed the full confidence of all delegations. Moreover, the faithful recording of the statements and testimony of persons from all social levels, with or without affiliations to political parties or to the new régime, and the papers and documents which had been assembled endowed the Working Group's report with incontestable value. It was unfortunate that it had not been possible, because of Chile's sudden change of

mind, to substantiate or complete that information by an on-the-spot inquiry. The Chilean Government's refusal could only confirm the strong presumption of violations of human rights in the country. Lastly, the scale and appalling nature of violations of human rights in Chile had aroused an awareness which had been echoed by the information media of countries with different political structures.

65. For all those reasons, and out of a strictly humanitarian concern, his delegation, if it had been present, would

have voted in favour of draft resolution A/C.3/L.2172, which complemented General Assembly resolution 3219 (XXIX). It hoped that better co-operation between the Chilean Government and the Working Group would be established and that the United Nations would take action similar to the action it had taken in the case of Chile whenever similar situations occurred.

The meeting rose at 6.20 p.m.

2156th meeting

Wednesday, 12 November 1975, at 3 p.m.

Chairman: Mr. Ladislav ŠMÍD (Czechoslovakia).

A/C.3/L.2156

AGENDA ITEM 12

Report of the Economic and Social Council [chapters III (sections F, G, I, L and M), IV (sections A and C) and V] (*continued*) (A/10003, A/10284, A/10285, A/10295, A/10303, A/C.3/637, A/C.3/639, A/C.3/640, A/C.3/642, A/C.3/L.2173-2175)

HUMAN RIGHTS QUESTIONS (*continued*) (A/10003, chap. V, sect. B)

Draft declaration on the rights of disabled persons
(concluded)

1. Mr. CAMPBELL (Australia) said that he wished to revert to the draft declaration on the rights of disabled persons (A/C.3/L.2168/Rev.1), which had been adopted by consensus at the preceding meeting. His delegation had welcomed the Belgian initiative as a step in the right direction, but, like some other delegations, it would have preferred to have a little more time to discuss its text more fully.

2. He had reservations on two particular points, namely, the words "state of wealth" in operative paragraph 2 and the phrase "Disabled persons shall be able to avail themselves of qualified legal aid" in paragraph 11. In Australia, legal aid schemes were subject to means tests; similar means test provisions related to allowances for higher education and medical and hospital treatment. His delegation would therefore have liked to have the words "state of wealth" deleted from paragraph 2 in order that such means tests might not be regarded as being contrary to the anti-discrimination provision contained in that paragraph; it would also have liked the draft declaration to contain a new operative paragraph permitting countries to apply such a means test where that was considered appropriate.

3. In addition, as a number of other speakers had said, it would have been desirable to refer to the need to eliminate architectural or physical barriers which prevented disabled persons from engaging in employment or engaging fully in social, creative or recreational activities. That was a

question of such significance that it would have warranted an additional paragraph in the declaration.

General debate and consideration of draft resolutions
(A/C.3/L.2173-2175)

4. Mr. SPEEKENBRINK (Netherlands) said that his delegation wished to make a general statement on the report of the Economic and Social Council, in particular on the activities of the Commission on Human Rights. After six years as a member of the Commission, the Netherlands Government had decided not to stand for re-election, as the Netherlands candidate had been elected to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. His delegation would therefore confine its remarks to the programme of work of the Commission on Human Rights. The latter had an important role to play in the efforts of the United Nations to promote and encourage respect for human rights and fundamental freedoms. The Organization's human rights programme consisted mainly in developing international standards, conducting studies and establishing ways to further the implementation of those standards and to deal with concrete situations where violations existed. For many years, the Commission had been facing serious difficulties in dealing efficiently with its work. Those difficulties stemmed partly from political factors which were reflected in the divergence of views among Commission members as to the legitimacy, urgency and weight of the different items on the agenda. It would also seem that the working methods of the Commission were not adequate to respond to the shift of emphasis in United Nations action in the field of human rights. While previously the emphasis had been on the elaboration and codification of standards, the Commission now had to concern itself with the implementation of those standards. In recent years, an awareness had developed that the Commission also had responsibilities in certain emergency situations. It had therefore established, by its resolution 2 (XXIII),¹ an *ad hoc* working group of experts to keep the human rights situation in

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