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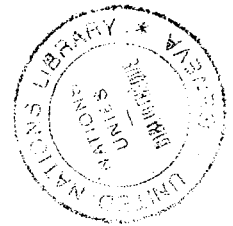
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COMMISSION ON HUMAN RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 1630th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 March 1981, at 3 p.m.



Chairman:

Mr. CALERO RODRIGUES

(Brazil)

CONTENT

The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation (continued)

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories (continued)

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The meeting was called to order at 3.15 p.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9). (continued)
(E/CN.4/L.1559; E/CN.4/L.1565; E/CN.4/L.1568; E/CN.4/L.1569)

Draft resolution E/CN.4/L.1559

1. Mr. GARVALOV (Bulgaria) said that he would vote against draft resolution E/CN.4/L.1559, since it was inspired by prejudice against the Kampuchean people and completely overlooked the heroic efforts of that people to reconstruct a country which had been devastated by the policy of genocide pursued by the previous régime. Such a text would, in his opinion, do nothing but revive the morale of the Pol Pot clique and serve the aspirations of the imperialists.
2. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that he would also vote against draft resolution E/CN.4/L.1559, because it raised doubts about the normalization of life in Kampuchea. There had, in fact, been positive and tangible changes in the life of the Khmer people since the time when it had thrown off the yoke of the murderous Pol Pot clique. Even The Times had recognized that in an article stating that the process of stabilization was obviously being carried out successfully. The claims that human rights were being violated in Kampuchea amounted to sheer fabrication and it was not normal in official United Nations documents to mention the name of a State which had not existed for two years. It was inadmissible that a former State should be used to slander a sovereign State. The draft resolution represented an attempt to interfere in the affairs of a sovereign State through the Commission on Human Rights.
3. Mr. ORTIZ RODRIGUEZ (Cuba) considered that draft resolution E/CN.4/L.1559 was offensive as it was based on a purely subjective view of Kampuchean reality. Far from promoting a solution to the problems of Kampuchea, such a text would only encourage the activities of the bands of counter-revolutionaries. His delegation would therefore vote against a draft resolution which was essentially invalidated by the political intentions underlying it.
4. Mr. ZORIN (Union of Soviet Socialist Republics) said that he was firmly opposed to the adoption of a draft resolution submitted with the covert intention of delaying a solution to Kampuchea's problems. It represented an attempt to interfere in the internal affairs of a sovereign State and revealed a total lack of regard for a people who, thanks to their admirable courage, had managed to overthrow the puppet régime of Pol Pot. It would merely complicate the task of the Kampuchean people and prevent their Government from strengthening peace and stability in the region.
5. In his view, General Assembly resolutions 34/22 and 35/6, which were mentioned in the preamble, were null and void as they had been adopted without the participation of Kampuchea; the second part of operative paragraph 1 was slanderous and operative paragraph 2 was equally mendacious since it was incorrect to speak of foreign occupation in Kampuchea. Paragraphs 3 and 4 represented interference in Kampuchea's affairs; in that connection, the sponsors of the draft resolution seemed to be unaware that free elections were due to be held shortly in Kampuchea. It was inadmissible and unlawful for the Commission to give the Secretary-General advice which he had not asked for, as was done in paragraph 5, and to arrogate to itself the rights of the Economic and Social Council, as was done

in paragraph 6. With regard to paragraph 7, he recalled that at the time of the United States bombardments of neutral Kampuchea, when Lon Nol of evil memory had been presiding over the destiny of that unfortunate country, there had been no question of a draft resolution expressing universal disapproval of acts which were no less reprehensible from the standpoint of law.

6. With the allegations contained in the draft resolution, allegations which he did not think could stand up to the facts, he contrasted the willingness recently expressed by the Ministers for Foreign Affairs of Viet Nam, Kampuchea and Laos, when they had met at Ho Chi Minh City, to convene a regional conference aimed at establishing peace, stability and prosperity in South-East Asia on the basis of the principle of the integrity and sovereignty of States. Everyone concerned about respect for human rights should welcome that initiative.

7. Mr. MUBANGA-CHIPOYA (Zambia) said that he found certain aspects of the draft resolution difficult to accept. Referring to operative paragraph 2, he felt there was a danger that the departure of the foreign forces might leave the way open for the return of Pol Pot, which would only make the situation worse. It was true that blame could be imputed to both parties, but perhaps the present situation represented progress in so far as the presence of foreign forces might provide favourable conditions for the organization of free and democratic elections. But as he felt it was perhaps naïve on his part to suppose that that might happen, his delegation had decided to abstain in the vote.

8. Mr. TWESIGYE (Uganda) said that his Government had recently ordered a study of Kampuchea, but its conclusions were not yet known. Consequently, as it was anxious not to encourage an initiative whose results might be to facilitate the return of the abominable Pol Pot régime, his delegation had decided to abstain in the vote.

9. Mr. KALINOWSKI (Poland) said that his delegation would vote against a draft resolution which amounted to approval of the heinous crimes committed by the Pol Pot régime.

10. Mrs. NAVCHAA (Mongolia) considered that the draft resolution formed part of the slander campaign unleashed against Kampuchea and represented interference in the internal affairs of a country which was making huge efforts to bind its wounds after having overthrown the bloody régime of Pol Pot and his clique. As the draft resolution made no mention of the admirable efforts being made by a whole people to reconstruct their country, his delegation was opposed to it.

11. At the request of the representative of Australia, a vote was taken by roll-call on draft resolution E/CN.4/L.1559.

12. Yugoslavia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Brazil, Burundi, Canada, Costa Rica, Denmark, Fiji, France, Germany, Federal Republic of, Ghana, Greece, Morocco, Mexico, Netherlands, Nigeria, Pakistan, Peru, Philippines, Portugal, Senegal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zaire.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, India, Mongolia, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Iraq, Jordan, Panama, Uganda, Zambia.

13. Draft resolution E/CN.4/L.1559 was adopted by 26 votes to 9, with 6 abstentions.

Draft resolution E/CN.4/L.1565

14. Mr. SALAH-BEY (Algeria) said he wished to draw the attention of the international community to the extremely serious situation which continued to exist in Western Sahara. Western Sahara was a practically unique case in modern history of a colonized country whose European colonial Power had withdrawn in favour of another Power on the African continent which, while claiming so-called historic rights, had ceded part of those rights and of the territory in question to another country, namely, Mauritania. Confronted by the resistance of the Sahrawi people and pressure from the international community, Mauritania had in 1979 withdrawn from the part of Western Sahara which it had occupied and Morocco had immediately seized it. That was the situation of a country whose territory was being carved up in contempt of all the principles of international life.

15. The serious situation about which the Commission had already expressed concern at its previous session had grown worse in several ways. The war, in which two armies, that of the occupying force and that of the Sahrawi people, were confronting each other, had increased in intensity, with all its consequences for the civilian population of the country. Moreover, in spite of the many calls by the international community for the Sahrawi people to be allowed to exercise their right to self-determination, Morocco refused to embark on the only path which would lead to peace, namely, to recognize the existence of the Sahrawi people and their right to self-determination and independence. On the contrary, a few days previously the King of Morocco had repeated his refusal to follow the path of reason by reaffirming that Western Sahara was permanently Moroccan. Furthermore, some countries were again providing the occupying force with arms. However, history provided numerous examples of such a sequence of events, which had ended in the final victory of the peoples fighting for their independence.

16. Algeria's particular desire that a solution to the question of Western Sahara should be found could be explained not only by its concern about a continuing state of war on its frontiers, but also by its support for peoples fighting for their freedom.

17. The amendment to operative paragraph 2 of draft resolution E/CN.4/L.1565 proposed by the Australian delegation and supported by Uganda on behalf of the sponsors was acceptable in that it was understandable that some countries should prefer a more diplomatic form of words, namely, deploring rather than condemning the continuance of the occupation of Western Sahara by Morocco. The very wide recognition of the Sahrawi people's struggle was exemplified by the fact that 45 countries, 12 of which were members of the Commission, had so far granted diplomatic recognition to the Sahrawi Republic. His delegation had no doubt that the Commission would adopt the draft resolution by a very large majority in order once more to express clearly its concern that the principle of the right of peoples to self-determination and independence should be respected.

18. Mr. SKALLI (Morocco) said that he felt obliged to reply to the mendacious allegations of the Algerian delegation, although he had already had an opportunity to explain the problem in a calmer atmosphere. He would like to inform the Algerian delegation that he possessed a recording of a statement made five years previously by the late President Boumédiène in which the latter had expressed his approval of the decolonization process in the region of Spanish Sahara resulting from the agreement between Mauritania and Morocco. That statement showed that at that time Algeria had been on the side of Morocco and had not spoken of the Sahrawi people, Polisario, etc. The Algerian delegation's allegations were sheer fabrications which had unavowed purposes.

19. The decolonization of the former Spanish Sahara had been accomplished with respect for international law and in pursuance of General Assembly resolution 1514 (XV). Algeria had only recently expressed its hostility towards Morocco and had even had recourse to direct military intervention in Moroccan territory; Algeria seemed to find it preferable at the moment to adopt the role of defender of the right to self-determination and human rights.

20. The international community was, however, well acquainted with the realities of the problem. Algeria itself knew that 40,000 Moroccans had been expelled from Algeria, that the International Committee of the Red Cross (ICRC) had not been allowed to visit Moroccan soldiers imprisoned in Algeria, that families had been deported so as to be presented as so-called Sahrawi refugees and that collaborators had been abducted so as to exert pressure on the international community. Everyone was well aware, moreover, that members of the so-called "Polisario" were massacring the black people they came across during their clashes and that the United Nations had never been allowed to take a census of the people who, it was claimed, came from Western Sahara. It might also be asked why Algeria had never called for the exercise of the right to self-determination of the peoples concerned when Western Sahara had been under Spanish domination.

21. Mr. SALAH-BEY (Algeria) said that he regretted the unjust attacks made against his country on the question of Western Sahara and categorically denied that the Algerian army had intervened in the region. Quite clearly, Morocco could not accept the fact that a people were taking up arms against foreign occupation.

22. Mr. SKALLI (Morocco) said that he would like to know what explanation the Algerian representative could give for the fact that prisoners of the Algerian regular army held at Rabat were able to communicate with their families and with ICRC representatives, while the same facilities were not accorded to Moroccan prisoners.

23. Mr. MUBANGA-CHIPOYA (Zambia) said that he had no objection to the replacement of the word "Condemns", in operative paragraph 2 of the draft resolution, by the word "Deplores". He hoped that the Commission would be able to adopt the draft resolution thus amended.

24. Mr. SCHIFFER (United States of America) said that he would like to hear the recording of the statement by President Boumédiène mentioned by the Moroccan representative.

25. Mr. GONZALEZ de LEON (Mexico) said he understood that the substantive debate on the question of Western Sahara had already been closed. It would be preferable for the Commission to concentrate its attention on consideration of draft resolution E/CN.4/L.1565.

26. Mr. HASSON (Observer for Democratic Yemen) said that his delegation wished to join the sponsors of draft resolution E/CN.4/L.1565, which was consistent with its position of principle concerning the right of peoples to self-determination, but without prejudice to the relations of brotherhood which bound the peoples of Democratic Yemen and Morocco. Only by recognizing the just struggle of the people of Western Sahara for the exercise of their rights could peace and co-operation be restored to the region.

27. Mr. NGONDA BEMPU (Zaire) regretted that draft resolution E/CN.4/L.1565 did not have a heading similar to that of the draft resolution relating to Afghanistan (E/CN.4/L.1568). However, his delegation remained opposed to the text not for that reason of form, but because it could not agree with the condemnation contained in the operative part, even if the wording of paragraph 2 was slightly amended.

28. Mr. MARTINEZ CRUZ (Panama) said that the amendment to operative paragraph 2 proposed by the Australian representative at the preceding meeting was acceptable. The draft resolution related to a case recognized by the United Nations and the Organization of African Unity (OAU) as a problem of decolonization, which must be resolved through negotiations between the two parties to the dispute, namely, Morocco and the Sahrawi Republic.

29. Mr. M'BAYE (Senegal) said that his delegation would vote against draft resolution E/CN.4/L.1565. That did not mean that Senegal was opposed to the principle of self-determination of peoples; on the contrary, it was very devoted to that principle - as it had shown, inter alia, by ratifying the two International Covenants on Human Rights and the Optional Protocol. It had also taken part in the drafting of the African Charter of human rights, which had been adopted at Banjul by an OAU conference of ministers and which stressed the principle of self-determination. However, his delegation felt that one should not prejudge the choices or the pattern of development of the peoples for whom the principle was invoked, and that a propaganda-type resolution would complicate the solution of the problem of Western Sahara. In its view, draft resolution E/CN.4/L.1565 suffered from those shortcomings. Even its title was unusual: "Denial to the people of Western Sahara of its right to self-determination and other fundamental human rights, as a result of the occupation of its territory by Morocco"; a neutral title such as "Problem of Western Sahara" would have been better. Moreover, operative paragraph 2, even after replacement of the verb "Condemns" by the verb "Deplores", reflected a biased approach to the substance of the matter.

30. The African countries' deep concern about the problem of Western Sahara was well known. The representative of Uganda had observed that the Commission did not necessarily have to wait until OAU had taken a position on that problem in order to follow it; however, it would be preferable not to forestall that organization, which was looking into the problem and considering all possible courses. The Ad Hoc Committee of Heads of State of OAU had adopted a resolution on Western Sahara whose terms differed from those of draft resolution E/CN.4/L.1565. First and foremost, OAU was calling for talks between the parties - an approach with which Senegal agreed in a desire for a lasting peace. A military solution would leave only bitterness. For the reasons it had just mentioned, his delegation requested that there should be separate votes on the title and on operative paragraph 2 and that all the votes should be taken by roll-call.

31. Mr. SOYER (France) pointed out that his country's policy had consistently been one of not committing itself on the substance of the problem of Western Sahara. For that reason, in a spirit of neutrality his delegation would abstain in the vote on draft resolution E/CN.4/L.1565 as a whole. In its view, it would be better to seek agreement than to pour oil on the fire. In that connection, he referred to two situations - the seizure of hostages belonging to diplomatic staff and an incident provoked by the untimely communication of information - in which moderation had prevailed. His delegation found no such moderation in the title of draft resolution E/CN.4/L.1565 or in operative paragraph 2, where a sovereign State was named. It would therefore vote against the draft resolution.

32. Mr. BEAULNE (Canada) said that his delegation would abstain in the vote on draft resolution E/CN.4/L.1565 and would have preferred it not to have been submitted, so that his delegation would not have had to choose between two friendly countries. Operative paragraph 2 seemed to contradict the spirit of collaboration with OAU which underlay the seventh preambular paragraph and operative paragraph 1; moreover, the reference to the foreign occupation prejudged the political settlement to which the current negotiations should lead.

33. Mr. HILALY (Pakistan) requested that operative paragraph 1 should also be voted upon separately.

34. Mr. SALAH-BEY (Algeria) pointed out that in the French text the second line of the seventh preambular paragraph should read "la Conférence des Chefs d'Etat et de Gouvernement ...".

35. At the request of the representative of Senegal, a vote was taken by roll-call on the title of draft resolution E/CN.4/L.1565.

36. The Netherlands, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Ghana, India, Mexico, Mongolia, Nigeria, Panama, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Against: Canada, France, Iraq, Jordan, Morocco, Peru, Philippines, Portugal, Senegal, United States of America, Uruguay, Zaire.

Abstaining: Argentina, Australia, Brazil, Burundi, Denmark, Fiji, Germany, Federal Republic of, Greece, Netherlands, Pakistan, United Kingdom of Great Britain and Northern Ireland.

37. The title of the draft resolution was adopted by 19 votes to 12, with 11 abstentions.

38. At the request of the representative of Pakistan, a vote was taken by roll-call on operative paragraph 1.

39. Uruguay, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, Ghana, Greece, India, Jordan, Mexico, Mongolia, Netherlands, Nigeria, Pakistan, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Zambia.

Against: Morocco, Senegal, Uruguay, Zaire.

Abstaining: Burundi, France, Germany, Federal Republic of, Iraq, Philippines, Portugal, United States of America.

40. Operative paragraph 1 was adopted by 31 votes to 4, with 7 abstentions.

41. At the request of the representative of Senegal, a vote was taken by roll-call on operative paragraph 2.

42. Portugal, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Australia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, India, Mexico, Mongolia, Nigeria, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Against: Canada, France, Iraq, Jordan, Morocco, Pakistan, Philippines, Portugal, Senegal, United States of America, Uruguay, Zaire.

Abstaining: Argentina, Burundi, Denmark, Germany, Federal Republic of, Greece, Netherlands, United Kingdom of Great Britain and Northern Ireland.

43. Operative paragraph 2 was adopted by 23 votes to 12, with 7 abstentions.

44. At the request of the representative of Senegal, a vote was taken by roll-call on draft resolution E/CN.4/L.1565 as a whole.

45. Yugoslavia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, Greece, India, Mexico, Mongolia, Nigeria, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Against: Iraq, Morocco, Senegal, United States of America, Zaire.

Abstaining: Canada, Denmark, France, Germany, Federal Republic of, Jordan, Netherlands, Pakistan, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland, Uruguay.

46. Draft resolution E/CN.4/L.1565 as a whole was adopted by 26 votes to 5, with 11 abstentions.

Draft resolution E/CN.4/L.1568

47. Mr. KHERAD (Observer for Afghanistan) said that the Democratic Republic of Afghanistan was strongly opposed to draft resolution E/CN.4/L.1568. Certain countries had been amassing lies and slanderous allegations against revolutionary Afghanistan in order to justify their attempts to aggravate the tension in the region, subject the Afghan people to further trials and divert them from the course they had freely chosen. In doing so, those countries continued to interfere in Afghanistan's internal affairs and to use the so-called "Afghan question" in order to create counter-revolutionary hysteria. Draft resolution E/CN.4/L.1568, which was groundless, unacceptable and insignificant, was merely one of their manoeuvres.

48. The events which had taken place in Afghanistan were exclusively internal matters. It was obvious that, in any country, a revolution made many enemies. Since the April revolution, and in particular after the national uprising of 27 December 1979, imperialist, hegemonist and reactionary circles had stepped up their interference and intrigues and had initiated an undeclared war against revolutionary Afghanistan. If they had not sought to destabilize the Democratic Republic of Afghanistan through certain neighbouring countries, the Revolutionary Council of Afghanistan would never have called upon a limited Soviet contingent, pursuant to article 4 of the Treaty of Friendship, Good-Neighbourliness and Co-operation signed between the Soviet Union and Afghanistan in 1978 and Article 51 of the Charter of the United Nations, in order to defend Afghan independence, territorial integrity and sovereignty. As soon as foreign interference ceased, there would no longer be any need for military assistance in Afghanistan.

49. Afghanistan's relations with other peace-loving countries, including the Moslem countries, would continue to develop; in particular, the Soviet Union had granted considerable economic, scientific and technical assistance to that country. The circles which continued to make much ado about the fraternal assistance granted by the Soviet Union to the Afghan people, at the request of its legal Government, were seeking to unleash a campaign of hatred and slander in order to distort the facts, confuse world opinion and denigrate independent Afghanistan's relations with the Soviet Union and other peace-loving countries.

50. With regard to the so-called Afghan refugee problem, the Government of the Democratic Republic of Afghanistan had clearly set forth its position in its statements of 10 March and 14 May 1980, as contained in documents A/35/154 and A/35/238. The Democratic Republic of Afghanistan was ready to welcome those persons who had left the country because of the atmosphere of oppression created by the fascist Amin Government before 27 December 1979, and all those who had been deceived by the propaganda of the enemies of the revolution. More than 200,000 Afghans who had been abroad had already returned to Afghanistan and had resumed a normal life. However, the Pakistan Government was impeding the return of a large number of Afghans living beyond Afghan frontiers.

51. On 14 May 1980 the Democratic Republic of Afghanistan had announced a detailed programme relating to the political settlement of the situation in Afghanistan, the removal of misunderstandings and the normalization of relations with two neighbouring countries by peaceful means and through direct bilateral negotiations. It had been stressed, in that programme, that relations between those countries and Afghanistan should be based on universally recognized international standards such as respect for territorial integrity and sovereignty, mutual non-interference in internal affairs and a refusal to allow national territory to be used for hostile acts against neighbouring countries. The Democratic Republic of Afghanistan had also requested the Soviet Union and the United States to be the main guarantors of the process of détente in the region, but only the Soviet Union had so far responded to those proposals.

52. In conclusion, his delegation felt that the despicable manoeuvres by certain members of the Commission against an independent State Member of the United Nations were liable seriously to undermine the Commission's prestige and authority. The people of Afghanistan would continue steadfastly to follow the path it had freely chosen.

53. Mr. ZORIN (Union of Soviet Socialist Republics) protested strongly against the attempts made in draft resolution E/CN.4/L.1568 to induce the Commission to examine the so-called human rights situation in Afghanistan. It was the forces of imperialism and hegemony and international reactionaries that were waging an undeclared war against revolutionary Afghanistan from Pakistan, where military equipment supplied by China, Egypt and the United States was flowing in constantly, and through mercenaries. Those acts of aggression constituted interference in the internal affairs of Afghanistan and in its international relations.

54. The sponsors of the draft resolution were merely seeking to increase the tensions around Afghanistan, which was striving to bring its situation back to normal and to conclude agreements with its neighbours, as the Afghan Government had proposed in its statement of 14 May 1980. That statement constituted the sole basis for peaceful settlement which took into account the interests of all parties. The sponsors had deliberately ignored the actual situation in Afghanistan and displayed an utter lack of political realism, as could be seen in particular from the fourth, seventh, eighth and tenth preambular paragraphs and operative paragraphs 4, 5, 7 and 8. The Soviet Union was proud to have assisted the Afghan Government, at its request, in crowning the Afghan revolution of April 1978 with success and ending the armed aggression organized by Washington and Peking against Afghanistan. A part of its contingent had recently returned to the Soviet Union; the remainder would follow as soon as the Afghan Government's proposals had been accepted and the gangs of counter-revolutionaries had put an end to their attacks against independent and sovereign Afghanistan, as Mr. Brezhnev had said when addressing the twenty-sixth Congress of the Communist Party of the Soviet Union.

55. His delegation would vote against the draft resolution.

56. Mr. GARVALOV (Bulgaria) said that his delegation would vote against draft resolution E/CN.4/L.1568 for the following reasons: the text took no account of the settlement proposals made by the Government of the Democratic Republic of Afghanistan on 14 May 1980, which had been based on the aspirations of the Afghan people; it failed to mention that Government, which was however recognized by the United Nations and whose legitimacy and sovereignty were in no doubt; it ignored the prerogative of a sovereign State to have recourse to the means provided for in the Charter of the United Nations in order to combat interference from abroad; it said nothing about the grave threats, by criminals who would stop at nothing and were assisted by the United States and China, to the right to self-determination which the Afghan people had exercised and to the sovereignty and independence of the Democratic Republic of Afghanistan. In short, the draft resolution took into account none of the factors which would make it possible to arrive at a peaceful settlement -- namely, an end to infiltration into Afghan territory, with guarantees against any future infiltration, and the establishment of friendly relations between Afghanistan and its neighbours.

57. His delegation would therefore vote against the draft resolution.

58. Mr. SOYER (France) recalled that both the General Assembly (on two occasions), and the Commission (at its thirty-sixth session) had adopted by overwhelming majorities resolutions condemning foreign intervention in Afghanistan as a flagrant violation of that country's sovereignty and independence. It was deeply regrettable

that the international community's disapproval had had no effect. The uncertainty regarding the prospects for a political settlement of the situation, despite the efforts of the United Nations, the Islamic Conference and the European Economic Community in particular, created a serious threat to peace. The Commission was not in a position to dictate the terms of such a settlement, but it could draw attention to the fact that the Afghan people must be allowed to exercise the rights recognized in article 28 of the Universal Declaration of Human Rights and in article 1 of the International Covenants on Human Rights, rights which were at present denied them.

59. His delegation would therefore vote in favour of the draft resolution.

60. Mr. KALINOWSKI (Poland) said that his delegation would vote against the draft resolution since it served to promote neither human rights nor a settlement of the situation in Afghanistan. It was directed against the Afghan revolution and the sovereign rights of the Afghan people, and was rejected by the Afghan Government.

61. Mrs. NAVCHAA (Mongolia) recalled that Mongolia had consistently supported the right of peoples to self-determination and independence; however, her delegation would reject the draft resolution because it was based on completely false premises.

62. Mr. LINCKE (Federal Republic of Germany) stated that his Government was concerned about the situation in Afghanistan. By their active and passive resistance the Afghans, one in ten of whom had gone into exile, showed that they rejected the system imposed upon them. His Government considered that the Soviet Union should end forthwith its intervention in Afghanistan. That intervention had been condemned by a large majority of the General Assembly as a breach of the Afghan people's right to self-determination and a threat to the stability of the region and the maintenance of peaceful relations among nations.

63. His delegation would vote in favour of the draft resolution, which alone would make it possible to restore the Afghan people's right to self-determination.

64. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/L.1568.

65. The vote was taken by roll-call.

66. Cuba, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Australia, Brazil, Burundi, Canada, Costa Rica, Denmark, Fiji, France, Germany, Federal Republic of, Ghana, Greece, Iraq, Jordan, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zaire, Zambia.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Mongolia, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Cyprus, India.

67. Draft resolution E/CN.4/L.1568 was adopted by 31 votes to 8, with 3 abstentions.

Draft resolution E/CN.4/L.1569

68. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that draft resolution E/CN.4/L.1569, which was in line with the substantive statements made on agenda item 9, was well balanced and realistic. His delegation would accordingly vote for it.

69. The CHAIRMAN announced that the Greek delegation had requested a separate vote on operative paragraph 2 of the draft resolution.

70. The vote was taken by roll-call.

71. Uganda, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaïre, Zambia.

Against: Australia, Canada, Denmark, Fiji, France, Germany, Federal Republic of, Greece, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Costa Rica.

72. Operative paragraph 2 of draft resolution E/CN.4/L.1569 was adopted by 29 votes to 12, with 1 abstention.

73. The CHAIRMAN announced that the Greek delegation had requested a separate vote on operative paragraph 9 of the draft resolution.

74. The vote was taken by roll-call.

74 bis. Morocco, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Greece, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Philippines.

75. Operative paragraph 9 of draft resolution E/CN.4/L.1569 was adopted by 30 votes to 11, with 1 abstention.

76. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/L.1569 as a whole.

77. The vote was taken by roll-call.

78. Benin, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Greece, Portugal, Uruguay.

79. Draft resolution E/CN.4/L.1569 as a whole was adopted by 31 votes to 8, with 3 abstentions.

Explanation of votes

80. Mr. MARTINEZ (Argentina) said that in accordance with the position it had expressed at the Commission's thirty-sixth session and the General Assembly's thirty-fifth session, his delegation had voted in favour of resolution E/CN.4/L.1565. It was convinced that the parties concerned accepted the fundamental principle of the right of the Sahrawi people to self-determination, even if their views differed on how certain facets of the question should be approached.

81. It had also voted in favour of resolution E/CN.4/L.1568, although it was not entirely in agreement with some of its paragraphs, which to a certain extent exceeded the Commission's competence.

82. It had voted in favour of paragraph 9 of resolution E/CN.4/L.1569 on the understanding that the condemnation contained therein applied to the policy of the States which supported and protected the racist régime in southern Africa and encouraged that régime to stifle the legitimate aspirations of peoples to independence and freedom.

83. Mr. NOVAK (United States of America) said his delegation had voted against resolution E/CN.4/L.1565 because it considered that the condemnation of any of the parties concerned could only prejudice the efforts of OAU, in which Morocco had undertaken to participate, and that, in conformity with General Assembly resolution 1541 (XV), the exercise of the right to self-determination did not necessarily come about through the exercise of the right to independence. Nevertheless, his country favoured a prompt settlement of the question of Western Sahara and the exercise by the Sahrawi people of the right to decide their status.

84. Mr. ALMEIDA RIBEIRO (Portugal) said that his delegation had abstained in the vote on resolution E/CN.4/L.1565 as a whole for the following reasons: the Portuguese Government considered that a military solution was not appropriate; it supported the regional understandings or agreements on conciliation, in that particular case under the auspices of OAU; lastly, not all the possibilities of dialogue had yet been exhausted. It had voted against the title of the resolution and paragraph 2 because of their unusual and extravagant language.

85. His delegation had also abstained in the vote on resolution E/CN.4/L.1569; although it supported the exercise of the right of peoples to self-determination and the application of that right to peoples under colonial or alien domination, it strongly opposed the inclusion of the phrase "including armed struggle" in paragraph 2, the tenor of paragraph 7 which prejudged current work in the General Assembly, and paragraph 9. It interpreted paragraphs 3 and 6 as not affecting Israel's right to exist within secure and internationally recognized frontiers.

86. Mr. LAMB (Australia) said that his delegation had supported resolution E/CN.4/L.1565 despite its misgivings about the text's overall implications. He hoped that the negotiations taking place within the framework of OAU would lead to a peaceful settlement of the conflict in a way which satisfied the aspirations of the Sahrawi people. The choices available to that people should not be limited; they should retain full freedom to decide their future. For that reason, the question of the independence of that territory or its union with another country could not be prejudged. His delegation had voted for the retention of operative paragraph 2 as an act of good faith towards the sponsors, who had accepted the amendment it had suggested. His delegation had serious misgivings about that paragraph and, in any other circumstances, it would have abstained in a separate vote on the provision.

87. His delegation had voted against resolution E/CN.4/L.1569 because it contained provisions of no relevance to the question of self-determination and dealt with problems on which decisions had already been taken under other agenda items. The text also purported to give approval to armed struggle, which his delegation could not endorse. However, his delegation regretted that it had been obliged to vote against the draft resolution since it had an unswerving commitment to the principles set forth in General Assembly resolutions 1514 (XV) and 1541 (XV), and had consistently voted in accordance with them on texts dealing with that issue in unambiguous terms, including the two other resolutions which had been put to the vote. It considered that the delegations which had voted against those two texts had proved their lack of commitment to the principle of self-determination.

88. Mr. WALKATE (Netherlands) said that the Netherlands was dedicated to the right to self-determination, as recognized in various United Nations instruments, particularly in the International Covenants. Every people, whether under colonial domination or not, had the right to exercise that right in a peaceful manner and freely to choose its form of government. The outcome of the exercise of that right should fully reflect the decision of the people concerned and should not be prejudged by a decision of a United Nations body. Since OAU was involved in the matter, it seemed inappropriate, at the current stage, to deplore the actions of a party to the conflict. His delegation would like all the parties concerned to try to reach a peaceful solution which would respect the right of the people of Western Sahara to self-determination. It was against that background that his delegation had felt obliged to abstain in the vote on resolution E/CN.4/L.1565, notwithstanding the fact that many provisions had met with its approval.

89. Mr. IVRAKIS (Greece) said that his delegation had always supported the implementation of the right to self-determination and the protection of the territorial integrity of States. On several occasions it had expressed its indignation at the flagrant violations of human rights perpetrated against peoples under colonial domination or foreign occupation and at all acts of aggression in general. His delegation had nevertheless felt obliged to vote against paragraphs 2 and 9 of resolution E/CN.4/L.1569 when they had been voted on separately, because they could be interpreted in a manner contrary to international law. It had abstained in the vote on the text as a whole.

90. Mr. GONZALEZ de LEON (Mexico) said that his delegation, which had been a sponsor of resolution E/CN.4/L.1565, had voted in favour of resolutions E/CN.4/L.1559, L.1568 and L.1569.

91. Mr. SKALLI (Morocco) said that the decolonization of the territory of the former Spanish Sahara had been carried out in accordance with international law and the principles set forth in the Charter of the United Nations, following negotiations with the former administering Power and at the invitation of the Security Council, with the full and whole-hearted support of Algeria and in conformity with the wishes of the peoples of the territory who today lived in peace and freedom with their brothers of the other provinces. Those peoples were participating in the economic, social and cultural development of their region. They had their own provincial assemblies, elected through direct and universal suffrage, a minister in the Government and deputies in the Parliament. The governors of their provinces came from the region and some of them were now ambassadors of Morocco to friendly Governments. Those peoples had turned their back on their colonial past once and for all and were engaged in the construction of the new Morocco pending their contribution to the construction of the united Maghreb.

92. The initiative taken by the adversaries of the territorial unity and integrity of Morocco was a retrograde one; it was contrary to law, justice, history and the frequently expressed will of the peoples concerned. His delegation therefore rejected resolution E/CN.4/L.1565, which had just been adopted by the Commission and constituted a serious injustice towards Morocco and the Moroccan people as a whole. To be credible, the Commission should confine itself to the role entrusted to it and act only in cases which were unquestionably within its competence. The text of the resolution was in fact essentially political in its inspiration and completely ignored the true nature of the problem, which was entirely outside the mandate of the Commission. The resolution was the result of a veritable abuse of power and was, in fact, designed solely for propaganda purposes. That was how it was interpreted by his delegation, which was reminded of Talleyrand's words: "What is excessive is insignificant".

93. Mr. RANIGA (Fiji) said that his delegation was devoted to the principle of self-determination, the exercise of which was a basic collective right of peoples. As a member of the Special Committee of 24, Fiji participated in the decolonization process. It had therefore voted in favour of resolution E/CN.4/L.1565 and resolution E/CN.4/L.1569, although it had some reservations about certain provisions of the latter text, in particular paragraph 2.

94. Mr. SANZE (Burundi) said that any measures that OAU might take with a view to resolving the problem of Western Sahara would receive the unconditional support of his country. His delegation had therefore voted in favour resolution E/CN.4/L.1565. His delegation had, however, made a mistake during the separate votes: it actually supported paragraph 1 of resolution E/CN.4/L.1565.

95. Mr. ORTIZ RODRIGUEZ (Cuba) said that, in keeping with its position of principle, his delegation had voted against resolution E/CN.4/L.1568. It took the view that it was essential to avoid furthering imperialist interests or bring grist to the mill of reactionary forces. The Afghan Government had undertaken specific action in favour of the Afghan people, a fact omitted in the resolution, which also ignored the need to put an end to the hostile acts against that Government.

96. Mr. LINCKE (Federal Republic of Germany) said that his delegation had always stressed the importance of the right to self-determination and its votes reflected that position. In the case of Western Sahara, it seemed necessary to avoid interfering in the efforts being made to find a solution to the problem. His delegation had therefore abstained in the vote on resolution E/CN.4/L.1565 and on the paragraphs put to the vote separately. It continued to believe, however, that the right to self-determination, as set forth in the relevant international instruments, should be granted to all peoples in the world.

97. Mr. JARDIM GAGLIARDI (Brazil) said that his delegation had abstained in the vote on the title of resolution E/CN.4/L.1565 and had voted in favour of paragraph 2. The replacement of the word "Condemns" by "Deplores" had constituted a compromise which had enabled his delegation to vote for the text as a whole.

98. Mr. HILALY (Pakistan) said that his delegation endorsed the application of the principle of self-determination to the people of Western Sahara and had therefore voted in favour of paragraph 1 of resolution E/CN.4/L.1565. However, it considered that in deploring the action of Morocco, that text went beyond the resolutions already adopted by the organs of the United Nations and OAU; it had therefore voted against paragraph 2. Since that paragraph had been retained, it had been obliged to abstain in the vote on the resolution as a whole.

99. In response to the comments made concerning the situation in Afghanistan, he noted that those who sought to justify the foreign armed intervention in Afghanistan had based their arguments on the idea that that intervention had been designed to repel intervention from other quarters in Afghanistan. In fact, the foreign military intervention had been a unilateral act designed to determine the outcome of a purely internal political dispute. The arguments adduced in favour of the armed intervention were self-contradictory. It had been stated that the "outside interference" had involved a handful of armed bandits. Surely the intervention of 35,000 troops was not necessary in order to repel a handful of bandits. Surely the task could have been performed by the Afghan army itself. The fact of the matter was that in the wake of foreign military intervention, opposition to foreign domination and the imposition of an alien ideology had spread throughout the country, and the vast majority of the people were fighting against the occupying forces. By all accounts, the Afghan army had disintegrated and Afghan soldiers were joining the Mujahedeen in their thousands in a national uprising.

100. It had been argued that resolution E/CH.4/L.1568 had taken no account of the point of view expressed by the present régime in Afghanistan. The conditions for a political settlement outlined in General Assembly resolution 35/37 on the situation in Afghanistan and on its implications for international peace and security and in the resolution just adopted included a stipulation regarding non-intervention and non-interference by the States of the region in each others internal affairs and the mutual recognition of each other's sovereignty, territorial integrity and political independence. That had also constituted an essential point of the proposals made by the Kabul régime. That was obviously not the only problem that needed to be taken up. A political solution would not be possible unless the Afghan people were allowed to determine their own political destiny without foreign interference or coercion of any kind. The presence of 35,000 foreign troops in Afghanistan constituted the most potent form of such interference and coercion. Thus, the immediate withdrawal of the foreign forces in Afghanistan was an indispensable condition for the promotion of a viable political settlement.

101. In conclusion, his delegation regretted that the Soviet delegation had not responded to the constructive spirit of the resolution, which reflected the will of the international community. It continued to hope that the Soviet Union would reconsider its position, respect the decisions of the United Nations and other international conferences, and immediately withdraw its troops from Afghanistan.

102. Mr. TRUONG QUAN PHAN (Observer for Viet Nam) said that his delegation wished once again to state its position on resolution E/CH.4/L.1559, which it totally rejected. The presence of the observer for the so-called "Democratic Kampuchea" in the Commission was contrary to the Universal Declaration of Human Rights and to the objective of protecting human rights. By failing to take account of historic realities, the resolution adopted in the absence of the representative of the People's Republic of Kampuchea constituted a flagrant violation of the right of the Kampuchean people to self-determination and flattered those who were responsible for genocide and had been sentenced to death by their own people. The current rebirth of Kampuchea was an undeniable fact. The adoption of the resolution encouraged leading reactionary circles in China, the United States imperialists and other reactionary forces who were seeking to rehabilitate the genocidal régime of Pol Pot, Ieng Sary and Khieu Samphan in order to impede the rebirth of the People's Republic of Kampuchea, and peace and stability in South-East Asia.

103. His delegation also regretted the adoption by the Commission of resolution E/CH.4/L.1568. It shared the views expressed by the Afghan delegation and considered that the adoption of that resolution constituted flagrant interference in Afghanistan's internal affairs. It was regrettable that in submitting that text, the Pakistan delegation had distorted the facts and made false allegations against the martyred people of Afghanistan. Pakistan was in chaos; thousands of Pakistan patriots who had undertaken a struggle to restore democracy in the country were victims of barbarous repression, in particular in Karachi and Lahore. It must not be forgotten that Pakistan had been playing a strategic role for international imperialist and reactionary interests in the region since the removal of the Shah in Iran and the failure of the counter-revolution in Afghanistan.

104. Mr. TE SUN HOA (Democratic Kampuchea) said that the adoption by an overwhelming majority of resolution E/CN.4/L.1559, which reaffirmed the inalienable rights of the Kampuchean people to self-determination and independence, constituted a brilliant contribution to the cause of peace and justice, in contrast to the law of the jungle which Hanoi was trying to impose in international relations. All peoples who cherished peace and justice could not fail to welcome the adoption of that text. The Kampuchean people, who had been the victim of a war of aggression and extermination for over two years, would find in that text a source of great comfort and encouragement in the struggle which it was waging under the leadership of the Patriotic and Democratic Front for Greater National Unity. Refusing to listen to the voice of reason, the Hanoi Government demonstrated its obstinacy in pursuing a war of aggression and genocide in order to achieve its expansionist aims in South-East Asia. In view of that crime against humanity, he appealed to peoples who cherished peace and justice to take the necessary measures in order to ensure that aggression did not pay, that law continued to prevail and that the Kampuchean people regained their independence and freedom. Lastly, he was convinced that the war of aggression waged by Viet Nam would meet the same ignominious end as all such adventures.

105. Mr. YU PEIWEN (Observer for China) said that, in explaining its vote on resolution E/CN.4/L.1568, the representative of the Soviet Union had tried to camouflage the crime of armed aggression committed by his country against Afghanistan and Kampuchea, and sought to stifle the right of the Afghan and Kampuchean peoples to self-determination, while at the same time he had attacked the sponsors of the two resolutions and slandered China. The representatives of the regional hegemonists had repeated their lessons like parrots and had tried to hold the international community up to ridicule. However, the international community had already drawn its own conclusions since the General Assembly, like the Commission, had by a large majority adopted texts demonstrating the true nature of the problems involved. The Soviet Union and Viet Nam were clearly aggressors, but were trying to pose as defenders of the peace. Their comedy fooled no one. Unless they withdrew their aggression forces from Afghanistan and Kampuchea immediately, respected the right of peoples to self-determination, and restored peace and security in those regions, all their statements would be nothing more than empty words.

106. Mr. HILALY (Pakistan), speaking in exercise of the right of reply, asked whether the reference to the forthcoming liberation of the inhabitants of Karachi and Lahore from their current leaders meant that Vietnamese troops would come to liberate Pakistan in the same way as in Kampuchea.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 13) (continued)

Equatorial Guinea (E/CN.4/1439 and Add.1)

107. Mr. VOLIO JIMENEZ (Expert appointed pursuant to resolution 33 (XXXVI) of the Commission on Human Rights), introducing his report on the situation in Equatorial Guinea (E/CN.4/1439), read out the statement issued in document E/CN.4/1439/Add.1.

The meeting rose at 7.05 p.m.