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SUMMARY RECORD OF THE 14th MEETING

Held at Headquarters, New York,
on Monday, 24 April 1978, at 3 p.m.

Chairman: Mr. EHSASSI (Iran)

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Human rights questions (continued)

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The meeting was called to order at 3.40 p.m.

HUMAN RIGHTS QUESTIONS (continued) (E/1978/34, E/1978/14 and Add.1 to 6, E/1978/45, E/1978/21; E/1978/L.23; E/1978/C.2/L.3)

1. Mr. IURCEA (Romania) said that the Economic and Social Council and its subsidiary bodies must intensify their concern for the implementation of the right to work and to education and such fundamental problems as drugs and pornography. Although the Commission on Human Rights had considered improved ways of dealing with human rights problems, it must also devote greater attention to their substantive aspects. He drew attention in that connexion to General Assembly resolution 32/120, on migrant workers, and said that that subject should be discussed at the Council's next session. Specific attention should also be focused on the exploitation of labour through illicit and clandestine trafficking. His delegation was likewise concerned about overlapping in the work of the Commission on Human Rights and other bodies and felt that more attention should be focused on the economic and social aspects of human rights.
2. Miss NURU (United Republic of Tanzania) said that no State could claim it had reached perfection in the observance and protection of human rights and fundamental freedoms, and that in some cases States committed such gross violations as to cause great concern and trepidation in the international community. That was clearly the case in southern Africa. The tragic situation prevailing there obliged the whole international community to take decisive action to end the twin evils of colonialism and apartheid; mere condemnation and expressions of indignation were insufficient. The Commission on Human Rights had rightly accorded that issue the highest priority, especially since the Ad Hoc Working Group of Experts had made it clear that the situation in that part of the world was continuing to deteriorate.
3. The entry into force of the International Covenants on Human Rights, while representing a great step forward, did not automatically facilitate the realization of the rights they embodied. While the implementation of the provisions of the International Covenant on Civil and Political Rights posed no problem for her country, implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights would cause some difficulties not only for her country but for all developing countries. The problem was that human rights could not be viewed outside the context of the world economic order, and the fact was that the present world economic and monetary systems did not allow the developing countries to benefit from their resources and wealth. Their development was lagging behind, and although they were not ungrateful for the aid which they received, aid alone did not alleviate the problem of poverty. The result was that although the developing countries did not lack the will to fulfil their obligations under the International Covenant on Economic, Social and Cultural Rights, they simply lacked the means. Not all of them, for example, could provide compulsory universal primary

(Miss Nuru, Tanzania)

education in accordance with article 13 of that Covenant, much as they would like to do so. Their limitations extended to many other areas essential to the enjoyment of human rights. Without the elimination of colonialism, racism, racial discrimination and apartheid and without the establishment of the new international economic order, the promotion and protection of human rights as envisaged in the International Covenants on Human Rights would remain difficult, if not impossible. It was therefore imperative that Member States should take steps to remove all obstacles to the enjoyment of human rights by all peoples. The most basic human right, as her country's President, Julius Nyerere, had recently stated in an address at Howard University, was the right to life itself, and economics was basic to the exercise of that right. In poor countries, therefore, if there was a clash between individual freedom and economic development, it was generally not possible to give priority to the former.

4. Miss DJURIČKOVIĆ (Yugoslavia) said that the establishment of the new international economic order was of crucial importance for the full realization of economic, social and cultural rights and one of the prerequisites for placing them on the same level as civil and political rights. An integral approach to human rights was needed and her delegation had therefore sponsored and actively supported the adoption of General Assembly resolution 32/130. It also welcomed the increasing support for the principle of the indivisibility and interdependence of human rights and felt that no single model of human rights was applicable to all countries.

5. Her delegation was pleased to note that the Commission on Human Rights, at its thirty-fourth session, had continued to attach the greatest importance to the mass and flagrant violations of the human rights of the peoples of southern Africa as well as of the Palestinian people. It also welcomed the extension of the mandate of the Ad Hoc Working Group established to inquire into the situation of human rights in Chile, and commended the Commission for establishing a working group to draft a convention on torture and for taking the initiative in the drafting of a convention on the rights of the child. As a multinational community, Yugoslavia was particularly pleased at the inclusion in the agenda of the item on the human rights of persons belonging to national, ethnic, religious and linguistic minorities as a framework for consideration of the drafting of a declaration on rights of minorities. More effective protection of the rights of minority groups would further advance the protection of human rights in general. Her delegation also believed that the Commission should continue to pay due attention to the problems of migrant workers and their families.

6. As to the question of the programme and methods of work of the Commission, her delegation believed that the Commission should concentrate its attention on ensuring a better and more rational use of existing bodies and procedures. In that connexion, it was important that the greatest possible number of States should accede to the existing international legal instruments in the field, since many of those instruments provided through their implementation procedures for the submission of reports which made it possible to gain a closer insight into the policies of signatory States.

7. Mrs. SIBAL (India) said that the Commission had adopted two important resolutions on the question of the violation of human rights in the occupied Arab territories. The Commission had had before it two very interesting reports on self-determination in connexion with the discussion of the right to self-determination of all peoples and its application to peoples under colonial domination or foreign occupation. The issue of racism and racial discrimination had also received the careful attention that it merited. The study on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa was an important document and her delegation hoped, therefore, that the Council would adopt draft decision 3. Similarly, it hoped that the Council would adopt draft resolution I on advisory services in the field of human rights.

8. The Commission had devoted serious attention to drafting precise international standards wherever they were required. The draft convention on torture and other cruel, inhuman or degrading treatment or punishment was of immediate urgency. Her Government was studying with interest the proposals that had been submitted during the Commission's most recent session on such subjects as migrant workers, the rights of the child, and minorities.

9. The Commission had also had a twofold mandate relating to the further promotion and encouragement of human rights and fundamental freedoms, including the programme and methods of work of the Commission and the over-all analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms in the light of eight concepts enumerated in General Assembly resolution 32/130. The concepts stemmed from a basic truth, namely, that economic, social, cultural, civil and political rights were indivisible and inalienable. All those rights were amply defined in the two international Covenants and in other international instruments referred to in resolution 32/130. Those instruments, together with the details of the new international economic order, provided a sturdy framework of definition. The over-all analysis could not and should not be carried out in one stroke. It must be the result of concerted efforts based on contributions from all Member States. The interest shown by delegations in the question was evident from the number of resolutions proposed in that connexion. Resolution 26 (XXXIV) suggested some definite methods whereby the over-all analysis could be conducted at the next session of the Commission. Her delegation hoped that the Council would make it possible for the working group to meet for one week prior to the next session for that purpose.

10. Referring to resolution 23 (XXXIV), on national institutions in the field of human rights, she said that the measures suggested in that text reflected the wide belief that the most effective action could be taken at the national level. Her delegation looked forward to hearing government comments on the suggested guidelines for such national institutions and to the results of the forthcoming seminar on national and local institutions.

11. Her delegation supported the draft general principles on equality and non-discrimination in respect of persons born out of wedlock. Since the United

(Mrs. Sibal, India)

nations Declaration on Human Rights and the Declaration of the Rights of the Child placed as much emphasis on the need to protect the family as a basic unit of social existence as they did on the need to ensure protection and opportunities for children's growth, there should be no fear that the draft principles might weaken the institution of marriage. In any case, India had been endeavouring to do away with the stigma of illegitimacy and, wherever possible, suitable statutory provisions had been adopted.

12. Mr. MAENNIG (Observer for the German Democratic Republic) said that the Commission had done useful work at its thirty-fourth session. The resolutions concerning the mass violations of human rights in southern Africa were an important contribution to the struggle for the elimination of the vestiges of colonialism, racism and apartheid. Decisive measures were necessary to end the brutal terror of the racist régimes in southern Africa and to increase support for the national and social liberation of the peoples.

13. His delegation reiterated its conviction that the only way to restore the legitimate rights of the Chilean people was to overcome fascist rule in Chile. It therefore welcomed the reference in resolution 12 (XXXIV) to the proposed study on the consequences of the various forms of aid extended to the junta. It was no secret that the junta was able to maintain its terrorist rule only because of considerable political, economic and military support from outside.

14. His delegation also welcomed resolution 1 (XXXIV) concerning the Middle East and shared the view expressed during the debate in the Commission that human rights could be restored in that area only if Israel withdrew from all occupied Arab territories and if a solution was found that met the interests of all concerned. In that context he drew attention to resolution 2 (XXXIV), which affirmed the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a sovereign State in Palestine.

15. His delegation welcomed the Commission's decision to continue consideration of a draft convention on the rights of the child. It would be a very important contribution to promoting international co-operation in the field of human rights. It would be desirable for the work to start without delay so that a convention could be adopted as a contribution to the International Year of the Child. His delegation would actively support the elaboration of such a convention.

16. His delegation emphasized that the right to peace was a fundamental, inalienable human right which was threatened by development of the neutron bomb. Prohibition of the production, stockpiling, proliferation and use of that weapon was urgently needed in order to secure the most fundamental human right, the right to life.

17. Concerning the item entitled "Further promotion and encouragement of human rights and fundamental freedoms", he said that any attempt to place human rights over the State by creating such mechanisms as a high commissioner for human rights was bound to undermine the sovereignty of States and, in the final analysis, to jeopardize peaceful international co-operation. The existing machinery of the

(Mr. Haennig, Observer, German Democratic Republic)

United Nations was based on principles laid down in Article 2 of the Charter and explained in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States. These principles included the principle of the sovereign equality of States and that of non-interference in internal affairs. In that connexion he recalled Articles 55 and 56 of the Charter, which underlined State co-operation to promote respect for human rights, thus implying that States were sovereign with regard to the protection of human rights. Any future consideration of the possibility of changing the system with regard to human rights should remain within the framework established by General Assembly resolution 32/130.

18. Mr. HEINEMAN (Netherlands) said that the draft general principles on equality and non-discrimination in respect of persons born out of wedlock, the purpose of which was to achieve equality between legitimate children and those born out of wedlock, and to safeguard the latter from discrimination, were fully in accordance with the Netherlands' present Constitution and with its new draft constitution. However, as the situations in which legitimate and illegitimate children were born differed, it would seem to be permissible - and sometimes even essential - to apply different rules in order to ensure that they received equal treatment. His Government had submitted various remarks in that connexion to the Secretariat.

19. Turning to the report of the Commission on Human Rights (E/1978/34), he said that while the decision to form working groups had made it possible to discuss certain subjects in a more informal atmosphere, the limit for fruitful work in such groups had been reached when the Commission had established no less than five of them. His delegation had doubts concerning the timing and duration of the session of the working group which the Commission proposed should be established to discuss the over-all analysis mentioned in General Assembly resolution 32/130 and the elaboration of a draft convention against torture. Moreover, it was questionable whether a study of two unrelated items by one group would lead to fruitful discussions. However, since there seemed to be no alternative it would go along with the proposals in draft decisions 1 and 5.

20. His Government had been impressed at the fact that the Commission had seen fit to overcome its understandable reluctance to formulate decisions involving Member States. Although it saw certain advantages in the Commission's decision not to discuss in public situations being dealt with under the confidential procedure established by Economic and Social Council resolution 1503 (XLVIII), that decision would seem acceptable only to the extent that the Commission was acting in a positive manner under the mandate entrusted to it by that resolution.

21. One of the most important subjects discussed at the session had been the over-all analysis referred to in paragraph 2 (a) of General Assembly resolution 32/130. Many interesting proposals for further action had been made in an attempt to improve the human rights machinery of the Organization. In particular, one suggestion had been to appoint a high-ranking official to co-ordinate activities relating to human rights. The over-all analysis must be based on the recognition of the indivisibility of political and civil rights, on the one hand, and economic, social and cultural

(Mr. Heinemann, Netherlands)

rights, on the other. While his Government accorded very high priority to the realization of economic and social rights, it insisted that that should never be at the expense of basic political and civil rights and fundamental freedoms. Secondly, the over-all analysis must maintain a proper balance between individual and collective rights.

22. His Government had noted with interest the suggestion that the Commission's session should be prolonged, possibly by having a regular and a resumed session. Also, the grouping of certain similar items was an initiative that deserved attention. However, care should be taken to ensure that items did not fail to receive the attention they deserved because they were combined with other important ones.

23. Noting that Yugoslavia had submitted a draft declaration on the rights of persons belonging to minorities and that a draft convention on the rights of the child had been proposed by Poland, he said that while welcoming all sincere efforts to improve United Nations effectiveness in the area of human rights, the drafting of a convention - particularly if it lacked adequate implementation machinery - did not in itself remedy any evil. Moreover, the existence of a convention should never be used as a pretext to refrain from action when unjust situations arose.

24. His delegation was pleased to note that the Commission had started to prepare a draft convention against torture on the basis of a text submitted by the Swedish delegation. It supported the Commission's recommendation that that text should be circulated among Governments for their comments and it hoped that the Commission would soon be in a position to submit a draft convention complete with the adequate implementation mechanism. His delegation fully supported the recommendation that the Council should request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to submit a comprehensive report with a draft body of principles for the protection of all persons under any form of detention or imprisonment. Noting that the elaboration of a draft declaration on the elimination of religious intolerance was proceeding very slowly, he stressed that the provisions of the declaration should in no way diminish the rights and freedoms in that field enumerated in relevant articles of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights.

25. His Government shared the concern expressed by the Commission in its resolution 11 (XXXIV), at the curtailment, owing to lack of funds, of the programme of advisory services in the field of human rights. It was confident that draft resolution I, on that subject, would commend itself to the Council.

26. Finally, he expressed the hope that his country would, in future, be in a position to participate in the work of the Commission even more closely than it had as an observer.

27. Mr. LIVERMORE (Observer for Canada) said that his delegation had been pleased at the over-all results of the Commission's thirty-fourth session and at what those results portended for the future work of the United Nations in the human rights field. It supported the six draft resolutions and the eight draft decisions which had been forwarded to the Council for further action and commended them to members of the Council.

(Mr. Livermore, Observer, Canada)

28. Two elements in the report of the Commission deserved special mention because of their long-term significance. The first concerned gross and persistent violations of human rights in any part of the world. Although the Commission had for some years been criticized as unbalanced and unduly selective in its approach to gross violations by Member States, he noted that steps had recently been taken to move away from that selective approach. The major component had been the adoption of the confidential procedures for examining complaints established under Council resolution 1503 (XLVIII). The success of those procedures, which had not been fully utilized prior to the thirty-fourth session, had been dependent not only upon the members of the Commission and Sub-Commission but also upon the co-operation of the States under examination. The Commission had established a precedent by adopting at a public meeting a significant decision on gross violations of human rights, thereby confirming its mandate to act wherever violations might occur.

29. The second item of considerable importance was the Commission's review of United Nations activities in the human rights field. He recalled that the Commission had been entrusted with three tasks in that connexion at its recent session. The fact that it had not been able to complete any of them was simply a reflection of the magnitude of the tasks in question. With regard to the first, concerning enhancement of the Commission's working methods, his delegation believed that they had been enhanced considerably by making more effective use of time available. However, more could be done, especially in the drafting of declarations and conventions and in the examination of the Sub-Commission's reports. Despite a number of valuable suggestions concerning the reordering of priorities, little progress had been made on the second task, namely, the fulfilment of the mandate set forth in General Assembly resolution 32/130. If the mandate was to be carried out responsibly, that could be done only as a result of thorough study with the co-operation of all Member States. That would take much time and effort. His delegation supported the recommendation that a working group should meet to study that issue prior to the thirty-fifth session and hoped that all States with an interest in the matter would submit reports to the Secretary-General. Those reports could form the basis for documentation for the working group.

30. Concerning its third task, the creation of new machinery, two valuable resolutions had been adopted, resolution 23 (XXXIV) on national institutions, initiated by the Indian delegation, and resolution 24 (XXXIV) on regional arrangements for promoting human rights, put forward by the Nigerian delegation. However, there was still a need in the United Nations system for a senior post, whether of high commissioner, under-secretary-general or some other designation, devoted to the promotion and protection of human rights. The United Nations had a number of basic functions in the human rights field: to create and promote widespread acceptance of standards, to formulate legal conventions, to co-ordinate educational activities, to develop enforcement mechanisms and to aid victims of human rights violations. Some method was required for co-ordinating those efforts, enhancing their effectiveness where needed and promoting their universal acceptance. His delegation looked forward to future discussions on the topic of more effective arrangements for the promotion of human rights.

31. Mr. BYKOV (Union of Soviet Socialist Republics) said that the effectiveness of the United Nations in the field of human rights depended primarily on how consistently Member States themselves worked for the full implementation of the goals proclaimed in the Charter and the extent to which their domestic policy was in keeping with those goals, the most important of which was maintenance of international peace and security and the maintenance of friendship among peoples. The co-operation among States which was essential to the realization of human rights could be effective only if it was geared to peace and mutual understanding. Support for international co-operation and the advancement of human rights in the Soviet Union was rooted in the very nature and origin of socialist humanism and firmly anchored in the new Soviet Constitution. Unlike bourgeois democracy, socialist democracy extended to the entire people and to all areas of social life and harmonized the rights and duties of the individual and the community.

32. The Commission on Human Rights had made a useful contribution in the field of human rights through the preparation of a large number of documents relating to genocide, racial discrimination, apartheid and so forth, and more States should be encouraged to undertake the obligations arising from those instruments so as to make them more effective. However, the useful decisions taken on key aspects of international co-operation to combat colonialism, racism, apartheid, aggression and foreign occupation and oppression were unfortunately not being implemented by all States.

33. The report of the Commission on Human Rights on its thirty-fourth session (E/1978/34) provided a good basis for a broad exchange of ideas and showed that the Commission was well equipped for its task. An especially important part of that task was to combat racism and apartheid, and the Commission had rightly urged all States which had not yet done so to ratify one of the most effective international instruments in that struggle, the Convention on the Suppression and Punishment of the Crime of Apartheid. The Soviet delegation supported the recommendation referred to in draft decision 3 (b) because the Special Rapporteur's study proved that the system of apartheid continued to receive encouragement and support even from those who denounced it in words, and his delegation hoped that the study would encourage compliance with United Nations decisions, especially General Assembly resolution 32/14.

34. The Commission also rightly condemned the criminal violations of human rights which continued to take place in the Israeli-occupied Arab territories and it offered new proof of the persistent flouting by the Chilean junta of the insistent demands of the international community that the gross violations of human rights taking place in Chile should cease. The more insistent and energetic the efforts of the international community to put an end to repression and persecution in Chile and to restore the human rights of the Chilean people, the sooner that goal would be achieved.

35. Although it was unfortunate that the Commission's effectiveness had been reduced to some extent by the burdening of its agenda with certain items of secondary importance, it had taken a number of important decisions, among which resolutions 2 (XXXIV), 3 (XXXIV), 7 (XXXIV) and 26 (XXXIV) should be singled out.

(Mr. Bykov, USSR)

36. Human rights could be secured only within the context of international peace and security, and the Commission had therefore quite rightly condemned the attempts by certain States to abuse science and technology, which should serve exclusively the interests of peace and human welfare, in order to create new and deadlier means of mass destruction, such as the neutron bomb, which represented a denial of the most important of basic human rights, the right to life itself.

37. The Commission, as instructed by the General Assembly, had attached great importance to the question of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, and it was important to note that it based its work on that question on General Assembly resolution 32/130. It was surprising, therefore, that certain speakers had attempted in effect to rewrite that resolution. His delegation could not agree to that approach, which had no justification. The correct view had prevailed in the Commission regarding the need to concentrate efforts on formulating measures for increasing the effectiveness of existing United Nations organs rather than on creating new ones.

38. Ms. BEAGLE (New Zealand) said that New Zealand had closely followed the proceedings of the thirty-fourth session of the Commission on Human Rights as an observer. Her delegation had said at the sixty-second session of the Council that the item under discussion was the most important on the agenda of that session and it continued to believe that that was so. In commenting on the Commission's thirty-third session, however, her delegation had expressed misgivings about its rate of progress in carrying out the tasks entrusted to it in the area of standard-setting and, in particular, concern at the failure of the Commission to deal with major violations of human rights in an even-handed or effective manner. The results of the Commission's thirty-fourth session were very encouraging. Her delegation welcomed the Commission's efforts to revitalize and reorganize its work and to seek ways and means to improve its handling of the complex issues before it, at both the technical and the substantive levels. In particular, under item 11, "Further promotion and encouragement of human rights and fundamental freedoms", the report revealed wide-ranging discussions involving delegations from all regional groups on such complex issues as how to deal effectively with the Commission's heavy agenda, how to develop objective standards for considering violations of human rights wherever they occurred and how to co-ordinate and rationalize the work programmes of all United Nations bodies which had some responsibility for human rights matters. The solution of those problems, however, was not an end in itself; it merely provided the framework for achieving the goals of the human rights instruments adopted by the international community, whose implementation was essential to the creation of conditions under which all men and women could realize their full potential and participate on a free and equal basis in the over-all development of their community and society. There was an urgent need for broad agreement on approaches to human rights issues and for a determined effort on the part of all Member States to produce approaches based on an understanding of the different traditions, values and concerns of countries at all stages of development and with diverse cultural and social systems. For those reasons, New Zealand had co-sponsored General Assembly resolution 32/130 on alternative approaches. Her

(Ms. Beagle, New Zealand)

delegation regarded that resolution as a basis on which to forge a new consensus on human rights in which the experiences and contributions of all States could be taken into account and was therefore pleased to note that the working group established under item 11 had begun consideration of the over-all analysis envisaged in the resolution. She agreed with the Commission that so large and delicate a task could not be completed in one sitting. However, the broadly based initial exchange of views of 1978 and the limited but constructive recommendations of the working group represented a considerable advance over the unproductive polemical debate of previous sessions.

39. Her delegation was particularly pleased to note that many delegations which had hitherto been relatively inactive in human rights activities were becoming increasingly involved in seeking a balance between traditional human rights concepts on the one hand and the concern of the third world with mass violations of human rights and with the link between promotion of human rights and the new international economic order on the other. It also welcomed the trends towards an understanding of the essential link between the enjoyment of economic, social and cultural rights and the enjoyment of civil and political rights, towards the adoption of recommendations for action by consensus in so sensitive an area and towards greater co-ordination of United Nations activities in human rights. New Zealand had supported efforts to establish an independent co-ordinating authority.

40. In dealing with alternative approaches, her country was prepared to be completely flexible in considering any proposal which might pave the way for the more effective enjoyment of human rights and fundamental freedoms for all. She hoped that all Member States would give thought, as requested by the Commission, to the proposals already submitted and to further alternatives, prior to the convening of the working group in the week before the Commission's next session.

41. Her delegation noted that the Commission had slightly broadened its approach to gross violations of human rights in public meetings and it hoped that trend would continue. It appeared that the Commission had also made some progress in its closed meetings under the procedure provided for in the Council's resolution 1503 (XLVIII), and the publication of the names of countries considered at those meetings suggested that the Commission's approach to human rights violations might be slightly less selective in the confidential forum. Her delegation supported the confidential consideration of alleged violations of human rights on the understanding that Commission members would make every effort to act in a constructive manner when faced with situations which clearly contravened the standards established by the international community. The procedure established under Council resolution 1503 (XLVIII) should not, however, be used to preclude discussion of gross violations of human rights in open meetings of the Commission.

42. Her delegation commended the Commission's consensus on an enhanced role for advisory services in the human rights programme and its resolutions on national institutions and regional arrangements. Internationally accepted conventions could not ensure effective enjoyment of human rights unless they were nationally and regionally implemented as well. In her own region, her country

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(Ms. Beagle, New Zealand)

was aware of the impracticality of imposing a Western European administrative structure on the Polynesian social, cultural and legal traditions of neighbouring States. It therefore saw merit in regional arrangements which could expedite implementation of international conventions by taking into account local laws and social mores. That did not imply her country's acceptance of any variation in internationally agreed standards, but simply its recognition of the expediency of working towards a common goal on the basis of mutual recognition of similar problems in a certain region.

43. Her delegation noted that the Commission had started work on a number of new international instruments, including a draft convention on torture to which New Zealand attached considerable importance. She trusted that that instrument in particular would be given more active consideration by the Commission than had the draft Declaration on the Elimination of All Forms of Religious Intolerance. Her delegation was disappointed that, once again, no progress had been made on that important draft declaration and it concurred with others which had commented on the regrettable absence of political will as a major obstacle to its completion. Her delegation also agreed with the representative of the Netherlands that the drafting of such instruments was not an end in itself or a substitute for action. Her country had provided the Secretariat with detailed comments on the draft general principles on equality and non-discrimination in respect of persons born out of wedlock.

44. Her delegation wished to pay a tribute to the invaluable work done in the protection and promotion of human rights by international and national non-governmental organizations. Such organizations could make a vital contribution by disseminating information, arousing public interest and concern and identifying problems, often in cases where Governments felt unable to speak out. Increasing emphasis should be placed on the key areas of education and public information if the root causes of human rights violations were to be eliminated.

45. Mrs. OGATA (Japan) said that her country had supported every effort made by the international community to contribute to the realization of human rights and fundamental freedoms for every individual. It greatly appreciated the report on the work of the Commission on Human Rights at its thirty-fourth session, but regretted the delay in the distribution of that report. When a document was distributed only on the day when deliberations on the item were expected to commence in the Committee, delegations could hardly give it the careful and thorough study it merited. Her delegation therefore urged the Secretariat to make sure that relevant documents reached Member States in good time.

46. Her delegation noted the establishment of a number of working groups and understood that such working groups were essential for the effective implementation of the Commission's tasks. It attached the highest priority to considering alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms within the United Nations system, and fully

(Mrs. Ogata, Japan)

supported the convening of an open-ended working group of the Commission on Human Rights, as proposed in draft decision 1. It believed, however, that in meeting new challenges, the Commission should also re-evaluate its long-standing commitments and try to streamline its work, especially work which had been on its agenda for some time. It therefore appealed to the Commission to exercise discretion in establishing working groups, especially at a time when the whole United Nations was undergoing a restructuring process.

47. Japan believed that due consideration should be given to the different legal, economic, social and cultural systems of Member States in the instruments prepared by the Commission for the setting of standards for human rights, for the value of such instruments depended on their broad acceptance and implementation by Member States. Her delegation supported consideration of the draft body of principles for the protection of all persons under any form of detention or imprisonment, the draft convention on the rights of the child, and the draft general principles on equality and non-discrimination in respect of persons born out of wedlock.

48. Japan was greatly interested in the problem of human rights in Chile and hoped that continued efforts would be made by the Chilean Government to improve the condition of human rights in that country. It regretted the Chilean Government's continued refusal to permit an on-the-spot investigation of human rights violations, but appreciated Chilean efforts to comply with the expressed concerns of the international community. Her delegation was not, however, convinced that the establishment of a voluntary trust fund for the improvement of human rights in Chile was the best way to secure the compliance of the Chilean Government in an effort to improve the protection of human rights in Chile.

49. Mr. VALDERRAMA (Philippines) said that his country was committed to the human rights principles embodied in the United Nations Charter, the Universal Declaration of Human Rights and the International Covenants on human rights. An abiding concern for, and observance of human rights was a Philippine tradition. The Constitution of 1973 embodied his country's sacred commitments to and guarantees of human rights, which had not been dislodged even under the régime of martial law. His country had fought hundreds of battles from 1521 to 1896, a revolution from 1896 to 1898, a war of liberation from 1899 to 1903 and a guerrilla war from 1942 to 1945 to ensure the civil, political, social, economic and cultural rights of the Filipino people and its inalienable right to self-determination.

50. Under the New Society, the Philippines was determined to preserve, promote and advance those rights and to reaffirm its faith in fundamental human rights in the dignity and worth of the human person and in equal rights of men and women and of nations, large and small. It would not be deterred from that course despite unjust criticisms of its efforts and despite crusades that sought to compartmentalize human rights. As General Assembly resolution 32/130 explicitly declared, human rights and fundamental freedoms were indivisible and interdependent and equal attention should be given to the implementation, promotion

(Mr. Valderrama, Philippines)

and protection of both civil and political and economic, social and cultural rights. Human beings had a right to life, which meant a right to food, shelter, clothing, work, and the opportunity to expand their minds and refresh their souls: that was the first priority for developing countries, although it might be difficult to appreciate in societies fortunate enough to be able to satisfy those basic rights. A society that sought to live by removing the shackles of the past, and that desired to attain that objective by giving its citizens the broadest possible stake in their own progress had to have the courage to innovate and the patience to see its innovations through to their logical conclusions.

51. His country did not claim to have achieved the Good Society, but it continued to aspire to it. There was no conventional formula in the approach to human rights applicable to all societies at all times. The Philippines saw human rights as a means for both the individual and society to attain true humanity and true community. Anyone who looked deeply into Philippine society might find it full of short-comings but could never say that it lacked the gift or the courage to be just and humane.

52. The Philippine position on human rights was reflected in paragraph 166 of the report of the Commission on Human Rights (E/1978/34), which stated that, while individual rights were paramount, attention should also be given to how those rights could be enhanced by strengthening the rights of people; in paragraph 168 which stated, in part, that any constructive and effective international co-operation required a profound understanding of the problems peculiar to each nation as well as a real will to accept specific mutual commitments, and that assistance, understanding and co-operation should replace exploitation, confrontation and relationships based on force; and, finally, in paragraph 169 concerning the establishment of a new international economic order with a view to bringing about the full realization of all human rights.

53. His country welcomed the entry into force of the International Covenants on human rights and had joined the consensus on General Assembly resolution 32/66. It agreed that their entry into force was a major step in international efforts to promote universal respect for and observance of human rights and fundamental freedoms for all. The Commission on Human Rights had urged all States which had not done so to become parties to the International Covenants and to consider the possibility of either ratifying or acceding to the Optional Protocol. There were good reasons, however, for the delay in ratification of the International Covenants by some two thirds of the world's Governments. The Philippines, for its part, had ratified the International Covenant on Economic, Social and Cultural Rights, had signed the International Covenant on Civil and Political Rights, and was in the process of considering the ratification of the latter Covenant and of its Optional Protocol. Together with many other delegations, however, his delegation had expressed the fear that the Covenant on Civil and Political Rights, reposing on States the right of petition concerning alleged violations of human rights, might result in the interference of powerful States in the internal affairs of developing

(Mr. Valderrama Philippines)

countries without advancing the cause of human rights, and might infringe upon national sovereignty. His country fully subscribed to the rights enumerated in that Covenant: what was being called into question was the efficacy and wisdom of the procedures for implementation.

54. It was the position of his Government that a regional approach to the problem of the enforcement and protection of human rights was likely to accomplish as much as the world-wide covenants. His delegation had therefore supported General Assembly resolution 32/127 on regional arrangements for the promotion and protection of human rights, together with the proposal by the Commission to consider alternative approaches and ways and means within the United Nations system to improve the enjoyment of human rights and fundamental freedoms. There was also a complementary need to give as much financial support as possible to the programme of advisory services in the field of human rights.

55. His delegation endorsed the recommendations in paragraph 172 of the report that the Commission should devote an essential part of its sessions to the implementation of human rights and that situations involving gross violations of human rights - which appeared to be the norm in the illegal racist régimes in southern Africa - should be given special attention. It also supported the recommendation in paragraph 174 that the membership of the Commission be enlarged to reflect growing United Nations membership. The Sub-Commission on Prevention of Discrimination and Protection of Minorities should also be enlarged as proposed in decision 10 (XXXIV) of the Commission.

56. His delegation reserved its position on the recommendations in paragraphs 175 and 176 concerning the mandate and sessions of the Commission and on the proposal in paragraph 175 to establish separate Sub-Commissions on the promotion of human rights and on the protection of human rights.

57. There was a need to co-ordinate human rights activities to avoid overlapping, as suggested in paragraph 186. It might be advisable to consider convening seminars in the near future under the programme of advisory services on human rights, in consultation with the Special Committee against Apartheid, for groups such as trade unions, student, youth and women's organizations, to consider and take concerted action in the context of the Programme for the Decade for Action to Combat Racism and Racial Discrimination and the International Anti-Apartheid Year.

58. The Philippines abjured torture and other cruel, inhuman or degrading treatment or punishment. His delegation had therefore supported the relevant resolutions on that question adopted at the thirty-second session of the General Assembly and would support the Commission's resolutions on the matter. It also supported the Commission's resolutions on the right of the peoples of Palestine and southern Africa to self-determination, on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa, and related resolutions on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid and of the Programme for the Decade for Action to Combat Racism and Racial Discrimination.

(Mr. Valderrama, Philippines)

59. The protection of the human rights of migrant workers had become an acute contemporary problem. His delegation supported effective measures to improve the situation of migrant workers.

60. As a State party, the Philippines urged those States which had not done so to take steps to ratify or accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

61. The commendable report of the Ad Hoc Working Group of Experts on southern Africa (E/1978/21) and the note by the Secretariat (E/1978/L.23) contained a catalogue of violations and infringements of trade union rights in South Africa which demanded urgent action by the international community and the United Nations. The Ad Hoc Working Group had unquestionably refuted the claims of the apartheid régime that there was no harassment of or discrimination against black trade unions.

62. His delegation commended the delegation of Poland for its initiative in preparing a draft convention on the rights of the child and hoped that the proposed convention would be adopted in 1979 to coincide with the observance of the International Year of the Child. However, his delegation reserved the right to submit its comments and observations on the proposed convention at a later date.

63. The comments of his Government on the draft general principles on equality and non-discrimination in respect of persons born out of wedlock could be found in document E/1978/14/Add.1.

64. Miss DE PADUA (Portugal) welcomed the fact that at its 1978 session the Commission on Human Rights had increased the number of sessional working groups, and that more decisions and resolutions had been adopted by the Commission on the recommendation of such groups. More time, and the deeper involvement of participating delegations would be required before the trend brought about any real progress in the work of the Commission, but she believed it to be the right approach to making the best possible use of the Commission's time. Her delegation would therefore vote in favour of draft resolutions 1, 5 and 6, but had reservations concerning the advisability of entrusting to a single working group the tasks set out in resolutions 18 (XXXIV) and 26 (XXXIV) of the Commission, and consequently concerning decision 8 (XXXIV), which approved the "merger". The two resolutions dealt with quite different subjects.

65. While her delegation would submit its detailed comments at a later stage, she could state that the general principles embodied in the draft convention on torture submitted by the Swedish delegation (E/CN.4/1285) were in full conformity with those inspiring Portuguese legislation on the subject. With regard to the body of principles for the protection of all persons subjected to any form of detention or imprisonment, her delegation earnestly hoped that the Sub-Commission on Prevention of Discrimination and Protection of Minorities would prepare a revised draft at its thirty-first session and accordingly supported the request contained in draft resolution IV concerning the appointment of a working group to meet prior to that session.

(Miss de Padua, Portugal)

66. Portugal supported resolutions 23 (XXXIV), 24 (XXXIV), and 25 (XXXIV) of the Commission. The setting up of national institutions, the establishment of regional arrangements where none existed and the approval by the General Assembly of more budgetary resources for human rights programmes were measures with which Portugal was in full agreement: her delegation would therefore vote in favour of draft resolution VI. It also approved the proposal that the question of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms should be considered at the following session.

67. The Polish delegation to the Commission was to be commended on submitting a draft convention on the rights of the child, a project Portugal whole-heartedly supported. The working group set up to consider measures to improve the conditions of all migrant workers had also been paying particular attention to the situation of the children of migrant workers, in the light of the forthcoming International Year of the Child. Her delegation entirely agreed with the working group's combined approach to the two aspects. It hoped, however, that the Commission would be in a position by the following year to make a more detailed study of all international aspects of the question of migrant workers.

68. With regard to the examination of matters covered by the confidential procedure established in Economic and Social Council resolution 1503 (XLVIII), her delegation had consistently maintained that the procedure could and should be improved with full respect for the essential principle of confidentiality. It believed that the statement made by the Chairman of the Commission at its 1466th meeting and decisions 3, 4 and 5 (XXXIV) were steps in the right direction.

69. In conclusion she announced that, in the spirit of General Assembly resolution 32/123, the Universal Declaration of Human Rights had been published in the Official Gazette of Portugal on 9 March 1978, and had therefore become Portuguese law. The International Covenants were likewise to be ratified in the near future. Furthermore, as part of the over-all task of updating national legislation to conform with the provisions of the new 1976 Portuguese Constitution, the Civil Code had been amended on 25 November 1977 so as to abolish all legal distinction between children born in or out of wedlock.

70. Mr. VARGA (Hungary) said that the work of the Commission was of particular relevance in a world in which gross and mass violations of human rights and fundamental freedoms resulting from colonial oppression, racism, foreign occupation, aggression and economic exploitation still occurred. As a result of the Commission's treaty-making activity, in the form of setting international norms for the enjoyment of basic human rights and fundamental freedoms, a broad international legal foundation for the protection of human rights had evolved. Existing international instruments obliged signatory States to observe the established rights and fundamental freedoms of all persons without distinction. Because only States could guarantee the enjoyment of those rights, by adopting legislative and other measures, the most effective way in which the United Nations system could promote universal respect for human rights would be to secure the widest possible accession by States to those legally binding documents and scrupulous observance of their provisions.

(Mr. Varga, Hungary)

71. Naturally, full compliance with the legal, moral and political obligations incumbent on States in the field of human rights depended largely on the results of the struggle for peace, social progress and international co-operation. It was essential that co-operation among States in promoting respect for human rights should be based on strict observance of the letter and the spirit of the Charter of the United Nations and the generally accepted norms and principles of international law.

72. His delegation noted with satisfaction that the Commission had at its thirty-fourth session devoted a considerable amount of time to discussing situations that revealed a consistent pattern of gross violations of human rights. It had been made clear that the massive assistance extended by certain States to South Africa and Southern Rhodesia was seriously detrimental to the enjoyment of human rights in southern Africa; his delegation supported all Commission resolutions intended to ensure basic human rights, including the right to self-determination for the peoples still enduring different forms of colonial and racial subjugation. His delegation likewise endorsed resolutions 1 (XXXIV) and 2 (XXXIV), which voiced deep concern over the deteriorating situation in the Arab territories occupied by Israel and affirmed the inalienable right of the Palestinian people to self-determination and the establishment of an independent and sovereign State. Moreover, it fully endorsed the provisions of resolution 12 (XXXIV), adopted by the Commission as a result of the indignation and concern of the international community over the flagrant violations of human rights in Chile and the fate of the many missing persons, and reaffirmed its support for the efforts of the United Nations aimed at the re-establishment of fundamental human rights and democracy in Chile.

73. In the analysis that the Commission was to make of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, the primary emphasis should be on strengthening existing United Nations machinery in the field of human rights; the proposals and suggestions to that end made at the thirty-fourth session of the Commission deserved careful consideration. Nevertheless, his delegation felt that the creation of any new post or body would merely serve to increase duplication and overlapping within the United Nations system, and would be in contradiction with the provisions of the Charter.

74. His delegation welcomed and whole-heartedly supported the proposal to draft a convention on the rights of the child. Almost 20 years had elapsed since the adoption of the Declaration of the Rights of the Child, and it was high time to take further practical steps to protect and enforce the rights of children, on whom the future of mankind rested. The adoption of such a convention on the occasion of the International Year of the Child would be a significant contribution to the success of the Year.

75. Mr. van DOVEN (Director, Division of Human Rights), in reply to a question asked by the representative of Argentina, said that the seminar mentioned in General Assembly resolution 32/123, Annex, and in Commission resolution 23 (XXXIV) would be held in Geneva, within the framework of the programme of advisory services on human rights, in September 1978.

(Mr. van Boven)

76. With regard to the question asked by the representative of Argentina concerning the relationship between the body of principles for the protection of all persons under any form of detention or imprisonment, on the one hand, and the draft convention against torture and other cruel, inhuman or degrading treatment or punishment, on the other, he said that the General Assembly had treated the two draft documents as separate. It had asked in resolution 31/85 for the preparation of the body of principles, a task which had been assigned to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In resolution 32/62, it had asked for the draft convention against torture. The main difference between the substance of the two instruments was that the body of principles dealt particularly with freedom from arbitrary arrest and detention, as laid down in article 9 of the Universal Declaration and article 9 of the International Covenant on Civil and Political Rights, while the essence of the draft convention against torture derived from article 5 of the Universal Declaration and article 7 of the Covenant, as well as from the Declaration on the subject adopted in 1975. The instruments were therefore different, both in substance and form, but complementary.

77. Some delegations had referred to the Commission's proposal on the establishment of an open-ended working group, to meet immediately before the following session, to consider the question of the further promotion and encouragement of human rights, including the programme of work and alternative approaches and ways and means, and also to deal with the draft convention on torture and other cruel, inhuman or degrading treatment or punishment. They had expressed doubts about whether a single working group could deal with two such different items. He drew attention to decision 8 on page 137 of the report, which indicated that the Commission had been aware of that problem. The Commission was also aware that it had not arrived at an optimum solution. On the other hand, it had had to take into account the fact that there were already three established working groups: those on the Convention on Apartheid, on situations under the "resolution 1503" procedure and on the question of periodic reports. Given the limited facilities and services of the Secretariat, a compromise had been reached between the active interest expressed by many delegations in pursuing all of the questions and the availability of services and facilities.

The meeting rose at 6.35 p.m.