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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Thirty-sixth session

SUMMARY RECORD OF THE 12th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 23 August 1983, at 10 a.m.

Chairman: Mrs. WARZAZI

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The meeting was called to order at 10.10 a.m.

SLAVERY AND SLAVERY-LIKE PRACTICES:

- (a) QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM;
- (b) EXPLOITATION OF CHILD LABOUR (agenda item 15) (continued)
(E/CN.4/Sub.2/1982/20 and Add.1, 21 and Corr.1 and 29;
E/CN.4/Sub.2/1983/26/Rev.1 and 27)

1. Mr. BOSSUYT congratulated the Working Group on Slavery on the work of its ninth session. In connection with the mission it was to undertake in Mauritania with Mr. Mudawi, he again thanked the Mauritanian delegation for its constructive statement.
2. He especially supported recommendations 8 and 9 of the Working Group (see E/CN.4/Sub.2/1983/27, pp. 10 and 11), which concerned the participation of, firstly, UNDP, and secondly, UNICEF, ILO, UNESCO and WHO, in action to combat slavery-like practices.
3. The Working Group had asked to change its name to the "Working Group against Slavery, Apartheid, Gross Human Exploitation and Human Degradation". To begin with, that title was far too long. However, the need for a possible change should be analysed. He agreed that such a need did exist, for two important reasons: in the first place, the Working Group had to concern itself with such diverse questions as female circumcision, debt bondage, the traffic in persons and the exploitation of the prostitution of others, child labour, etc., some of which could hardly be said to be covered by the heading "slavery"; secondly, like practically all the other United Nations organs concerned with human rights, the Working Group could be effective only if it secured the voluntary co-operation of the Governments concerned. It did seem that the Working Group's present name was rather a handicap in that respect. From a psychological standpoint, it was sometimes difficult for certain Governments to admit that there were in their country practices which the United Nations assimilated to manifestations of slavery. It was therefore necessary to find a term which, while still short, would be more general and less emotionally charged than that of slavery.
4. He regretted that he could not agree with Mr. Chowdhury that the term "apartheid" should be inserted in the title of the Working Group. That would certainly not facilitate co-operation with Governments. For many of them, that term was even more detestable than "slavery"; above all, however, its insertion did not meet any need, since there was already a Special Committee against Apartheid, which enjoyed a much higher status than that of a working group of the Sub-Commission. Moreover, the Sub-Commission was already considering, as a matter of priority, the question of the elimination of racial discrimination and that of the violation of human rights, including the policy of apartheid. It was therefore difficult to maintain that the term apartheid must be mentioned in the title of the Working Group in order to avoid giving the impression of not being opposed to that practice.
5. For all those reasons, he suggested that the Working Group should be called the "Working Group on Human Exploitation" or, to make it slightly more flexible, "Working Group on All Forms of Human Exploitation".

6. Mr. TOŠEVSKI said he had noted, on reading the report of the Working Group on Slavery on its ninth session, that some elements of the report and even certain conclusions more or less repeated what had been stated in earlier reports. Moreover, the co-operation of other United Nations organs in the work of the Group seemed inadequate. As other members of the Sub-Commission, in particular Mr. Masud, had pointed out, slavery was not so much a problem of human rights as a socio-economic problem. It therefore did not seem absolutely essential for the Working Group to meet every year. Consideration might be given to reorganizing it in such a way that it would derive more benefit from the co-operation of the United Nations organs concerned with that question and make a more detailed study, for example over a three-year period, of the specific aspects of slavery. In that way, the Sub-Commission would receive not just an annual report, but rather the conclusions of a detailed analysis of certain questions.

7. In his opinion, paragraphs 48, 49 and 50 of the Working Group's report, which were not relevant, should be deleted. Lastly, with regard to the title of the Working Group, he thought, like other members of the Sub-Commission, that it would be better to keep to a simple title such as the "Working Group on Slavery and Slavery-like Practices".

8. Mr. WHITAKER said that his country had recently celebrated the 150th anniversary of the abolition of slavery; however, the problem of slavery-like practices was far from having been solved throughout the world.

9. The Working Group's report on its ninth session (E/CN.4/Sub.2/1983/27) was a rather depressing catalogue. Nevertheless, the attitude of the Mauritanian Government constituted an example of how effective use could be made of the services of the United Nations: that former colonial country had not hesitated to admit quite frankly that serious violations of human rights existed there. That was in contrast with the hypocritical denials made at the preceding meeting by more developed countries, which had told pitiful lies about the human rights situation in their territories.

10. In order to work effectively, the Sub-Commission should first collect accurate information which would enable it to verify the truth of allegations, and then diagnose the causes of the problem before seeking a solution. Only upon completion of that process could the Sub-Commission collaborate with a Government like that of Mauritania and offer it all the socio-economic assistance it needed in order to solve its problems. He hoped that Mr. Bossuyt would go to Mauritania as soon as possible and that other experts on slavery, UNDP, UNESCO, OAU and ILO would also make a useful contribution.

11. Other Governments had reacted in a constructive way. India, in particular, was able to discuss without shame the problems existing in that country. On the other hand, one should not forget the countries which did not even allow witnesses to appear before the Sub-Commission.

12. The Sub-Commission had recently heard a large number of women who had testified about slavery-like practices, but it had not heard the testimony of children, who were nevertheless the most frequent victims of those practices. He hoped that the Sub-Commission would devote a separate agenda item to the question of the slavery and exploitation of children or that the Working Group on Slavery

would analyse the problem more energetically and in greater depth. He intended to submit to the Sub-Commission a draft resolution providing that the Sub-Commission should in future show more concern for the question of child labour and should consider the problem of debt bondage in greater detail. Mrs. Odio Benito might be asked to consider the latter problem, the effects of which were being widely felt not only in Asia, but also in many parts of Latin America.

13. With regard to changing the name of the Working Group on Slavery, Mr. Bossuyt had rightly pointed out that the Working Group had been considering questions which did not exactly come under slavery, but which the Sub-Commission could not ignore. The Working Group might therefore be called the "Working Group on Human Exploitation".

14. Mr. GOMENSORO congratulated the members of the Working Group on Slavery on their discernment. The importance of the Group's task was confirmed by the fact that observers for several Governments had participated in the work of its ninth session. He hoped that that fruitful collaboration would continue. Moreover, he considered it very helpful that the Mauritanian Government sincerely wished to collaborate with the Sub-Commission. The non-governmental organizations had also played a very useful part.

15. In its conclusions, the Working Group appealed to the organs of the United Nations to contribute to the elimination of slavery-like practices. In 1982 already it had asked the Centre for Social Development and Humanitarian Affairs to study the problem of street children, with a view to the activities of the International Year of the Child in 1985.

16. He endorsed all the conclusions and recommendations formulated by the Working Group at its ninth session and, in particular, recommendation 2, in which the Working Group noted that several issues, such as debt bondage, and the abuse and exploitation of women and children had not until very recently received sufficient attention. Those aspects of slavery could be considered by the Sub-Commission next year as a separate agenda item.

17. In his opinion, the new title proposed by the Working Group itself was too broad and its connotations were too emotive. It would be better to adopt other suggestions, such as the "Working Group on Human Exploitation" or the "Working Group on Slavery and Other Forms of Human Exploitation".

18. Mrs. ODIO BENITO said she welcomed the very considerable participation of non-governmental organizations and observers for several countries at the ninth session of the Working Group on Slavery. The Working Group was studying questions which were vital for human dignity, and every problem on its agenda would appear to merit detailed analysis by the Sub-Commission.

19. She herself was particularly concerned about the problem of the exploitation and prostitution of children. It might be recalled that the previous year the Sub-Commission had had before it an excellent report by Mr. Bouhdiba on the exploitation of child labour (E/CN.4/Sub.2/1982/29). In the current year, Mr. Laurent, the Special Rapporteur appointed by the Secretary-General, had presented to the Economic and Social Council a report on the exploitation of the prostitution of others (E/1983/7). The Sub-Commission could take those two documents as a basis for conducting an exhaustive analysis of those aspects of slavery.

20. She agreed that a change in the name of the Working Group on Slavery would be desirable in order to give it a title which was more in keeping with its functions, as Mr. Bossuyt had pointed out.

21. Mr. Toševski had rightly stressed that, since the Sub-Commission had a very heavy agenda, it would be better for the Working Group on Slavery to present to it concrete proposals which would not necessarily be considered every year.

22. In so far as the problem of prostitution was linked to the socio-economic situation, it might be hoped that, when a new international economic order was established, that phenomenon, as well as the economic exploitation of children, would considerably diminish. For the time being, the Sub-Commission should endeavour to consider those questions in greater depth.

23. Mr. TRIMBLE said that the various proposals which had been made concerning the name of the Working Group on Slavery reflected the frustration felt by the members of the Sub-Commission in the face of a problem which was scandalous, as Mr. Chowdhury had said, and also timely, even if it was not covered by an antiquated word such as "slavery". Whatever name was given to the practice, everything possible must be done to eliminate it.

24. If the statements which had been made at the preceding meeting on the subject of the "ritual" sacrifice of children in war were verified, the Sub-Commission would be confronted with another aspect of the question of the exploitation of children. The Sub-Commission had also heard statements about the sexual mutilation of women and about the situation of families in camps of migrant workers. If it was to act effectively, it might consider only a few of those questions over a given period.

25. Debt bondage was prevalent in many countries and not exclusively in the Indian subcontinent. Millions of persons were trapped in that system, and the Sub-Commission must work for its abolition at the earliest possible moment. As an initial step, consideration might be given to asking one of its members to prepare a report for submission to it at its next session. A conference on that problem might also be proposed.

26. The problem of child labour was as widespread as that of debt bondage. Both problems were, of course, symptoms of economic underdevelopment, which would disappear with the elimination of poverty. The United Nations could do much to protect the world's children and the future convention on the rights of the child would certainly mark important progress in that respect. Meanwhile, action must be taken without delay on the basis of Mr. Bouhdiba's recommendations and especially his proposal to hold a seminar in order to collect all available information and to agree on immediate measures. He hoped that the Sub-Commission would make recommendations along those lines at its present session.

27. Mr. SHAHABI (Observer for the Islamic Republic of Iran) explained that, according to the reports of the International Committee of the Red Cross itself, tens of thousands of Iranian civilians in the frontier areas of Khuzestan and Kurdistan who found themselves under the control of the Iraqi army had been deported to Iraq in spite of the provisions of the

Fourth Geneva Convention. In addition, Iraqi forces had systematically and blindly bombed Iranian towns and villages, causing considerable loss of life and destruction of property. It was in that context that one should judge the terms of paragraph 42 of the Working Group's report (E/CN.4/Sub.2/1983/27), which referred to the situation of children used as soldiers in the war between Iraq and the Islamic Republic of Iran.

28. He admitted that Iranian children were taking part in the war against Iraq. It was an honour for their country that those young people had become sufficiently mature to understand the seriousness of their country's situation. Their heroism and enthusiasm were based on the notion of martyrdom, which materialists were unable to understand. Every Muslim had a religious duty to defend human honour and dignity against aggression. Martyrdom formed part of the ideology of the struggle by the Iranian people against imperialism and colonialism, as had always been the case in the Muslim world. The children were helping their parents to fight to liberate their soil, to defend the values in which they believed and to protect the revolution which they had undertaken.

29. Mrs. DAES considered that the statement just made by the observer for the Islamic Republic of Iran had no place in the Sub-Commission's deliberations, as it was in direct contradiction to the principles of the United Nations Charter. It should not be reflected in the summary record of the meeting or in the Sub-Commission's report.

30. Mr. EIDE said that he, too, was terrified by Mr. Shahabi's statement about the concept of a child martyr. It seemed to him that the whole progress of civilization consisted in limiting the effects of war, if it was impossible to prevent it. Men had always agreed to leave children out of their conflicts. The use of children in the Iranian army contravened the provisions of article 77, paragraph 2, of Additional Protocol I to the 1949 Geneva Conventions and of article 4, paragraph 3 (c) of Protocol II to those Conventions. Even when decked out with the title of "revolution", the practices of the Islamic Republic of Iran in that field marked a step backward for civilization.

31. Mr. AL-BADRAN (Observer for Iraq) said he did not wish to engage in polemics before the Sub-Commission about the war between Iraq and the Islamic Republic of Iran, but he wished to reply to Mr. Shahabi and point out that Iraq, for its part, was not trying to export revolution, that it had endorsed all the resolutions of the Security Council, that it was willing to enter into negotiations and that it had never violated the obligations incumbent on it with regard to prisoners of war.

32. The periodical Newsweek had recently published a report on the efforts made by the Islamic Republic of Iran to integrate Iraqi prisoners of war in the struggle against their own country. More particularly, as far as children were concerned, young Iraqis were just as much aware of the seriousness of the situation as Iranian children, but in spite of that they were not being sent to the front. Iraq was even trying to protect Iranian children: together with the International Committee of the Red Cross (ICRC), his Government had tried to send the children who had fallen into the hands of the Iraqi army back to their families. The leaders of the Islamic Republic of Iran had refused to take them, which had been gratifying to certain humanitarian organs and certain non-governmental organizations, which had feared that those children might be sent back into combat.

33. As for the civilian losses, likewise referred to by Mr. Shahabi, many inhabitants of the frontier areas had fled from the fighting and the exactions of the Iranian troops. They were now under the protection of Iraq and the ICRC representatives frequently visited the refugee camps. The ruins of dozens of Iraqi towns and villages bore witness to the savagery of the Iranian army. The war had broken out precisely because several villages had been bombed by the Iranian air force on 4 September 1980.

34. Mr. MAHDI considered it unnecessary to make a special study on debt bondage, a subject which was covered by the more general problem of slavery and with which the Working Group was very closely concerned. In any case, the root of the evil was to be found in the economic situation of certain countries, which would be mentioned again during consideration of agenda item 12 concerning the relations between the new international economic order and the promotion of human rights.

35. With regard to the name of the Working Group, he felt that one should not adopt the title of "Working Group on Slavery-like Practices" or "Working Group on Apartheid and Slavery-like Practices". As stated in paragraph 3 of the conclusions and recommendations of the Working Group (E/CN.4/Sub.2/1983/27, sect. IV), "apartheid is a slavery-like practice". There would therefore be a kind of redundancy or contradiction in the second title proposed, not to mention the fact that there would be a danger of dealing several times with apartheid, which was covered under other agenda items. For that reason, he proposed the name "Working Group on Slavery-like Practices, Including Apartheid".

36. Mr. RAVINDRAN (International Commission of Jurists) observed that most of the information received on the question of debt bondage was focused on India, to the exclusion of other countries where that practice nevertheless existed. That could be partly explained by India's open system of government, which enabled non-governmental organizations freely to collect information on problems of that kind.

37. Although a large number of persons were victims of debt bondage in India, the present Government was making an effort to solve the problem and had taken action to release and rehabilitate the persons concerned, particularly by the Act of 1976. The problem persisted because of the difficulties of implementing a social reform of such magnitude. The power structure in the rural areas, where the rich land-owners, who at the same time were often traders and money lenders, dominated the political and social institutions, was such that it was difficult to implement a law which threatened the interests of the owners.

38. National non-governmental organizations therefore had an important role to play in that field, not only in India but also in other countries which were experiencing similar problems. The Sub-Commission and the Working Group should continue to study the question of debt bondage and related questions, such as child labour, but they should deal with the cases of other countries besides India. If, as the Commission on Human Rights had recommended, the Sub-Commission adopted a five-year programme of work, it should make provision in it for the preparation of a study on the question. Lastly, in order to promote a better understanding of that complex problem, it would be advisable to organize under the auspices of the United Nations an international seminar in which experts of Governments, intergovernmental institutions and non-governmental organizations would participate.

39. Mrs. HERNANDEZ-IXCOY (International Indian Treaty Council) referred to the situation prevailing in Guatemala, where the deterioration of the economic situation had forced the rural populations, especially the Indian ones, to move down to the big plantations. Whole families thus found themselves in a situation of bondage to their employers; they were permanently in debt and forced to serve their masters in order to obtain food and shelter. Children of six and seven were even forced to work in order to help their parents to repay part of the family debt.

40. Families which had tried to leave the plantations had been punished, abducted or murdered. Quoting specific examples, she explained that the land-owners appealed to the authorities in order to force families to work to repay them, for a wage of only half a dollar a day.

41. In addition, the Guatemalan army, after completely destroying the rural economy, was deporting the survivors to so-called "model villages", which were nothing more than concentration camps. Men, women, children and old people were forced to join the "civilian militias" and to kill their own compatriots. They also had to take part in the work of building roads and military installations - which would make it easier to massacre the civilian populations - under the programme known as "Techo, tortilla y trabajo" (Housing, food and work). That policy was being promoted by the present military leader of Guatemala, General Oscar Mejía Victores. Her organization was preparing a report on that matter and would send it to the Working Group's Special Rapporteur.

42. Mr. NEWMAN (International Human Rights Law Group) said the Sub-Commission's debates gave the impression that the problems studied by the Working Group existed only in the third world. However, the Working Group made it clear in paragraph 44 of its report that the situation was equally disturbing in certain industrialized countries.

43. He quoted the following statement by a land-owner in the book Harvest of Shame, which concerned Florida: "We used to own slaves; now we just rent 'em". In another American State, South Carolina, 10 persons had been convicted since 1981 for having kept workers in bondage. The problem existed elsewhere in the United States, as confirmed by the big demonstration organized very recently in Ohio. Lastly, the Washington Post had concluded a report on the question by stating that practices "amounting to slavery" existed in the United States. The most widespread practice was said to be that of peonage, in which the worker was paid a lower wage than what he needed to buy enough from his own employer in order to survive.

44. His organization fully supported the Working Group's recommendation to change the name of that body. By its terms of reference and its tradition, the Sub-Commission was closely concerned with obvious and systematic violations of human rights, and the activities of the Working Group were still the best means of shedding light on the problems of migrant workers.

45. Mrs. PURI (Observer for India) said that her country's Government was not closing its eyes to its problems, as it was sure it could solve them in the shortest possible time. However, she was surprised by the tendency to consider debt bondage as a purely Indian phenomenon. That emphasis was supposed to be justified, it would seem, by the extent of the problem in that country, since the report (para. 33) spoke of several millions of Indian bonded labourers.

46. However, she wished to correct a certain statistical imbalance: there were 250 million persons of working age in India, 85 per cent of whom did not belong to trade unions. In those circumstances, it was very easy to extend the notion of bondage. According to studies undertaken by the Indian Administration, in 1979 there had been 330,000 persons in debt bondage, of whom 130,550 had been released and rehabilitated by 1 January 1982. That was a very positive development which was not taken into account by the figures cited in the report. In that connection, she endorsed the statement by the representative of the International Commission of Jurists, who had acknowledged the efforts made by the Indian Government to prevent the practice from growing.

47. Mr. SAKER observed that he had personally spent two years in India and had been moved by what Mrs. Puri had said about the possibility of solving the problem of bondage in her country. Confidence could be placed in the Indian Government, which was following a democratic path and had shown itself willing to collaborate with the Sub-Commission by furnishing information. Moreover, the Working Group would continue to study that question regularly. On the other hand, other parts of the world were also familiar with the problem of bondage, which must be solved everywhere.

48. The CHAIRMAN said that she shared the satisfaction expressed by the members of the Sub-Commission concerning the activities of the Working Group on Slavery. The Group had achieved practical results; it was benefiting from the participation of several countries, and in particular from the goodwill of the Mauritanian Government. She expressed her thanks to all the members of the Group.

49. Mr. CHOWDHURY, replying as Chairman-Rapporteur of the Working Group on Slavery to the observations made by the members of the Sub-Commission concerning the Group's activities, thanked Mr. Bossuyt for his compliments and useful suggestions. He noted that in its conclusions the Group had stated that it wished to adopt a new title. Mr. Masud and he himself had proposed a shorter name. Mr. Mahdi had suggested "Working Group on Slavery-like Practices, Including Apartheid". Informal consultations should be undertaken on that subject, with a view to the adoption of a name which would be both brief and expressive.

50. In reply to a remark by Mr. Toševski, he pointed out that the Working Group on Slavery had not considered that it should omit paragraphs 48, 49 and 50 of its report (E/CN.4/Sub.2/1983/27). Those paragraphs merely recorded what had happened in the Group, without expressing any opinion. The Group itself had been conscious that the problem under consideration was outside its terms of reference; that was reflected in its report. In those circumstances, the omission of paragraphs 48, 49 and 50 had not been necessary. Mr. Toševski had also expressed the view that collaboration between the Group and the United Nations organs in question was not strong enough. Actually, although the Group enjoyed the collaboration of UNHCR, the occasional collaboration of WHO and the permanent collaboration of ILO, there were other agencies which regrettably did not send representatives to its sessions. Perhaps the Assistant Secretary-General could ask the directors of those other agencies to send representatives. The question of the periodicity of the Group's sessions had been settled some years before, when it had been decided that it would meet annually.

51. He associated himself with the appreciation expressed by Mr. Whitaker concerning the contacts with the Mauritanian Government. He also associated himself with what had been said by Mr. Gomensoro about Argentina. Mrs. Odio Benito had extended thanks to the Working Group, but in view of the importance of the contribution which she had made to the Group's work, she herself was equally deserving of thanks. Mr. Trimble, who was new to the Sub-Commission, had made a first statement which contained useful suggestions; he had rightly pointed out that debt bondage was widespread outside the Indian subcontinent.

52. He was grateful to Mrs. Daes for her remarks concerning the nature of the Working Group's activities and to Mr. Mahdi for his suggestions and the appreciation which he had expressed. Mr. Mahdi had felt that a study of debt bondage would duplicate the Group's debates; moreover, such a study had not been proposed during the Group's meetings. The facts of the situation in India were discussed in the Working Group, in which the legislative measures enacted in that country had been noted; to appoint a special rapporteur for India would mean that the Sub-Commission wished to draw particular attention to that country, whereas in fact its members had expressed appreciation for the efforts which had been made there. He had noted how Mr. Saker had expressed appreciation for the co-operative attitude of the Indian Government. In his opinion, efforts should not be concentrated on debt bondage, since that might tend to minimize the importance of other questions, such as child labour. Lastly, he was gratified by the appreciation expressed by the representatives of the International Commission of Jurists, the International Indian Treaty Council and the International Human Rights Law Group.

53. The CHAIRMAN observed that the Sub-Commission had thus completed its consideration of item 13 of its agenda.

REVIEW OF FURTHER DEVELOPMENT IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (E/CN.4/Sub.2/1983/2-4)

54. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights) said that at every session since 1962 the Sub-Commission had undertaken the review which that year was the subject of agenda item 4. That review enabled the Sub-Commission to be kept informed of the relevant activities of other organs of the United Nations and the specialized agencies, and gave it an opportunity to evaluate the follow-up measures taken by its parent bodies regarding its recommendations.

55. At its previous session, the Sub-Commission had, under that agenda item, considered the question of the establishment of a post of United Nations High Commissioner for Human Rights. In its resolution 1982/27 of 10 September 1982, it had submitted to the Commission on Human Rights, a number of proposals relating to the possible mandate of a High Commissioner. Those proposals had related to the various functions and responsibilities of the High Commissioner, the role of the Bureau of the Commission on Human Rights, which might act as an advisory body to the High Commissioner, the procedure concerning his nomination and the length of his mandate.

56. In its resolution 1983/49, the Commission had taken note with appreciation of Sub-Commission resolution 1982/27, had considered that its proposals were useful for further consideration of that important question and had invited the Sub-Commission to resubmit them at its fortieth Session, taking fully into account the provisions of paragraph 1 of Commission resolution 1982/22, the comments made in the Commission at its thirty-ninth Session and Commission resolution 1983/49, together with any further comments and recommendations that it deemed appropriate. Lastly, the Commission had decided to continue consideration of the question of the establishment of a post of High Commissioner for Human Rights at its fortieth session, with a view to reaching a decision on that matter at the earliest possible moment, including the manner of election if such a post was established.

57. He also drew attention to the documentation presented to the Sub-Commission under item 4, which was listed in paragraph 20 of the annotated provisional agenda (E/CN.4/Sub.2/1983/1/Add.1).

58. Mr. BOSSUYT said he regretted that for the third consecutive year he was unable to find any mention in the Secretary-General's note on item 4 (E/CN.4/Sub.2/1982/3) of the number of declarations made pursuant to article 41 of the International Covenant on Civil and Political Rights; on the other hand, he was pleased that reference was made to the entry into force of the procedure provided for communications from individuals in article 14 of the International Convention of the Elimination of All Forms of Racial Discrimination.

59. Concerning the establishment of a post of High Commissioner for Human Rights, he recalled that a draft mandate had been prepared at the previous session; it did not seem necessary to go back to the substance of that question, but it was desirable to alter the description of the High Commissioner's functions to a certain extent. His principal functions would be assigned to him as and when requests were made to him by the General Assembly, the Economic and Social Council, and above all the Commission on Human Rights. He would have to have a certain margin for initiative, but he would be limited, in particular, by the confidential nature of his task.

60. In fact, the role of a High Commissioner would not have anything revolutionary about it. Essentially, he would carry out tasks which had hitherto been performed by others: by working groups, by special rapporteurs or by the Secretary-General himself, who made use of his good offices vis-à-vis certain Governments. The establishment of a post of High Commissioner would be preferable to a proliferation of working groups, special rapporteurs, representatives and envoys. All those persons were working on a part-time basis for the United Nations and had to travel some distance in order to come to Geneva. A High Commissioner would perform his duties on a full-time basis and would be posted in Geneva. Furthermore, the Secretariat, which was responsible for assisting working groups and special rapporteurs, in doing so undertook tasks which might compromise its neutrality. In that connection, he mentioned as examples the reports which had recently been requested about the human rights situation in the Islamic Republic of Iran and in Poland. It would be preferable to entrust tasks of that kind to a High Commissioner.

61. Certain Governments feared that a High Commissioner might one day concern himself in some way with the human rights situation in their country. That view was a mistaken one, for with the growth of the activities of the United Nations bodies concerned with human rights, States were no longer secure from any initiative taken by the United Nations. In simple terms, a High Commissioner would act in a less impromptu and more systematic way, and would possess a greater degree of autonomy since he was elected by the General Assembly.
62. He hoped that wider agreement than last year would be reached on a Sub-Commission resolution concerning a draft mandate for a High Commissioner.
63. Mrs. ODIO BENITO said that the General Assembly, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission had been concerned with the question of the appointment of a High Commissioner for Human Rights for many years as a kind of ritual. The idea had originally been advanced by Costa Rica. The previous year, the Sub-Commission had adopted resolution 1982/27 on that question and the Commission had taken note of it in resolution 1983/49. The Commission had asked the Sub-Commission to resubmit its proposals at the Commission's fortieth session. The purpose of the establishment of a post of High Commissioner was to promote universal respect for human rights. The consideration of item 6 had again shown that in many parts of the world there existed deplorable situations characterized by numerous violations. She wished to refer, in particular, to two phenomena which justified the establishment of the proposed post.
64. The first of those phenomena was torture. A few years before, the Nordic countries had proposed the establishment of a fund to assist the victims of torture. Unfortunately, the contributions to that fund which had been announced at a meeting held for that purpose had been no more than symbolic. However, persons who had suffered torture needed practical assistance, and not just resolutions. The second phenomenon was terrorism, an especially infamous practice in that it effectively achieved its purpose, which was simply to terrorize. Terrorism was causing irreparable injury to many people. The media gave brief accounts of what happened to victims of bomb explosions, but afterwards those who had been wounded and mutilated needed help; practical action should be taken for their benefit. In the face of the two tragedies which she had just mentioned, the United Nations must not remain powerless; it must create the necessary mechanism to provide practical aid. The establishment of a post of High Commissioner would be a step in that direction in that it would crystallize the specific activities which were desired.
65. In view of the preceding considerations, and in order that the United Nations might not remain helpless before the serious violations of human rights occurring throughout the world, the draft resolution submitted to the Commission on Human Rights the previous year (resolution 1982/27) concerning the establishment of a post of High Commissioner for Human Rights had been revised, and in the subsequent part of her statement she would present the basic elements of the new text. In the preamble, the General Assembly would recall the responsibility of the United Nations to promote and encourage respect for human rights and fundamental freedoms for all, as established by the Universal Declaration of Human Rights and other relevant

international instruments; it would reaffirm that human rights and fundamental freedoms were indivisible and interdependent, and that equal consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights; the Assembly would further declare that the seriousness of violations of human rights often called for a more timely and effective response by the United Nations.

66. Considering that the idea of establishing a post of High Commissioner for Human Rights was far from new and had already been fully discussed, the authors of the new text proposed that the General Assembly should: (1) decide to establish for an initial period of five years the post of United Nations High Commissioner for Human Rights; (2) declare that the work of the High Commissioner should be humanitarian in character, guided solely by a concern for the promotion and protection of human rights and fundamental freedoms and not directed toward obtaining political advantage for any State; (3) call upon Governments, specialized agencies, intergovernmental organizations and the Secretary-General to co-operate with the High Commissioner in the fulfilment of the latter's responsibilities.

67. In operative paragraph 4, the General Assembly would decide that the High Commissioner for Human Rights would have the following functions and responsibilities: (a) to promote and protect the observance of human rights and fundamental freedoms for all, as defined in the Universal Declaration of Human Rights, without distinction as to race, colour, sex, etc.; (b) to give special attention to the importance of ensuring the effective enjoyment by all of their civil and political rights, their economic, social and cultural rights, and such other rights as were recognized by the Charter of the United Nations and by the Assembly, bearing in mind that all human rights and fundamental freedoms were indivisible and interdependent; (c) to initiate direct contacts with Governments whenever such action appeared necessary or desirable, in order to safeguard or assist in restoring respect for human rights, bearing in mind the following principles: (i) such contacts should be prompt, confidential and exclusively humanitarian in purpose; (ii) in undertaking such action, the High Commissioner should pay particular attention to urgent situations; (iii) direct contacts should have the specific purpose of ascertaining the facts and, when appropriate in the light of the facts, assisting the parties concerned with a view to ensuring full respect for the human rights of individuals or groups on whose behalf the contacts had been undertaken; (iv) such assistance might include, inter alia, technical advice on measures which could be taken to promote the effective observance of human rights, offers to conciliate or mediate in disputes, and provision of information on the availability of appropriate assistance from other elements of the United Nations system, including the Centre for Human Rights and the specialized agencies; (d) to consider also as areas of special attention such massive violations of human rights as apartheid, racism and racial discrimination, colonial domination, foreign occupation and alien subjugation; (e) to consult as appropriate with other elements of the United Nations system, including the Secretary-General and the Centre for Human Rights, and appropriate specialized agencies, which might have or share responsibilities for promoting or safeguarding specific human rights, for the purpose of exchanging information and collaborating with them in developing and implementing appropriate co-ordinated action; (f) to carry out specific mandates and tasks assigned by the

General Assembly, the Economic and Social Council, and the Commission on Human Rights; (g) to report annually to the General Assembly, the Economic and Social Council, and the Commission on Human Rights on the activities of the High Commissioner. The annual reports should constitute a separate agenda item for those bodies. Those reports might, with the consent of the Government concerned, include a summary of the results of the High Commissioner's direct contacts with that Government. With the consent of the Government concerned, the High Commissioner might also announce the results of such direct contacts at other times during the year.

68. Pursuant to operative paragraph 5, the Bureau of the Commission on Human Rights should act as an advisory committee to the High Commissioner, advising him or her on any aspect of the latter's responsibilities; such advice might be given on the initiative of the Bureau or at the request of the High Commissioner. Pursuant to operative paragraph 6, the High Commissioner should be nominated by the Secretary-General and elected by the General Assembly. The period of his or her mandate should be five years. He or she should not serve for two consecutive terms and his or her immediate successor should be of a different nationality. Lastly, operative paragraph 7 concerned the personnel of the Office of the High Commissioner and had been drafted by taking the Office of the United Nations High Commissioner for Refugees as a model.

69. The new text was the outcome of ideas which had ripened in the course of many years of thought about that question. She reaffirmed that there was no question of creating an organ for intervention; rather the idea was to create the possibility of providing speedy and effective aid to the victims of violations of human rights. She hoped that the new text would make it possible to take a decision on that important question and that the Office of High Commissioner for Human Rights would finally come into being.

70. Mr. EIDE referred to the hesitancy with which the idea of establishing a post of High Commissioner for Human Rights was received in certain quarters. First of all, there was the fear of intervention in the internal affairs of States. On that subject, he shared the view of Mrs. Odio Benito: there had always been some fears that measures taken in the field of human rights might constitute interference in the internal affairs of States, but those fears were gradually subsiding. It was also obvious that the only way to allay the apprehensions in certain quarters was to define clearly the High Commissioner's functions and methods of work.

71. As to whether the Sub-Commission had given sufficient thought to the matter, he did not believe that after so many years of reflection the Sub-Commission would get any further by prolonging the debate. Moreover, not all the problems could be solved in advance. In that connection, it should be noted that the High Commissioner's role would be a very modest one to start with and that it would grow as confidence in him increased. Many Governments which were sceptical today would recognize the value and benefits of the Office of the High Commissioner. However, there too, everything would depend on the wording of his terms of reference. It might perhaps be necessary to make a few more slight alterations in the proposed text, in order to gain the confidence of Governments and the United Nations bodies which were active in the field of human rights and to ensure that the Office of High Commissioner became an institution recognized by the entire international community.

72. For his part, he wished to stress the following points: the High Commissioner would carry out the mandate entrusted to him by the General Assembly, the Economic and Social Council, and the Commission on Human Rights; that would enable those political organs, composed of Governments, to assign specific tasks to him. Subsequently, the High Commissioner would report annually to the General Assembly, the Economic and Social Council, and the Commission on Human Rights on his activities, under a separate item of their respective agendas. If the Governments concerned expressed their agreement, he could include in his report a summary of the results of the contacts which he had established with them. Lastly, the High Commissioner's function would be to concern himself with such massive violations of human rights as apartheid, racism, racial discrimination, colonialism, and foreign occupation or domination.

73. The proposals summarized by Mrs. Odio Benito came within the framework of the debate which the Sub-Commission had held on the question in the preceding year. If one kept to the text which had been outlined, he did not see any danger of interference in the internal affairs of States. In that connection, he cited the precedent of the Office of the United Nations High Commissioner for Refugees, which had proved its ability to win the confidence of countries. The proposal which had just been submitted was perfectly in accordance with the ideas of the Sub-Commission.

74. Mr. FERRERO said that, as Mrs. Odio Benito had brilliantly demonstrated, fresh impetus must be given to the activities of the United Nations in the field of protection of human rights; although the efforts which the Sub-Commission was making in that field were undeniable, they were still inadequate because of the limits inherent in its terms of reference, and in those of the Commission on Human Rights and the other competent organs. The establishment of an Office of the United Nations High Commissioner for Human Rights would be a decisive service to the noble cause of defending human rights, for an institution of that kind was needed in order to supplement the structure of the mechanisms for protecting human rights in the United Nations and to give it the scope it now lacked, thanks to the wider terms of reference and essentially humanitarian character of the proposed new institution. The High Commissioner would, of course, have to exercise the greatest discretion and neutrality in carrying out his functions and would have to try to find effective solutions for the problems raised by the violations of human rights without arraigning any Government in particular. Lastly, he would give priority to the most urgent problems.

75. He hoped that the new text would receive the Sub-Commission's support.

76. Mr. FOLI also referred to the fear which underlay the perennial opposition to the proposal to establish a post of High Commissioner for Human Rights - a fear that the High Commissioner would be meddling in the internal affairs of sovereign States. But there was little risk of that happening in practice if the High Commissioner clearly understood the nature of his functions. His task would be to help to find a rapid solution to serious problems endangering human rights and to defuse certain situations before they led to flagrant and irreparable abuses.

77. When he had begun to serve in the United Nations as an independent expert, he had had cause to deal with the human rights situation in a State Member of the United Nations; his first contacts with the authorities in question had been marked by tension arising from suspicion that he would indulge in criticism or an inquisition, in other words, interfere in the internal affairs of that State. But after two meetings the results achieved had exceeded his hopes. Having

learned from that experience, he was firmly convinced that the High Commissioner for Human Rights could do much for the promotion and enjoyment of human rights in many countries, at a time when there was a proliferation of the most unexpected and most serious kinds of violations. There was no doubt that Governments needed help, and often a face-saving route back on to the right path.

78. In view of the preceding observations, he thought that the text to be submitted to the Commission on Human Rights could be improved; in his opinion, the specific comments made by Mrs. Odio Benito and by Mr. Eide should help to achieve that objective.

79. Mr. CAREY said it might be helpful to recall a few useful precedents at a time when the establishment of a post of High Commissioner for Human Rights was being considered. Mr. Eide had rightly remarked that the Office of the United Nations High Commissioner for Refugees (UNHCR) had, over the years, succeeded in winning the confidence of Governments. Moreover, the development of its functions bore witness to the fact: the original definition of a refugee had been strictly limited to persons who had left their country, but in the course of time, as the needs of displaced persons had developed, UNHCR had been entrusted with the task of assisting displaced persons who had not necessarily crossed their country's borders. That emerged explicitly from the wording of General Assembly resolution 34/60, where throughout the text reference was made to assisting "refugees and displaced persons". Now, therefore, there were two distinct categories, refugees and displaced persons, who came under the mandate of UNHCR.

80. He cited another example: in 1982 the Sub-Commission had received authorization to send a mission to Mauritania, which was a precedent concerning a specific activity entrusted to a United Nations representative with the aim of trying to resolve a difficult situation. In addition, the Sub-Commission had furnished useful assistance in the field of human rights by supplying advisory services, especially to Uganda (E/CN.4/Sub.2/1983/2, para. 28).

81. He reserved the possibility of continuing his statement at the following meeting.

The meeting rose at 1.05 p.m.