



SUMMARY RECORD OF THE 60th MEETING

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 3.10 p.m.

AGENDA ITEM 77: 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/35/373, A/35/389 and A/35/607; A/C.3/35/L.53, L.58 and L.59)

1. Mrs. BROSNKOVA (Czechoslovakia) said that her delegation was convinced that the international protection of human rights could be raised to a qualitatively higher level only through international co-operation, with observance at the same time of the basic principles of current international law, particularly the principle of non-interference in the internal affairs of other States. Any action that did not respect the sovereignty of a State in that sensitive area in which two different ideologies were in confrontation could not only frustrate progress in strengthening the international protection of human rights but even negate the positive results achieved by the international community after many years in the field of international détente.

2. With respect to the establishment of a post of United Nations High Commissioner for Human Rights, her delegation was convinced that to set up such an institution would not contribute to strengthening the international protection of human rights. Instead, it would serve forces that had long been striving to take advantage of the issue of human rights in order to create an institution that would make it possible for them to legalize violation of the United Nations Charter and to interfere in the internal affairs of other States whose political and social systems, and thus their understanding of human rights, differed from their own. The establishment of such supranational organs was frequently promoted by States which either had not signed all the international instruments relating to the protection of human rights or, even if they had signed them, had been unable to guarantee full respect for human rights in their own laws.

3. The Charter of the United Nations contained special provisions for cases in which the violation of human rights endangered international peace and security. With respect to the assertion that the establishment of a post of High Commissioner would increase the effectiveness of the United Nations work in the field of human rights, her delegation was of the view that such an institution could not in principle function in a more positive way than an elected body. The establishment of a new organ, even if its competence was limited, would undoubtedly result in competition and other kinds of conflict between that organ and the Commission on Human Rights or other organs. The collection of data on human rights was already being satisfactorily carried out by existing United Nations bodies. Czechoslovakia had no objection of principle to the continuation of efforts to enhance the effectiveness and efficiency of the work of United Nations bodies. However, the ways and means of achieving that objective must be chosen in such a way as to ensure the correct interpretation of the United Nations Charter.

(Mrs. Brosnakova, Czechoslovakia)

4. The most practical way of making progress in the very complicated area of United Nations human rights activities was to search for new possibilities in the existing machinery of the relevant United Nations bodies. The protection of human rights depended first of all on the will of States themselves. Any system based on the idea of a supranational organ, whose effectiveness would depend on the application of sanctions against States, would divert attention from the real objective, namely, the further strengthening and increased effectiveness of the work of the United Nations in the field of human rights. It would also divert attention from the mass and flagrant violations of human rights which were occurring, whether in southern Africa, the occupied Arab territories, Chile or other parts of the world.

5. The existing legal instruments in the field of human rights, notably the 1966 Covenants, offered sufficient possibilities for strengthening the protection of human rights. What was needed was that the greatest possible number of States should ratify those Covenants. Furthermore, a prerequisite for any further development of the international protection of human rights was the preservation of world peace and continued disarmament.

6. Mr. ALMOSLECHNER (Austria) said that today more than ever the United Nations was central to the hopes of millions of people concerning the protection of human rights and the achievement of living conditions commensurate with the requirements of human dignity. Over the past decade the world had witnessed an ever-accelerating and dramatic change in international relations which to a large extent had originated in the increasing difficulties many countries were encountering in their endeavours to overcome their numerous problems, particularly in the economic and social fields. In the present-day world where problems were increasingly interrelated, both in substance and geographically, that trend could not fail to have adverse consequences on the enjoyment of human rights and fundamental freedoms. Considering the achievements and the short-comings of the United Nations in that field, a clear distinction should be made between principles and reality.

7. The principles were laid down in numerous texts, including the Universal Declaration of Human Rights and the Human Rights Covenants. Over the past decades, a whole structure of international law pertaining to human rights had emerged and the number of accessions to and ratifications of the relevant international instruments was steadily increasing. That in itself, however, was not enough to justify the assertion that progress was being made in that respect. It was important to bear in mind that the United Nations could be successful only to the extent that Governments allowed it to be. His delegation welcomed every effort to narrow the gap between theory and reality where human rights were concerned. In that context he noted that in its resolution 32/130 the General Assembly had decided that the approach to the future work within the United Nations system with respect to human rights questions should take into account such concepts as that of the indivisibility, interdependence and inalienable character of all human rights, and that of the need for the promotion of both the full dignity of the human person and the development and well-being of the society in which he lived. In resolution 34/46 the Assembly had emphasized the need to create conditions at the national and international levels for the full promotion

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(Mr. Almoslechner, Austria)

and protection of the human rights of individuals and peoples and had likewise emphasized that the right to development was a human right. In that connexion his delegation wished to underscore the importance of the task of the different bodies within the United Nations system which were constantly striving to cope with the actual situations arising throughout the world. It also welcomed recent encouraging developments in the field of human rights at the regional and subregional levels, such as the Riobamba Code of Conduct of the Andean States and the establishment of the African Commission for Human Rights.

8. Austria would continue to play a humanitarian role with regard to human rights questions, and placed special emphasis on the interrelationship between the growing flow of refugees all over the world and the enjoyment of human rights. It shared the conviction that there was a need not only to solve existing refugee problems but also to study their background. It welcomed the initiatives taken in that connexion during the current session of the General Assembly.

9. Mr. GAGLIARDI (Brazil) said that his delegation regretted that item 77 was not being considered in conjunction with item 12, which dealt with the report of the Commission on Human Rights, since all the aspects that could possibly be studied under item 77 were already being considered by that Commission. Questions such as the establishment of an intersessional role for the Commission's Bureau, of a post of United Nations High Commissioner for Human Rights and of investigative bodies, as well as of the possibility of convening emergency sessions of the Commission, would be discussed at the Commission's thirty-seventh session and his delegation considered it premature to discuss them in the Third Committee. Accordingly, it could not support any move that could prejudge the results of that work.

10. The seminar held at Geneva in July 1980 in pursuance of paragraph 10 of General Assembly resolution 34/46 had adopted several important recommendations despite the efforts of some developed countries which had believed that their absence would minimize the results. There was nothing new in the affirmations made at the seminar. What was new was the feeling that there was no political will on the part of some developed countries to change the unjust economic order. The preoccupation of some countries with the situation of human rights in several developing countries should lead to action to help those developing countries overcome their economic difficulties, because many of those difficulties resulted from exploitation, unjust commercial practices and the lack of an appropriate external environment for development. His delegation hoped that the recommendations of the seminar would be taken into full account by the General Assembly and the Commission on Human Rights.

(Mr. Gagliardi, Brazil)

11. Throughout the years, one of the primary concerns of his delegation had been to see the Commission on Human Rights improved. Despite proclaimed allegiance to the Commission, his delegation noted that attempts were being made to undermine its work and strength. To counterbalance those attempts, affirmative action had been taken in favour of the Commission, such as increasing its membership. The Commission had been asked to review the existing structures within the United Nations system; resolution 32/130 was a corner-stone of the work of the United Nations in that connexion.

12. With regard to the so-called "good offices" of the Secretary-General in the field of human rights, it was common knowledge that Articles 98 and 99 of the Charter gave the Secretary-General the power to exercise his good offices on matters which might threaten the maintenance of international peace and security. At the same time, Article 2, paragraph 7, stated that nothing contained in the Charter should authorize the United Nations to intervene in matters that were essentially within the domestic jurisdiction of any State. Several delegations had affirmed that the Secretary-General should be entrusted with a good offices role in the field of human rights and some had even claimed that under the Charter he was entitled to assume such a role. His delegation did not share that interpretation. The Secretary-General was not empowered to take direct action, on his own decision, on matters relating to human rights. Every Secretary-General, including the present one, as well as other high officials of the United Nations, had indicated that the Charter in no way instructed the Secretary-General to exercise his so-called "good offices in the field of human rights". If it was the wish of the Committee to entrust him with those powers, then it should amend the Charter. Indeed, there were several matters with respect to which the Charter should be amended, for example, the privileges of the permanent members of the Security Council. His delegation would not deny the Secretary-General the possibility of contacting Governments in an attempt to ameliorate human suffering. However, he did that on his own initiative and at his own risk, subject to the acceptance of the Governments concerned. His good offices were properly used only when his action had a bearing on international peace and security. "Good offices" constituted a means for the settlement of disputes and presupposed at least two parties agreeing to their use. Moreover, the good offices function was personal and not transferable.

13. Other attempts were also being made by certain delegations to reduce the powers of the Commission on Human Rights. An example was the attempt to endorse decisions taken by the Sub-Commission on Prevention of Discrimination and Protection of Minorities before they were studied by the Commission on Human Rights. The Sub-Commission was composed of experts serving in their personal capacity: all of them were eminently capable but they did not have the capacity to impart instructions to the Secretary-General or to any other United Nations body without the prior approval of the Commission on Human Rights. The Chairman of the Commission should remain under the authority of the States members of the Commission even when the Commission was not in session.

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(Mr. Gagliardi, Brazil)

14. The use of the good offices of the Secretary-General, the appointment of a High Commissioner for Human Rights, the establishment of investigative bodies and unauthorized direct action by the Secretariat at all levels were among other initiatives which reflected a concerted effort to debilitate the Commission on Human Rights, thus facilitating direct interference in the internal affairs of States. Such action was unacceptable to his delegation, which would recommend to the Commission on Human Rights that more attention should be paid to the report of the Sub-Commission during the work of the sessional working group established by its resolution 28 (XXXVI).

15. With regard to the renaming of the Division of Human Rights, his delegation believed that the Secretary-General had very judiciously made his point by indicating in his report (A/35/607) that further consideration on the matter was required. His delegation wished to emphasize that what was important was not the change in name, but the resources that were provided to the sector dealing with human rights. His delegation also believed that the Secretary-General should not be obliged to take a decision that he seemed reluctant to take. Brazil would not oppose a decision that allowed the Secretary-General to continue to study the matter, taking into account all the comments that had been made. Finally, his delegation reaffirmed its full support for the role played by the United Nations system in the promotion of human rights. It was convinced, however, that Governments were entitled to exercise a role in the protection of human rights in the spirit of Article 55 of the Charter.

16. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms was one of the primary goals of the United Nations under Article 1 of the Charter. It was indisputable that the attainment of those goals was impossible without the attainment of the main objectives for which the United Nations had been established, including the maintenance of international peace and security, the development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and the adoption of measures to strengthen universal peace and achieve international co-operation in solving problems of an economic, social, cultural, or humanitarian character. That important interrelationship must be taken into account when discussing item 77.

17. His delegation believed that international co-operation in promoting and encouraging respect for human rights and fundamental freedoms had progressed considerably and had been furthered by the downfall of the colonial system and attainment of independence by many peoples, the struggle of all progressive forces in the United Nations for the strengthening of international peace and security, international détente, disarmament and social and economic progress, and strict compliance with international legal instruments adopted by the United Nations, especially the International Covenants on Human Rights, whose entry into force had marked the beginning of a qualitatively new stage in the work of the United Nations

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(Mr. Ogurtsov, Byelorussian SSR)

in the field of human rights. The process of formulating new human rights instruments within the context of the United Nations was continuing; the participation of States in the formulation of new instruments and their accession to existing instruments and fulfilment of their provisions were a yardstick of their willingness to promote the implementation of human rights not in words but in deeds. Another important result of the work of the United Nations in the field of human rights was the establishment of a wide-ranging system of bodies engaged in promoting inter-State co-operation, a system which included the General Assembly and the Economic and Social Council and various subsidiary bodies. New measures to improve United Nations machinery in the field of human rights were envisaged by the Commission on Human Rights in implementation of Economic and Social Council resolution 1979/36. The Commission on Human Rights was working out organizational measures to develop co-operation in the field of human rights and its work must be taken into account by the Committee. His delegation supported the Commission's decision to establish an open-ended sessional working group at the beginning of the thirty-seventh session and believed that the Commission had embarked upon a balanced long-term programme of work in the field of human rights. Its work aimed above all at strengthening and improving inter-State co-operation in the field of human rights and it must be allowed to complete its analysis and submit to the General Assembly a specific programme of action in the field of human rights. His delegation was therefore in favour of the adoption in the Committee of a resolution calling upon the Commission on Human Rights to continue its work in creating conditions conducive to the development of international co-operation in the field of human rights.

18. The Byelorussian SSR actively participated in international co-operation for the promotion and development of human rights. Under a socialist system based on genuine democracy, the actual enjoyment of the rights and freedoms proclaimed in and guaranteed by the Constitution and Soviet legislation was ensured in the Republic. As a party to many international instruments on human rights the Byelorussian SSR strictly fulfilled all its obligations, as was demonstrated by its regular reports on their implementation. Some countries, instead of promoting inter-State co-operation in the field of human rights within the framework of the existing machinery and practice, used the question of human rights for waging various types of campaigns against the socialist and non-aligned countries.

19. His delegation believed that the question of further enhancing the work of the United Nations in improving the effective enjoyment of human rights and fundamental freedoms and strengthening the existing system of United Nations bodies should be resolved on the basis of the implementation of the relevant resolutions of the General Assembly, in particular General Assembly resolutions 32/130 and 34/46, which set forth a number of very important principles. The strict fulfilment of the provisions of those resolutions and the accession of States to the existing Conventions and Covenants on human rights would enhance the work of the United Nations in relation to the observance of human rights.

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(Mr. Ogurtsov, Byelorussian SSR)

20. The introduction of various proposals on the establishment of supranational bodies or posts such as the post of High Commissioner for Human Rights constituted an attempt by certain countries to disguise their unwillingness to participate at either the national or international levels in co-operation in the field of human rights and were designed to divert the attention of the world community and the United Nations from the continuing struggle against flagrant violations of human rights resulting from the pursuit of policies of racism, colonialism, apartheid and aggression. Moreover, the supranational bodies envisaged in such proposals would contradict the provisions of Article 2, paragraph 7, of the United Nations Charter, since their purpose was to interfere in the internal affairs of sovereign States. Other proposals to establish new machinery or completely reform the existing structure and status of the Secretariat services for human rights, including the proposals to raise the status of the Division of Human Rights and to use the services of groups of experts on human rights likewise had nothing to do with the goals pursued. The system whereby decisions on questions of developing international co-operation in the field of human rights were taken by bodies consisting of representatives of sovereign States was fully justified, since it was States that were concerned with the guarantee and development of the rights and fundamental freedoms of their citizens and the adoption of legislative and other measures fell within their domestic competence. States co-operated in promoting and developing respect for human rights for all persons without distinction as to race, sex, language or religion, and the attempts to make it appear that the United Nations had the basic responsibility for protecting human rights were illegal and groundless.

21. His delegation shared the view expressed by the representative of India that civil and political rights could not be separated from economic, social and cultural rights. All human rights constituted a single and indivisible whole. Social and economic rights were as important as civil and political rights: thus the right to work was fictitious if millions of people were deprived of the possibility of working, and the right to take part in the management of State affairs, the right to free expression of opinion in the press, the right to be elected and so forth were no more than pious hopes if millions of people were illiterate and participation in electoral campaigns was beyond the reach of ordinary people. The General Assembly, in resolution 421 (V), had stated that when deprived of economic, social and cultural rights, man did not represent the human person whom the Universal Declaration regarded as the ideal of the free man.

22. The discussion of item 77 had revealed that most delegations did not support the idea of establishing any human rights post or abolishing existing bodies. His delegation was on the side of that majority and was in favour of improving the work of existing sectors of the United Nations system in the field of human rights. It was regrettable that the Committee was again being confronted with the question of the so-called High Commissioner for Human Rights. The insistence with which certain delegations were raising that question gave other delegations the right to oppose the raising of the question with equal insistence. His delegation had put forward

(Mr. Ogurtsov, Byelorussian SSR)

convincing arguments about the uselessness and harmfulness of such a post and had therefore been surprised when artificial arguments had been put forward in favour of its establishment and references been made to the work of the High Commissioner for Refugees, who was exclusively engaged in providing humanitarian assistance to people in the territory of countries of which they were not citizens. Moreover, the proponents of the idea of establishing a post of High Commissioner for Human Rights wished to give him the power to monitor the implementation of human rights by any State, bypassing existing legal bodies in that State, in other words, interfering in the internal affairs of sovereign States. Such comparisons were clearly out of place.

23. Mr. VONGSALY (Lao People's Democratic Republic) said that given the differences of opinion in the Committee, the proposal to create a post of High Commissioner for Human Rights, contained in draft resolution A/C.3/35/L.58, would do nothing at the present time to solve the basic problem: it would only result in overlapping and duplication of work among the various bodies which were already dealing with the complex question of human rights, and it would inevitably place an additional burden on the United Nations budget. The goal could better be attained by improving the efficiency of the work done by existing bodies than by establishing new ones. The mere creation of a post of High Commissioner for Human Rights, a special representative of the Secretary-General or a Centre for Human Rights would not be sufficient to promote true respect for human rights and fundamental freedoms: what counted was not the proliferation of resolutions or new agencies but the will of each State to translate respect for and promotion of human rights into concrete action.

24. It was high time to call upon certain ardent defenders of human rights to match their actions to their words, beginning with the cessation of all forms of co-operation with and support for the minority apartheid régime of Pretoria. Moreover, those same ardent defenders of human rights should cease their blind support of the expansionist régime which was oppressing the Arab people in illegally occupied territories particularly the Palestinian people, whose suffering was growing steadily worse. The present exercise engaged in by at least some members of the Committee was not only useless but dangerous, for under the cover of good intentions and lofty phrases, they were attempting to distract international attention from the flagrant and tolerable violations committed by certain States Members of the United Nations with the protection and aid of those who were most cynically vociferous in the defence of human rights.

25. If, on the other hand, certain defenders of human rights that were economically and militarily strong were trying to create the post of High Commissioner with the concealed intention of controlling the economically and militarily weak countries and forcing upon them a unilateral respect for human rights as defined by the strong countries while continuing to ignore their own misdeeds, his delegation feared that the future United Nations High Commissioner for Human Rights could only partially fulfil the heavy responsibility that the General Assembly would entrust to him. The Third Committee was being used as a forum for propaganda campaigns and collective hypocrisy. It should be more

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(Mr. Vongsaly, Lao People's Democratic Republic)

realistic and accord a high priority to the consideration of problems whose solution would affect, not theoretically but actually, the well-being, progress and prosperity of mankind. His delegation would therefore vote against the premature draft resolution, which would not provide a true solution for the problem of human rights.

26. Mr. DUE (Norway) said that although remarkable achievements had been made in the field of human rights, to which the international community had pledged itself, performance had by no means matched declarations. Much remained to be done in order to strengthen and render effective the machinery within the United Nations system for the protection of human rights. The greatest responsibility in that field lay with national authorities and regional organizations. Governments must face their challenges and seize their opportunities in terms of creating appropriate national institutions. However, the most complex and difficult challenges remained to be met at the international level, chiefly in the United Nations.

27. His Government had long supported the establishment of a post of United Nations High Commissioner for Human Rights. The main reason for the delay in establishing such a post appeared to be that there were different opinions with respect to the mandate of a High Commissioner. His delegation had consistently advocated a far-reaching mandate and was prepared to enter into discussions on some form of compromise formula. It would probably be beneficial to entrust the High Commissioner with most of the functions already performed by the Secretary-General in the field of human rights, and that presupposed giving a high status to the High Commissioner.

28. The "good offices" machinery of the United Nations Secretariat and the Commission on Human Rights had been considerably refined over the years and had been used with good results. Further efforts should be made to strengthen that machinery and make it more efficient in the field of human rights within the entire United Nations system. The establishment of a post of High Commissioner could contribute much to that process.

29. Immediate thought should be given to strengthening the Division of Human Rights within the Secretariat. The Division should be enabled to fill properly and effectively the ever-increasing demands placed on it, including the demand for assistance to responsible organs such as the Human Rights Committee. It was therefore somewhat surprising to his delegation that the Secretary-General in his report (A/35/607) had expressed the opinion that further consideration was required with regard to the question of redesignating the Division as a Centre for Human Rights. His delegation believed that the Secretary-General had already been given a mandate to do so, and it was confident that such a change had broad support in the Committee and among Member States.

30. The Commission on Human Rights had developed into a most respectable and competent organ within the United Nations in the handling of complaints alleging violations of human rights. At present, however, the Commission was unable to deal promptly with matters requiring urgent attention which related to grave human rights

(Mr. Due, Norway)

violations occurring between the periods of its annual sessions. His delegation therefore took a positive attitude towards suggestions for some form of intersessional meetings of the Commission and its Bureau to deal with exceptional circumstances.

31. The Commission should do its utmost to complete at its next session the over-all analysis of ways to improve human rights work within the United Nations system. That analysis had been initiated two years earlier, but the results achieved had been rather meagre. If agreement could not be reached within the Commission on important practical measures, then the final decisions should be taken by the General Assembly at its thirty-sixth session.

32. Mrs. GOBIR (Nigeria) said that, despite the efforts of the United Nations to promote and protect the human rights of all persons, the international community was still confronted with frequent violations of human rights. There was therefore a need to study further new approaches and exert further efforts aimed at improving and safeguarding the enjoyment of human rights by all people. The Third Committee had set up working groups to prepare new instruments, such as the draft conventions or declarations on the rights of the child, migrant workers, and non-citizens. Her delegation supported the decision of the Commission on Human Rights to establish at the beginning of its forthcoming thirty-seventh session an open-ended sessional working group to continue the over-all analysis and to make recommendations concerning alternative approaches for improving the effective enjoyment of human rights and concerning the long-term programme of work of the Commission. Her delegation realized the importance of document A/35/607 on the redesignation of the Division on Human Rights as a Centre for Human Rights, and it expected that the Secretary-General would continue to give it careful consideration and hold the necessary consultations. The Division on Human Rights should be provided with adequate resources to enable it to perform its functions competently.

33. In her delegations' view, the arguments of the delegations proposing the creation of a post of United Nations High Commissioner for Human Rights would have been more convincing if those same delegations had been in the forefront of the international community's struggle against the apartheid régime of South Africa. Her delegation did not believe that the proposal to create the post was aimed at dealing with the mass violations of human rights in South Africa, nor was there sufficient assurance that the proposal would not provide an excuse for intervention in the internal affairs of third world countries. For those reasons, Nigeria was not in a position to support the proposal at the present time. It would be more appropriate to establish a co-ordinating bureau for human rights in the Office of the Secretary-General that would strengthen, review and co-ordinate the present human rights machinery and activities within the United Nations system. That bureau would be headed by a co-ordinator for human rights and be answerable to the Secretary-General, who would report to the Economic and Social Council and the Commission on Human Rights. The establishment of such a bureau would be a compromise approach, which would seek to co-ordinate measures based on the concepts

(Mrs. Gobir, Nigeria)

of General Assembly resolutions 32/130. Another approach which should be further explored was the setting up of suitable regional arrangements for promoting and protecting human rights. Questions relating to the promotion and protection of human rights could then be discussed with a frankness which was impossible under existing arrangements. Thereafter, the international community could more meaningfully supplement the efforts at the regional level to maintain a uniform standard in the observance of the tenets of the Universal Declaration of Human Rights. A most laudable initiative was being taken in that regard by the Organization of African Unity to elaborate an African charter on human rights and to create a human rights commission in OAU's general secretariat.

34. In that connexion, the suggestion of a stronger role for the Commission on Human Rights was very relevant. Her delegation intended to participate fully in the deliberations of the sessional working group which the Commission had decided to set up at its thirty-seventh session. In Nigeria, the promotion and protection of human rights were fully guaranteed and enshrined in the national Constitution. Nigeria had also signed and was party to several of the international instruments on human rights, in keeping with its respect for the human rights and dignity of all persons and peoples.

35. Mr. GIUSTETTI (France) said that although the discussion of agenda item 77 had produced an effervescence of ideas, his delegation believed that only reforms which met with broad agreement could be effective and that it was necessary to find areas in which, despite the variety of positions, a broad majority or even consensus would be possible.

36. His delegation hoped that the Secretary-General would soon speak out in favour of elevating the Division of Human Rights to the level of a Centre. That step would demonstrate the importance which everyone attached to questions of human rights and would highlight the role played by those questions in international relations. It would then be necessary to consider whether the resources available to the Secretariat were consonant with its tasks in the field of human rights. A study should be capable of indicating objectively whether current resources were adequate or could be made adequate by a more rational organization or use, or whether they should be increased.

37. His delegation had some reservations about the possibility of creating an intersessional role for the Bureau of the Commission on Human Rights and the possible need for convening emergency sessions of the Commission referred to in the Commission's resolution 28 (XXXVI). It was clear that the Commission should always be vigilant in the detection of violations of human rights; nevertheless, his delegation had some difficulty in imagining emergency situations which would fall within the competence of the Commission rather than any other body, notably the Security Council. It therefore supported the initial decision on that question: requesting the Secretary-General to seek the views of Governments and to submit to the Commission, at its thirty-seventh session, available information on the intersessional roles performed by the bureaux of other bodies in the United Nations

(Mr. Giustetti, France)

system and on the means available for the convening of intersessional meetings of the Bureau and of emergency sessions of the Commission. That information would no doubt be very useful in helping Governments to express their views on the question.

38. His delegation agreed in general that the Sub-Commission on Prevention of Discrimination and Protection of Minorities was one of the means of better assuring the promotion and protection of human rights. There must, however, be agreement on its role and powers. It was composed of independent experts: therein lay the virtues of its work, but also the limitations. Experts could be expected to have personal views, but the disadvantages of that independence was that their views were not binding on Governments. Without commitment on the part of Governments, nothing was possible; thus, while it was a good idea to make use of independent experts in the field of human rights, they should act at the request of the ruling bodies of the United Nations and not on their own initiative. That reservation applied only to the consideration of situations of systematic or mass violations of human rights. His delegation also believed that the use of experts acting in an individual capacity was ineffective if it represented a way for the ruling bodies to evade their responsibilities. If such experts were used to resolve problems on which the ruling bodies had had profound differences, their work was likely to be in vain, but progress could be made if there was political will in those bodies to arrive at a solution.

39. The ruling bodies should use the good offices of the Secretary-General only if there was a sound reason to do so. It was clearly not desirable to expose the Secretary-General to failure in his task. When an individual or an organization acted without legal competence, it must do so with certainty of success, since its influence, credibility, prestige and moral authority were at stake. If the Secretary-General acted in such cases, he would be committing his moral authority, which was that of the United Nations itself. It would therefore be difficult a priori to define situations in which his action would be required, and it would be better to request such action on a case-by-case basis.

40. His delegation had participated in the seminar held at Geneva in July 1980 in accordance with Economic and Social Council decision 1979/30, but it believed that the seminar had not made much progress in defining the right to development; nevertheless, it had been possible to clarify positions. It had been seen that some delegations, although in favour of affirming that right, were unwilling to study the concept of the right to development as a real right and make it specific; others believed that it was premature to proclaim that the right to development was a human right. At present, such a right did not exist for anyone, and it was difficult to see how a Government could draw up a list of demands and present it to another Government or to the international community, requiring that the demands should be met in the name of the right to development. His delegation believed that the right to development existed in principle and could agree that it was a human right. Nevertheless, making it a reality was still a task for the future; that could be done only if it was recognized that the right belonged to everyone and therefore created rights and obligations for everyone.

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41. Mr. FARIS (Jordan) said that the United Nations had been set up to preserve international peace and security and to protect human rights and fundamental freedoms, including the dignity of the individual and the respect of man by man. He reaffirmed his delegation's adherence to those principles reflected in Jordan's Constitution and legislation, which guaranteed the economic, social, political and cultural rights of all citizens without distinction and ensured the equality of all citizens before the law. That situation was demonstrated by Jordan's stability, security and rapid progress and development, based on respect for the individual. Jordan had acceded to the International Covenants on Human Rights and to a number of other international conventions in the field of human rights listed in document A/35/389, and it would soon accede to the Convention on the Elimination of All Forms of Discrimination against Women. It was making tireless efforts to adhere to the principles set forth in those instruments, and it had set an example in respect for the rights of individuals which had been recognized by Amnesty International and by the Commission on Human Rights.

42. His delegation supported paragraph 2 of General Assembly resolution 34/46 and had welcomed the seminar organized on the initiative of the Economic and Social Council in accordance with its decision 1979/30 on the effect of the present unjust economic order on the economies of developing countries and the obstacles that that constituted for the implementation of human rights and fundamental freedoms. His delegation also supported paragraph 11 of General Assembly resolution 34/46 and paragraph 12 of the same resolution, relating to situations which all constituted violations of human rights and of the Charter. The United Nations had always been the centre of hopes for the protection of human rights, but flagrant violations of human rights and fundamental freedoms still persisted, including torture, forced mass exodus, arbitrary detention and racial discrimination. Those violations were taking place in the occupied Arab territories, and in their treatment of the Palestinian people, the Israeli occupying authorities were violating the Charter every day. The occupying authorities were refusing to recognize the right of the Palestinians to self-determination and were depriving them of their right to return to their homeland, destroying their homes, confiscating their property, and attempting by oppression and torture to force them to abandon their land and property; all those actions were flagrant violations of human rights and of the Charter.

43. His delegation supported the idea of appointing a High Commissioner for Human Rights to investigate human rights violations, especially those resulting from foreign occupation; the High Commissioner should not take up individual cases, since such incidents paled in comparison with the sufferings of millions of people who were threatened with extermination. His delegation believed that the High Commissioner should not consider questions which were currently being dealt with by the Commission on Human Rights. The question of the appointment of a High Commissioner must not become part of the cold war being waged by certain countries in the guise of protection of human rights, for the question of human rights should not be politicized.

44. Human rights, as set forth in the Universal Declaration of Human Rights, must be linked with the right to development and with the establishment of a new international economic order that would ensure decent living conditions for all people. The United Nations must spare no effort to defend human rights. In that connexion, Israel's refusal to allow the Special Committee to Investigate

(Mr. Faris, Jordan)

Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories to enter the country constituted a flagrant violation of human rights and United Nations resolutions on the part of the Zionist entity. When discussing ways and means of improving the effective enjoyment of human rights and fundamental freedoms, the Committee must also consider ways of implementing methods to secure that goal and making those methods more effective. Human rights were complementary and indivisible, and Governments, non-governmental organizations and other institutions all had the duty to ensure that they were protected.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued)
(A/C.3/35/L.45/Rev.2, L.46/Rev.1, L.48/Rev.1, L.49/Rev.1, L.50, L.55, L.57)

45. Mr. VAN BOVEN (Director, Division of Human Rights) said that increasing emphasis was being placed within the human rights programme on the complementarity and interaction among the various Charter-based human rights organs. The Committee had before it the relevant documents (A/35/3 and addenda, A/35/348, A/35/522, A/35/543, A/35/148 and A/35/199). Some matters covered by the present item were being considered by working groups of the Committee, which would submit their own reports to it. As could be seen from the report of the Commission on Human Rights on its thirty-sixth session (E/1980/13), the human rights programme over the past year had seen continued standard-setting activities towards a convention against torture, a convention on the rights of the child and declarations on religious intolerance, the rights of minorities, the human rights of non-citizens, the human rights of migrant workers and their families, and the protection of persons under any form of detention or imprisonment. The General Assembly was working on the right to development and on a study concerning the new international economic order and the promotion of human rights. In its resolution 1980/30, the Economic and Social Council had requested the Secretary-General, in co-operation with UNESCO and ILO, to draw up and implement a world-wide programme for the dissemination of international instruments on human rights in as many languages as possible and to report on the implementation of that programme to the Commission on Human Rights at its thirty-seventh session. The Council had also requested the Secretary-General to inform the United Nations Committee on Information of its strong hopes that that Committee would make suitable recommendations for developing public information activities in the field of human rights.

46. In response to previous requests of the General Assembly and the Commission on Human Rights for organizing seminars in areas where regional institutions in the field of human rights did not yet exist, the Division was exploring with Member States in the Asian region the possibility of hosting a regional seminar, for that region. A Member State within the region had offered to host a seminar, which was scheduled for 1981, subject to the availability of resources. The past year had also seen efforts by the Commission on Human Rights to deal with various situations of violations of human rights in many parts of the world. Furthermore, the Commission had considered, in confidential sessions, the situations in various countries which were referred to in paragraph 247 of the Commission's report. A noteworthy feature had been the recognition by human rights organs of the need not only to address situations of violations of human rights as they occurred but also to render reconstruction assistance to countries which had experienced serious violations of human rights, particularly with a view to strengthening their laws and institutions for the promotion and protection of human rights.

(Mr. Van Doven)

47. In its resolution 33 (XXXVI) on the situation in Equatorial Guinea, the Commission on Human Rights had decided, in response to a request from the Government of Equatorial Guinea, to ask the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting that Government in taking any action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economic, political and social realities of that country. The Commission requested the Secretary-General, and invited all States, specialized agencies and other organs associated with the United Nations system, to extend assistance to Equatorial Guinea with a view to helping that country to restore human rights and fundamental freedoms. He invited the Committee to reflect on the matter and to contemplate how that type of activity might be strengthened in the future. Assistance to countries in which there had been serious violations of human rights or man-made disasters should include a human rights component, so as to strengthen the laws and institutions in such countries that dealt with the promotion and protection of human rights. If the Division of Human Rights was to follow a more dynamic approach in offering and providing expert services in the field to Governments at their request, the needed resources must be provided. An earmarked trust fund might be one of the answers.

48. In recent years, human rights organs examined various phenomena involving serious violations of human rights, including torture and other forms of cruel, inhuman or degrading treatment or punishment, abusive detention, abusive use of states of exception or emergency, abusive application of doctrines of national security, the problems of mass exoduses, and the problems of enforced or involuntary disappearances. Regarding the latter question, the General Assembly had, in 1978, adopted resolution 33/173, in which it requested the Commission on Human Rights to consider the question of missing or disappeared persons with a view to making appropriate recommendations. At its thirty-sixth session, the Commission on Human Rights had adopted resolution 20 (XXXVI), in which it decided to establish for a period of one year a working group whose members would serve as experts in their individual capacities to examine the questions relevant to enforced or involuntary disappearances of persons. The working group was requested to submit a report on its activities, together with its conclusions and recommendations, to the Commission at its thirty-seventh session. Lastly, in connexion with the report of the Secretary-General concerning the United Nations Trust Fund for Chile, the General Assembly had appealed in two resolutions (33/174 and 34/176) to Member States for contributions to the Fund, and the Secretary-General himself, in September 1979, had made a similar appeal. The Board of Trustees had informed the Commission on Human Rights at its most recent session that it was convinced of the urgent and imperative need to provide immediate assistance to persons falling within the competence of the Trust Fund. Much more assistance was needed to enable the Fund to support humanitarian projects and meet the needs of the persons covered by its terms of reference.

The meeting rose at 5 p.m.