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COMMISSION ON HUMAN RIGHTS

Twenty-second Session

SUMMARY RECORD OF THE EIGHT HUNDRED AND SEVENTY-NINTH MEETING

Held at Headquarters, New York,  
on Monday, 28 March 1966, at 3.30 p.m.

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PRESENT:

<u>Chairman:</u>	Mr. VOLIO JIMENEZ	(Costa Rica)
later,	Mr. BOYE	(Senegal)
<u>Rapporteur:</u>	Mr. QUENTIN-BAXTER	New Zealand
<u>Members:</u>	Mr. SANCHEZ VIAMONTE	Argentina
	Mr. ERMACORA	Austria
	Mr. IRURETA	Chile
	Mr. REDONDO	Costa Rica
	Mr. ZOLLNER	Dahomey
	Mr. JUVIGNY	France
	Mr. SAJJAD	India
	Mrs. AFTAN	Iraq
	Mr. COHN	Israel
	Mr. SPERDUTI	Italy
	Mr. RICHARDSON )	Jamaica
	Miss KING )	
	Mr. MOMMERSTEEG	Netherlands
	Mr. S. LOPEZ	Philippines
	Mr. RESICH	Poland
	Mr. DELGADO	Senegal
	Mr. KELIBERG	Sweden
	Mr. NEDBALLO	Ukrainian Soviet Socialist Republic
	Mr. MOROZOV )	Union of Soviet Socialist Republics
	Mr. NASINOVSKY )	
	Sir Samuel HOARE	United Kingdom of Great Britain and Northern Ireland
	Mr. ABRAM	United States of America
<u>Also present:</u>	Miss BENITEZ	Chairman of the Commission on the Status of Women

Observers for Member States:

Mr. BAL	Belgium
Mr. A.A. MOHAMMED	Nigeria
Mr. MIRZA	Pakistan

PRESENT (continued):

Observers for Member States (continued):

Mrs. DINCMEN

Turkey

Mr. WALDRON-RAMSEY

United Republic of Tanzania

Mr. LAZAREVIC

Yugoslavia

Observers for non-Member States:

Msgr. GIOVANETTI

Holy See

Mr. DANINDEA

Switzerland

Representative of a specialized agency:

Mr. RAHMAN

International Labour  
Organisation

Secretariat:

Mr. HUMPHREY

Director, Division of Human  
Rights

Mr. TARDU

Secretary of the Commission

THE QUESTION OF THE PUNISHMENT OF WAR CRIMINALS AND OF PERSONS WHO HAVE COMMITTED  
CRIMES AGAINST HUMANITY (E/CN.4/906; E/CN.4/L.800, L.830/Rev.1, L.833) (continued)

The CHAIRMAN invited delegations which wished to do so to explain their votes on the Polish draft resolution (E/CN.4/L.800) and the amendments relating to it (E/CN.4/L.830/Rev.1 and L.833).

Mr. RESICH (Poland) said that he was happy that the draft resolution submitted by his delegation had been adopted without opposition. The draft resolution provided, inter alia, for the preparation of a draft Convention to the effect that no statutory limitation would apply to war crimes and crimes against humanity, irrespective of the date of their commission. If the Economic and Social Council approved the recommendations of the Commission, considerable progress would have been achieved in the sphere of international law. Apart from its great moral significance, the resolution which had been adopted would also have the effect of alerting public opinion. The resolution was based on the humanitarian principle known in criminal law as "general prevention", of which it was an extreme example since it was the whole of mankind which must be protected from a repetition of the odious crimes which the world had experienced. The resolution, in effect, warned any future criminals that no crime, even if committed under cover of political or military action, would go unpunished.

Mr. ZOLLNER (Dahomey) said that he had had no hesitation in voting in favour of the proposals in document E/CN.4/L.830/Rev.1 and in favour of the draft resolution as a whole as amended, since he thought that in adopting such a text the Commission had remained faithful to its mandate. Even if the Commission had made a formal pronouncement on the existence of the principle of the non-applicability of statutory limitation to war crimes in international law, it would in no way have solved the problem, since in any case it lacked the necessary authority to dictate the law.

His delegation welcomed the idea of the preparation of a Convention which, without settling the question whether the principle that there was no period of limitation already existed, would make it possible to achieve definite results. In his country, there was no legislation relating to war crimes and crimes against humanity: rather than adopt disparate measures, his Government would be interested in becoming a party to a single Convention which invited all States to enact uniform

(Mr. Zollner, Dahomey)

measures. Furthermore, such a Convention would have the virtue of being directed towards the future. The different texts and definitions which existed had all been dictated by special circumstances arising from the Second World War. It would be naive to think that war crimes and crimes against humanity were a thing of the past. They were not peculiar to any given period or civilization and that was why it was essential to provide for the future and to prepare as soon as possible a Convention which would not only enable crimes already committed to be punished but would help to avoid fresh horrors.

It was comforting, however, to note that the crimes committed during the nazi period had met with universal censure; the extent and speed of the reaction was an indication that mankind had undoubtedly progressed morally. It should not be forgotten that for centuries slavery had allowed individuals to commit odious crimes undisturbed and that their countless victims had, for centuries, found only a few isolated voices raised against that hateful practice.

Mr. QUENTIN-BAXTER (New Zealand) said that he had voted in favour of the sub-amendment proposed by the Ukrainian SSR (E/CN.4/L.833), as amended at the suggestion of the United States, to the effect that a study should be carried out of the methods of ensuring the arrest, extradition and punishment of persons responsible for war crimes and of the exchange of documentation relating thereto, on the understanding that such a study would not hinder the preparation, as soon as possible, of a draft Convention on the non-applicability of statutory limitation to war crimes and crimes against humanity. He pointed out, moreover, that the Commission on Human Rights was not in a position to examine such a study from the technical point of view and that it would be better to entrust that task to a legal body. It was well known that problems relating to extradition were extremely complex and if the Commission entered such a specialized field its work as a whole might be jeopardized.

Sir Samuel HOARE (United Kingdom) said that he had voted against the Ukrainian sub-amendment to which the representative of New Zealand had just referred, since the brilliant statement made by the representative of Israel had confirmed his own apprehensions.

He agreed whole-heartedly with the remarks made by the Dahomean delegation concerning the need to prepare a Convention directed towards the future.

Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that he had voted in favour of the draft resolution as a whole, since it was basically acceptable to his delegation although certain details might have been made clearer. He was happy that the draft resolution had been adopted without opposition, for that showed that the Commission on Human Rights was firmly resolved to ensure respect for the principles of international law and in particular for the principle of the non-applicability of statutory limitation to war crimes.

His delegation thought that the proposed Convention should be prepared as quickly as possible and that a draft should be submitted to the Commission at its twenty-third session.

Mr. JUVIGNY (France) said that he, too, was glad that the draft resolution had been adopted without opposition and that the Commission had not allowed itself to become involved in an endless academic debate. He thanked all delegations for having shown good will.

With the help of the Secretariat, the Commission could very quickly prepare a draft Convention which the majority of States would be able to ratify, if it avoided reopening the more or less theoretical discussion and limited itself to setting forth specific obligations for States which became parties to it.

It was certainly not by chance that the draft resolution had obtained the votes of almost all the members of the Commission. He recalled that there had been unanimity in the French Parliament on the adoption of the Act confirming the principle that no period of limitation was applicable to war crimes.

#### STATEMENT BY THE REPRESENTATIVE OF THE COMMISSION ON THE STATUS OF WOMEN

The CHAIRMAN announced that the Chairman of the Commission on the Status of Women, who was present at the meeting, wished to make a statement. He thanked her and paid a tribute to her constant efforts to ensure the triumph of the principles of the United Nations. He hoped that increasingly close collaboration would be established between the Commission on Human Rights and the Commission on the Status of Women.

Miss BENITEZ (Philippines), Chairman of the Commission on the Status of Women, said that at its last session the Commission on the Status of Women had drawn up a draft Convention on the elimination of all forms of discrimination against

(Miss Eenitez)

women. She also pointed out that the periodic reports on human rights included a communication from the Government of the Philippines on the subject of a seminar which had been held at Manila. She hoped that other seminars would be organized at the regional level with a view to promoting the long-term improvement of the status of women.

Items 5 and 6 of the agenda of the Commission on Human Rights were those which interested her particularly and she hoped that the Commission of which she had the honour to be Chairman would be able to make a modest contribution to the study of the questions involved and of some others which appeared on the agenda.

QUESTION CONCERNING THE IMPLEMENTATION OF HUMAN RIGHTS THROUGH A UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS OR SOME OTHER APPROPRIATE INTERNATIONAL MACHINERY (E/CN.4/895; E/CN.4/L.831 and Add.1) (continued)

The CHAIRMAN invited the Commission to continue its consideration of agenda item 6.

Mrs. AFNAN (Iraq) said that the proposal to create a post of United Nations High Commissioner for Human Rights gave the Commission a welcome opportunity to consider the whole question of the implementation of the covenants and conventions on human rights.

For the moment, the Commission could only have a preliminary exchange of views, for it could not take a final decision on measures for the implementation of human rights on the basis of the four meetings to be devoted to that agenda item and it had only one specific proposal before it.

Her delegation could not support the draft resolution submitted by Costa Rica (E/CN.4/L.895), which in its present form was very vague. It did not indicate how the High Commissioner was to be elected; it said that he would perform his functions "under the authority of the General Assembly", but the scope and limits of his powers were not clearly defined. He was given very broad terms of reference and it was not clear how he was to "seek to secure the observance of the Universal Declaration of Human Rights", a formula which was somewhat ambiguous.

The High Commissioner would possess substantial powers, for he would advise United Nations organs, and Governments at their request, on human rights; his report would be considered as a separate item on the General Assembly's agenda, and he would even be able to make special reports on his own initiative in cases of urgency.

(Mrs. Afnan, Iraq)

The preamble to the draft resolution recalled the general obligations of States in the sphere of human rights, which derived essentially from the Charter and the Universal Declaration of Human Rights, and referred to a number of resolutions which had very specific aims. The covenants, however, were not even mentioned.

In her delegation's view, there was no justification for the creation of a post of High Commissioner for Human Rights, since even in a more limited context, at the regional level for example, the collegial formula prevailed. There were commissions or tribunals for the protection of human rights which operated within the framework of European or American regional organizations; yet those organizations covered States possessing a common heritage and similar institutions, which was not the case in the present instance.

Furthermore, it was open to question whether there existed an absolutely independent and impartial person worthy of being elevated to the rank of judge and protector of the rights of all individuals. Even if there were such a person, it lay with each State to protect human rights and it was that principle by which the Commission should be guided when it considered the question of the implementation of human rights.

The Commission possessed a great deal of information on the ratification of the conventions and the steps taken to ensure the implementation of the resolutions and recommendations on human rights. The reports of the ILO and UNESCO on the implementation of human rights also showed the undeniable progress that had been made in that sphere and indicated the way in which attitudes had evolved during the last ten years. For example, the narrow conception of the sovereignty of States was no longer invoked and progress in the sphere of human rights was measured in relation to mankind as a whole. In fact, it was for the international community to see that human rights were respected and it was that entirely new conception which must prevail.

The debate on agenda item 21 had shown how ill-prepared the Commission on Human Rights was to perform that task. It had reached a decisive turning point and human rights problems could no longer be expressed in theoretical terms. It was no longer a question of protecting the individual against the misuse of governmental power: a wider point of view must be adopted and the individual must be considered a subject of international law. Henceforth, the problem should be considered, not in relation to violations of human rights and methods of carrying out inquiries, but from a much



wider angle and efforts should be made to find practical means of assisting States to create an economic and social climate conducive to the full development of human rights.

Mr. MOROZOV (Union of Soviet Socialist Republics) said that, having listened carefully to the statement by the United States representative on 25 March and having heard him warmly support the Costa Rican proposal for the creation of a post of United Nations High Commissioner for Human Rights, he was obliged to point out that once again the Commission was witnessing an attempt by the United States to divert it from its basic task, which was to promote respect for human rights and fundamental freedoms. Once again, instead of being encouraged to follow its proper course, which was to draw up conventions and instruments in the sphere of human rights with supervisory machinery to ensure their implementation, the Commission had before it a proposal so nebulous that even those who supported it were unable to speak clearly on the subject.

An objective analysis of the political orientation of the proposal so ardently supported by the United States and its allies soon revealed that the proposal was designed to give world public opinion the impression of active participation in the cause of human rights by States which in practice obstinately refused to fulfil their obligations under the multilateral international conventions in the field of human rights drawn up under the auspices of the United Nations and its specialized agencies.

The United States representative had admitted that the United States had lagged behind in that sphere. That was an understatement; he would mention some of the conventions which the United States had not yet ratified.

Firstly, there was the Convention on the Prevention and Punishment of the Crime of Genocide, which had come into force on 12 January 1951. Not only had the United States failed to ratify that Convention, which was designed to prevent the recurrence of nazi and fascist crimes, but during the drafting of that instrument it had endeavoured to deform the text by a series of proposals and amendments.

Similarly, during the preparation of the Convention on the Political Rights of Women, the United States had endeavoured to diminish its scope and, despite the concessions that had been made in the hope that it would ratify the Convention, the United States had still not done so, twelve years after it had come into force.

(Mr. Morozov, USSR)

The United States was still not a party to the Slavery Convention of 7 June 1955 or the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 30 April 1957. It might also be wondered when the United States would decide to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, which had recently been adopted by the General Assembly.

With regard to the conventions drawn up under the auspices of the specialized agencies, he pointed out that the United States had so far failed to sign certain very important conventions, such as the Convention on Discrimination in Respect of Employment and Occupation and the Convention Against Discrimination in Education, which included measures designed to ensure the implementation without discrimination of certain fundamental human rights at the national and international level.

As for the draft Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the United States delegation had long since made it clear that its country would not sign them.

Instead of criticizing the various conventions adopted in the sphere of human rights for their narrow scope, the United States would do well to accede to those instruments and try to increase their effectiveness.

It was clear from the facts he had just mentioned that the United States, wishing to escape from the untenable position into which it had been forced by its refusal to ratify the conventions in question, had thought that it could confuse the issue by strongly supporting the creation of the post of United Nations High Commissioner for Human Rights.

He certainly did not intend to interfere in the domestic affairs of States, which were free to decide whether or not to ratify the international instruments open to their accession. It was essential, however, that States which did not ratify them should be prevented from diverting delegations of goodwill from the only solution capable of ensuring respect for human rights and fundamental freedoms, namely to increase the number of States Parties to the most important multilateral international conventions in the sphere of human rights and to complete as rapidly as possible the drafting of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.

(Mr. Morozov, USSR)

The United Nations machinery for the implementation of the obligations contracted by States Parties to conventions was made up of a number of democratically elected bodies - the Commission on Human Rights, the Commission on the Status of Women, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities - which were placed under the authority of the Economic and Social Council and therefore of the General Assembly, and were established in accordance with the relevant provisions of the Charter. It was understandable that the United States disliked that system, which had often enabled progressive elements, particularly the delegations of the socialist countries of Asia, Africa and Latin America, to gain acceptance for their ideas in spite of the stubborn resistance of the United States and its allies. It was clear that the latter hoped, by entrusting to a single individual the solution of the important questions of human rights and fundamental freedoms, to gain control of the situation and prevent the progressive delegations from having their say.

The proposed measure, which was contrary to the provisions of Article 2, paragraph 7 of the Charter prohibiting any interference in the domestic affairs of States, far from improving the effectiveness of the United Nations in the field of human rights, might well deal it an irreparable blow. His delegation was, therefore, categorically opposed to the creation of the post of High Commissioner for Human Rights and to any proposal along those lines.

He noted that the item under consideration also concerned the implementation of human rights through some other appropriate international machinery. His delegation had always attached the greatest importance to measures for implementing human rights instruments. Thus, at the twentieth session of the General Assembly, the Soviet Union had voted in favour of the insertion of suitable implementation provisions in the International Convention on the Elimination of All Forms of Racial Discrimination, which the Soviet Union had, moreover, ratified on the first day that it had been open for signature by States.

Unlike the United States and a number of Western countries, the Soviet Union considered that implementation measures, which were essential in any multilateral international instrument, should be adopted after and not before the acceptance by States of specific legal obligations. It seemed illogical that implementation measures should be considered, on the same footing, by States that would assume the obligations and by those that would refuse to do so. It was equally illogical to

(Mr. Morozov, USSR)

imagine that any institution could exercise the same jurisdiction over the States Parties to some international instrument and over States which were not parties to it, i.e., over States which had not assumed the same obligations. For those reasons, his country considered that all efforts to promote human rights and fundamental freedoms should be undertaken within the framework of multilateral international conventions.

He reserved the right to speak again, if necessary, during the course of the debate.

Mr. IRURETA (Chile) said that, in his view, the fact that certain States did not ratify all multilateral international conventions, far from constituting an argument against the creation of the post of High Commissioner for Human Rights, tended on the contrary to prove that measure to be essential.

His delegation supported the proposal to create the post of High Commissioner, which it felt was a practical way of furthering respect for human rights and fundamental freedoms. It did not believe that that action would constitute interference in the domestic affairs of States. One might as well claim that the Charter or the Declaration of Human Rights encroached upon the autonomy of States. It might perhaps be useful, however, to indicate in the instrument creating the post of High Commissioner that there was no conflict between the principle of non-intervention and the functions entrusted to the High Commissioner.

Mr. ERMACORA (Austria) said that his delegation was in favour of creation of the post of United Nations High Commissioner for Human Rights. It recognized the difficulties to which the delegations of Iraq and the Soviet Union had drawn attention. Those difficulties, and indeed the entire question, should be carefully studied by the Commission, which might set up a working group to examine the problem on the basis of information that could be presented in a study by the Secretary-General. At the present stage, the discussion in the Commission could only serve as a guide for the preparation of such a study and for the work of the future working group.

He drew attention to the fact that his country had acceded to almost all the ~~instruments~~ instruments drawn up by the United Nations in the human rights field. Austria had also recognized the jurisdiction of the European Court of Human Rights and had brought its internal law into line with the decisions taken by that Court. It

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(Mr. Ermacora, Austria)

therefore considered itself qualified from a legal standpoint, to express an opinion on the item under consideration.

In his delegation's view, the High Commissioner would perform the functions of a procureur général in ensuring that the human rights set forth in instruments drawn up by the United Nations were respected. His basic functions would consist of fact-finding reporting to Governments and to the United Nations, recommending conciliation measures, assisting the competent United Nations bodies and examining petitions. However, it would be necessary to differentiate between the different rights and to recognize from the outset that the High Commissioner would be unable to exercise any control over the implementation of certain social rights, for example, which came under the domestic jurisdiction of States. His delegation would have preferred a system of regional High Commissioners, whose activities could be co-ordinated at Headquarters, one High Commissioner being specially responsible for dependent and Non-Self-Governing Territories.

There was a need to establish an institution of the kind proposed because of the differing views of States on human rights. The United Nations had no satisfactory machinery that could effectively guarantee the protection of human rights and fundamental freedoms. The Commission on Human Rights was really no more than a legislative body which had no effective powers of control. The creation of a new and effective institution seemed essential to his delegation.

The experience of different countries in recent years had revealed the value of an institution of the kind envisaged. The Scandinavian countries, New Zealand and Mauritius, in particular, had successfully adopted such a solution by appointing an Ombudsman, and British Guiana, which was soon to achieve independence, proposed to do the same. The European Commission of Human Rights did not constitute an effective guarantee for safeguarding human rights and fundamental freedoms; for, although it was true that the Convention under which the Commission had been set up provided that States could bring their problems before it, it did not provide for any practical measures for settling disputes.

The creation of the post of High Commissioner for Human Rights was obviously a matter which would require careful study, in view of the many legal and political problems it would involve. In particular, the relationship of such an institution to the Charter, and to the machinery established by the United Nations for the protection of human rights, should be defined. Consideration would also have to be

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given to the question whether the creation of such a post would require the drawing up of a convention, and the financial implications of the proposal would naturally have to be taken into account. The terms of reference of the High Commissioner, his responsibilities, and the procedure to be followed were all questions requiring detailed study.

He read out a number of passages from a report on Mauritius, in which it was stated that in New Zealand and Denmark the post of Ombudsman had been created for the basic reason that the parliamentary, legal and administrative guarantees against negligence or abuse on the part of the public authorities were inadequate. It would appear that the United Nations machinery for the protection of human rights was likewise inadequate and that the time had come to establish more effective machinery.

His delegation was in favour of the creation of the post of High Commissioner for Human Rights but was not at that stage in a position to support the Costa Rican draft resolution; it supported the idea of establishing a working group to study the problem and of asking the Secretary-General to prepare a report on the subject.

Mr. Boye (Senegal), Second Vice-Chairman, took the Chair.

Mr. S. LOPEZ (Philippines) said that the question with which the Commission was dealing vitally concerned the work and procedures of the United Nations in the field of human rights. Although the Costa Rican draft resolution and the resolutions which the Commission had just adopted on the question of the violation of human rights and fundamental freedoms in all countries and on the question of the punishment of war criminals and of persons who had committed crimes against humanity were not organically related, all three texts contributed nevertheless to the common purpose which was beginning to emerge from the Commission's deliberations, i.e., to give a new dimension, a new direction and a new impetus to the efforts of the United Nations to promote human rights and fundamental freedoms everywhere.

He wished to pay a tribute to the constructive idealism of the Costa Rican delegation which had already prepared the ground at the Commission's previous session and at the last session of the General Assembly. The Costa Rican initiative had the great merit of coming at an opportune moment when a fortunate conjunction of developments seemed likely to accelerate the creation of a suitable framework for effective international action to promote human rights and fundamental freedoms.

(Mr. S. Lopez, Philippines)

At the 876th meeting, the representative of the International Confederation of Free Trade Unions had reminded the Commission that the very first proposal had been advanced by the Uruguayan delegation about eighteen years before. The Latin American States had made important contributions to the idea of establishing a special United Nations organ with specific responsibilities for examining and overseeing the state of human rights in the world. It was appropriate that Latin America with its historic concern for the development of new juridical concepts adapted to the modern world should be the cradle of the revolutionary idea of the "internationalization" of human rights. It had taken almost twenty years for that idea to be deemed worthy of serious consideration by the United Nations. Although the cogency and logic of that idea had never been denied, it had been necessary, however, for recent events to bring home the need for it to be given more careful consideration.

Reviewing briefly the ground that had been covered since 1947 when the Commission on Human Rights had started work on the draft of the Universal Declaration of Human Rights, he noted that while the Universal Declaration had been adopted without difficulty in 1948, before the start of the cold war, the draft covenants on human rights and the draft Convention concerning freedom of information had not been so fortunate because of the rapid deterioration in the climate of opinion at the United Nations.

The work on those texts had proceeded at a slow and painful pace and when the implementation provisions of the covenants had come up for consideration it had seemed as if an insurmountable barrier had been reached. The draft conventions concerning freedom of information had been abandoned several years ago. In contrast, the record in the field of discrimination in general, and of women's rights in particular, which were outside the area of political conflict, had been very encouraging. The time seemed appropriate for the resumption of a number of interrupted tasks and the possibilities of United Nations action in the field of human rights were now regarded with considerably less cynicism than they had been previously. Certain Powers which had scoffed at the draft covenants as visionary and impractical or had resisted all efforts by invoking the principle of non-intervention seemed in the last few years to have decided to co-operate actively. After overcoming their earlier reluctance, they were now collaborating

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in the common task with evident enthusiasm. That was a most encouraging development as the twentieth anniversary of the Universal Declaration of Human Rights drew near and the finishing touches were being given to the covenants on human rights. The proposal to create the post of United Nations High Commissioner for Human Rights should be examined against that background.

Since the antecedents of the proposal went back nearly twenty years, it could hardly be said to be astonishingly new. It had its proper place in the pattern of measures to promote human rights in the world and therefore deserved to be considered as an integral element of the evolutionary process of international co-operation.

The Commission's first role, obviously, should be to safeguard the progress that had already been made, without retreating from any position already won. Its second role was to seize every opportunity to move forward step by step in a logical progression. Lastly, the Commission must resist the temptation to go too fast. Otherwise, it might learn too late that haste made waste.

The Commission must discharge the task entrusted to it by the General Assembly. However, as it obviously lacked the time to do so properly at the present session, the logical course seemed to be to establish a working group or an ad hoc committee to carry out the necessary study before the next session of the Commission. The working group would consider, on the basis of the records of the present debate, the Costa Rican draft resolution and any other proposals that might be made by members of the Commission.

At its next session, the Commission would consider the report of the working group and would submit appropriate recommendations, through the Economic and Social Council, to the General Assembly in 1967.

The study to be undertaken would not necessarily render more precise and more detailed the functions, responsibilities and authority of the High Commissioner and the relationship of his office with other organs of the United Nations. His delegation thought that those matters should preferably be dealt with in relatively general terms and the office of the High Commissioner allowed to develop gradually in the same way as the office of the Secretary-General had developed over the years into a complex of responsibilities and prerogatives that were only vaguely implied in Articles 98 to 100 of the Charter.



(Mr. S. Lopez, Philippines)

He was well aware of the difficulties facing the Commission, but the hostile attitude of those who had relied on Article 2, paragraph 7, of the Charter in opposing any expansion of United Nations activities in the field of human rights had steadily diminished over the years and it was to be hoped that that favourable trend would continue. The choice of a High Commissioner should be no more difficult than that of a Secretary-General and three Secretaries-General had already been successfully appointed. The High Commissioner for Human Rights was not expected to be a superman but simply a man with human qualities.

Mr. Volio Jimenez (Costa Rica) resumed the Chair.

Mr. SPERDUTI (Italy) expressed support for the idea of taking stronger measures, after due consideration, for the protection of human rights and fundamental freedoms. Such protection, consistent with the Charter and the Universal Declaration of Human Rights, had been undertaken by the international community. Human rights had ceased to be exclusively within the purview of States and had become an international responsibility. Mankind was not satisfied, however, for the international community was not yet in a position to protect human rights effectively. His delegation therefore warmly welcomed the Commission's decision to consider the question of its tasks and functions and the procedures to be followed in discharging its responsibilities, since the Commission, admittedly, had hitherto had to confine itself to consideration of general questions.

His delegation endorsed the idea of creating the post of United Nations High Commissioner for Human Rights and felt that the Costa Rican delegation's initiative deserved support. However, the proposal presented thorny problems which required careful study. It would therefore be difficult to obtain positive results at the present session.

In his opinion, there were three different aspects to the problem: first of all, the question of the powers and responsibilities of the High Commissioner; secondly, the question of the relations between the office of the High Commissioner and other United Nations organs; and, finally, the question of the structure of the proposed body. With regard to the powers to be given to the High Commissioner, his delegation felt that they could not be confined to the functions provided for in operative paragraph 1 of the Costa Rican draft

(Mr. Sperduti, Italy)

resolution (E/CN.4/L.831), which might, in a sense, be regarded as of secondary importance; in particular, the need for advice in the matter of human rights did not justify the establishment of the post of High Commissioner, since the Commission already had a Sub-Commission for that purpose. His delegation thought that the functions which the Austrian representative had suggested should be entrusted to the High Commissioner would be somewhat too far-reaching. Fact-finding, conciliation and the examination of petitions were activities of an extremely delicate and complex nature. He also wondered whether a resolution could confer quasi-legal powers on the High Commissioner. It was true that the Austrian representative had mentioned the possibility of drawing up a convention on the subject, but that instrument would then have to be co-ordinated with those already in existence or in preparation. It was for all those reasons that his delegation supported the suggestions of the Austrian and Philippine representatives calling for the establishment of a working group to study the problem.

He would not go into the other aspects of the problem at length but would merely note that, in so far as relations with other United Nations organs were concerned, his delegation would like to see very close relations maintained with the Commission on Human Rights. It reserved the right to make specific proposals on that matter, as well as on the structure of the office of the High Commissioner, when the functions, tasks and responsibilities of the new organ had been defined.

His delegation realized that the establishment of an organ directed by a single individual, with a sphere of action embracing the entire world, might cause some perplexity. However, it could not accept the views of the Soviet delegation that the establishment of such an organ would be contrary to the Charter. There was already a High Commissioner for Refugees, and it was perfectly possible to envisage the establishment of a similar body, even though it would be conceived along different lines. In his opinion, consideration of the question should be deferred until the next session of the Commission, and in the meantime a working group should be assigned to carry out the necessary studies with the assistance of the Secretariat. His delegation was prepared to support any proposal to that end.

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Mr. ABRAM (United States of America), exercising his right of reply, said that he had supported the establishment of the post of High Commissioner solely because he regarded the idea as a promising one which reflected the aspirations of a large part of the world; he had in no sense been attempting to confuse public opinion, as the Soviet representative had falsely alleged. He was disturbed that the Soviet representative had changed the tone of the debate from a discussion of the merits of the proposal to an attack on the United States. He had been rather astonished at the reaction of that representative, who had placed the question in a different context from the one in which it had heretofore been discussed. It should be recalled that the Soviet delegation had voted in the General Assembly for the decision to study the question before the Commission.

The Soviet representative had based his accusations against the United States on the fact that the latter had not ratified certain multilateral international conventions in the sphere of human rights.

The United States Government felt that every convention must be examined on its merits; at the present time, four of the conventions mentioned by the Soviet representative were presently pending in the Senate, the body responsible under the United States Constitution for approving them before ratification by the President. Many of those conventions had great merit and the system of conventions was useful. However, even without such ratification United States policy on human rights was already in line with them. That policy, which was based on the country's Constitution, was already in accordance with the spirit of the conventions.

The United States had not yet ratified the Genocide Convention, but at least it had not been accused of having carried out the Katyn massacre. Although the United States was not a party to the Convention abolishing forced labour, the fact remained that forced labour had not existed since the abolition of slavery. Were there a convention on the right of everyone to leave his country, United States legislation would be in accord with it, for the United States did not prevent anyone from leaving the United States or even, if he wished, from renouncing United States citizenship. Finally, the United States would not have to ratify a convention on the elimination of all forms of religious intolerance in order to guarantee everyone the right to profess his religion; the United States did not give preference to any religion any more than it did to atheism, because that would be contrary to the provisions of its Constitution.

(Mr. Abram, United States)

The United States had not ratified all the conventions adopted in the field of human rights, but it did not impose prison sentences on its nationals for having literary works published abroad.

The present situation in the United States with regard to human rights could, of course, be improved. The United States admitted that fact, whereas some countries regarded themselves as perfect and did not even consider making the slightest change in their policies.

As he had said in his statement of 25 March, the High Commissioner for Human Rights would have moral rather than specific supervisory powers. Nothing in the Charter prevented the establishment of an institution or organ endowed with moral authority. In supporting the Costa Rican proposal, the United States was not seeking the establishment of an organ that was above States and Governments. It merely regarded the proposed institution, which was surely deserving of close study, as a means of making concrete improvements in the situation throughout the world with regard to human rights.

The meeting rose at 6.10 p.m.