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COMMISSION ON HUMAN RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 1639th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 11 March 1981, at 8 p.m.



Chairman: Mr. CALERO RODRIGUES (Brazil)

CONTENTS

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, including:

- (a) Question of human rights in Cyprus
- (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-fifth session (continued)

Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

- (a) Problems related to the right to enjoy an adequate standard of living; the right to development
- (b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms (continued)

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The meeting was called to order at 8.20 p.m.

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, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) STUDY OF SITUATIONS WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS AS PROVIDED IN COMMISSION RESOLUTION 8 (XXIII) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1235 (XLII) AND 1503 (XLVIII): REPORT OF THE WORKING GROUP ESTABLISHED BY THE COMMISSION AT ITS THIRTY-FIFTH SESSION (agenda item 13) (continued) (E/CN.4/L.1574/Rev.3; E/CN.4/L.1582; E/CN.4/L.1584; E/CN.4/L.1585; E/CN.4/L.1588/Rev.1; E/CN.4/L.1589; E/CN.4/L.1592; E/CN.4/L.1593; E/CN.4/L.1594; E/CN.4/L.1598; E/CN.4/L.1600; E/CN.4/L.1601; E/CN.4/L.1603; E/CN.4/L.1607; E/CN.4/L.1608/Rev.1; E/CN.4/L.1609; E/CN.4/L.1610; E/CN.4/L.1611; E/CN.4/L.1612; E/CN.4/L.1613; E/CN.4/L.1615; E/CN.4/L.1617; E/CN.4/L.1619; E/CN.4/L.1620; E/CN.4/L.1621)

1. The CHAIRMAN asked whether there were any new developments concerning draft resolution E/CN.4/L.1608/Rev.1, on which the Commission had been about to vote when the representative of Uruguay had made a number of suggestions.
2. Mr. BURGERS (Netherlands) said that the sponsors of the draft resolution had given careful consideration to the suggestions by Argentina and Uruguay, supported by Peru, but had decided to retain the existing text. They did not see any contradiction between the fifth and sixth preambular paragraphs. There had been a deterioration in the human rights situation in Guatemala, and there was nothing paradoxical about the Commission's desire to be more fully informed. With respect to operative paragraph 3, which it had been suggested should be deleted, the human rights situation in Guatemala constituted an urgent problem, and there was every justification for requesting the Secretary-General to submit an interim report to the General Assembly at its next session.
3. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/L.1608/Rev.1.
4. Draft resolution E/CN.4/L.1608/Rev.1 was adopted by 28 votes to 2, with 10 abstentions.
5. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/L.1585 concerning human rights in Bolivia; he drew attention to the financial implications of the draft resolution, which were set out in document E/CN.4/L.1589.
6. Draft resolution E/CN.4/L.1585 was adopted by 29 votes to 3, with 8 abstentions.
7. The CHAIRMAN said that draft resolution E/CN.4/L.1584, on which the Soviet Union had submitted some amendments, had been left pending and asked the sponsors whether a vote could be taken on it.

8. Mr. CHERNICHENKO (Union of Soviet Socialist Republics) said that the question had not been studied sufficiently; the Commission should either postpone consideration of it or try to find a compromise solution. He regretted that the sponsors of the draft resolution had not consented to any compromise solution, although many members had serious doubts about the provisions of the text. However, if the representative of Denmark insisted, his delegation would be obliged to agree that a vote should be taken.

9. Mr. BOEL (Denmark), noting that the representative of the Soviet Union had referred to his delegation as "insisting" that a vote should be taken, said it was not a question of insisting, but of considering and voting on a draft resolution. The purpose of the Soviet amendments was to defer the question indefinitely, a course which his delegation could not accept. If a vote was taken on the Soviet amendments, his delegation hoped they would be rejected. If some delegations had any doubts or felt that there were points to be clarified, he would remind them that there was still time for the question to be discussed in the Economic and Social Council before it went before the General Assembly. However, the effect of the Soviet amendments would be to nullify the resolution.

10. The CHAIRMAN invited the Commission to vote on the following amendments 1-5 to draft resolution E/CN.4/L.1584, as proposed by the Soviet Union:

"1. In operative paragraph 1 of the draft, replace the words 'to recommend the General Assembly to redesignate the United Nations Trust Fund' by the words 'to consider the question of redesignating the United Nations Trust Fund'.

"2. In the same paragraph, replace the words 'by adopting the following draft resolution' by the words 'and to recommend that the General Assembly should adopt the following draft resolution'. Delete the following five lines in the existing text.

"3. In operative paragraph 1 (a) of the draft resolution recommended for adoption by the General Assembly, after the words 'whose human rights have been severely violated' insert the words 'in Chile'. Place a full stop after the word 'Chile' and delete the rest of paragraph 1 (a).

"4. Re-draft operative paragraph 1 (b) to read: 'To study the question of the possibilities of using the Fund for providing assistance to victims of torture, and also the question of channels which are acceptable from the standpoint of the United Nations Charter for providing such assistance in cases where torture is practised on a massive scale.'

"5. Delete operative paragraphs 1 (c), 1 (d), 1 (e) and 1 (f)."

11. Amendments 1-5, as proposed by the Soviet Union, were rejected by 15 votes to 12, with 14 abstentions.

12. The CHAIRMAN invited the Commission to vote on the following amendments 6 and 7, as proposed by the Soviet Union:

"6. Re-draft operative paragraph 2 of the draft resolution recommended for adoption by the General Assembly to read: 'Requests the Economic and Social Council to consider in detail the question of the possibility of making appropriate changes in the mandate and designation of the Fund in the light of the comments made during the discussion of this question in the General Assembly and after the drafting of the convention against torture and other cruel, inhuman or degrading treatment or punishment has been completed.'

7. Re-draft operative paragraph 2 of the draft resolution for adoption by the Commission to read: 'Requests the Secretary-General to submit to the Economic and Social Council, as soon as possible after the completion of work on the convention, a summary of the comments made during the discussion of this question in the General Assembly and the Economic and Social Council.'"

13. Amendments 6 and 7, as proposed by the Soviet Union, were rejected by 15 votes to 11, with 13 abstentions.

14. The CHAIRMAN invited the Commission to vote on draft resolution E/CN.4/L.1584.

15. Draft resolution E/CN.4/L.1584 was adopted by 22 votes to 7, with 14 abstentions.

16. Mr. GONZALEZ de LEON (Mexico) said he wished to explain why his delegation had abstained in the votes on the Soviet amendments and the resolution. When the situation of human rights in Chile had been discussed, his delegation had said it detected an attempt on the part of the Commission to minimize tensions concerning human rights in Chile. His delegation had no objection to the establishment of a fund for torture victims throughout the world, but such a fund should not be to the detriment of what had been the United Nations Trust Fund for Chile. Therefore, his delegation had been unable to support the resolution.

17. Mr. BRIMAH (Nigeria) said that after consultations with the Danish delegation his delegation had endorsed procedures for the implementation of the resolution and had agreed that action should be taken on it at the highest level.

18. Mr. KALINOWSKI (Poland) said that his delegation had voted against the resolution because it contained a provision for the redesignation of the United Nations Trust Fund for Chile as a United Nations voluntary fund for victims of torture. The establishment of such a fund was an important issue, and his delegation would have

taken a different position if that fund had not been established at the expense of the United Nations Trust Fund for Chile. A general fund for assistance to victims of human rights violations could only lead to the dispersion of funds, and the practical effects of such a fund would be extremely limited. Furthermore, the United Nations Trust Fund for Chile had played an important role in helping victims of human rights violations by the Chilean régime. His delegation therefore found the resolution unacceptable.

19. Viscount COLVILLE OF CULROSS (United Kingdom) said that in his statement on agenda item 11 he had spoken of the problem of selectivity and the need to consider human rights violations on a world-wide basis. The extension of the scope of the fund was therefore welcome, but he wished to make it clear that, in voting in favour of the resolution, his Government had not committed itself to allocating resources to an extended fund. That position would doubtless be understood by those countries which had been very vocal supporters of the United Nations Trust Fund for Chile over the years but had failed to contribute any money to it.

20. Mrs. FLORES (Cuba), speaking in explanation of her delegation's vote on the resolution and amendments, said that in keeping with its position at the previous session of the General Assembly, in which it had voted against the resolution establishing the United Nations Trust Fund for Chile, it had voted in favour of the amendments proposed by the Soviet Union since, in its opinion, they would have promoted a more thorough discussion of the question at issue. It was dangerous to vote on a question that had been insufficiently discussed. Her delegation had serious reservations concerning the purposes of the fund, and many other delegations had reservations about certain provisions of the resolution adopted. Her delegation was in favour of assistance to victims of torture, but the objectives and purposes of the fund under consideration had not been clearly defined, and it had therefore felt obliged to abstain.

21. Mr. KELIN (Union of Soviet Socialist Republics) said that when his delegation had voted on the resolution, it had considered that two questions were involved: the question of a fund for victims of torture and the question of winding up the fund for victims of human rights violations in Chile. The situation in Chile had not ceased to exist, and he wondered whether there had been any changes warranting the abolition of that fund. With reference to the hope expressed by the representative of Denmark that the Soviet amendments would be rejected, he wished to point out that the majority was always able to enact the legislation it desired.

22. Mr. TOSEVSKI (Yugoslavia) said that after exhaustive consultations, he would like, on behalf of the delegations of Algeria, India, Mexico and Yugoslavia, to propose the following draft decision: "The Commission on Human Rights decides that no decision shall be taken on draft resolutions E/CN.4/L.1607, E/CN.4/L.1609, E/CN.4/L.1610 and E/CN.4/L.1611."

23. Mr. BARAKAT (Jordan) said that at the request of the sponsors, other members of the non-aligned group and other friendly delegations, his delegation had agreed that no vote should be taken on draft resolution E/CN.4/L.1607. His delegation had reported a case of a human rights violation to the Commission on the understanding that the Commission was the competent authority on that issue, and it regretted the fact that the discussion of the case had taken the form of a heated argument. That had not been his delegation's intention. The information received was authentic; if any other delegation considered it fallacious, his Government would welcome a visit by the Chairman, representatives, members of the Bureau or any humanitarian organization, and would arrange visits to prisons. Furthermore, his Government rejected all allegations of intervention by Jordan in any other country; it fully respected the principle of non-intervention in the affairs of other countries. In conclusion, he wished to apologize to all delegations for any inconvenience caused by the heated discussions.

24. Mr. SCHIFTER (United States of America) said that while his delegation had been informed of the draft decision proposed by the representative of Yugoslavia, the submission of that text had not been part of any arrangement which his delegation had endorsed. His delegation opposed that aspect of the draft decision relating to the draft resolution submitted by the Byelorussian Soviet Socialist Republic (E/CN.4/L.1611) and to the draft decision submitted by the United States and other delegations (E/CN.4/L.1609) concerning Mr. Andrei Sakharov. His delegation had no problem with the part of the draft decision calling for no vote to be taken on the draft resolutions submitted by Jordan and Syria, and it welcomed the spirit of conciliation shown by the delegation of Yugoslavia. The purpose of the draft decision submitted by his own delegation was to defer until the following year a matter which had been debated at both the thirty-sixth and thirty-seventh sessions of the Commission and had still not been satisfactorily resolved. His delegation rejected the idea that one resolution should be withdrawn in return for the withdrawal of another.

25. The Byelorussian SSR had clearly submitted draft resolution E/CN.4/L.1611 concerning violation of human rights in the United States for political reasons, in the hope that the draft decision concerning Mr. Sakharov would be withdrawn. He urged the Commission not to participate in such a manoeuvre and to vote separately on draft decision E/CN.4/L.1609. The continual improvement of the human rights situation was of the highest concern to his country, and its human rights record bore comparison with that of any other Member of the United Nations. His delegation intended to vote against the draft resolution submitted by the Byelorussian SSR and was confident that it would be rejected.

26. Mr. EL-FATTAL (Syrian Arab Republic) said that if his delegation accepted the appeal by the delegations of Algeria, India, Mexico and Yugoslavia concerning draft resolution E/CN.4/L.1610, it was because of its desire to defer consideration of a shameful question which was of concern to Arabs and should not have been brought before the Commission. He read out operative paragraphs 2 and 3 of the draft resolution and drew attention to its frank and open-minded character. However, if the Commission did not wish to vote on it, his delegation would respect the wishes of the sponsors.

27. Mr. GIANBRUNO (Uruguay) said he did not wish to anger the members of the Commission, but he found that the methods used during the debates were deplorable. His delegation was proud to have had nothing to do with such methods. Although those methods concerned only a few countries, it would not have resorted to them even if they had benefited his country, since they made the Commission seem like a bazaar.
28. Mr. SCHIFTER (United States of America) proposed that the draft resolutions referred to in the Yugoslav draft decision should be voted on separately. In the light of the comments by the delegations of Jordan and Syria, his delegation would have no difficulty in supporting draft resolutions E/CN.4/L.1607 and E/CN.4/L.1610.
29. Mr. BARAKAT (Jordan) said that his Government would welcome the visit of any representative to investigate any subject whatsoever in his country.
30. Mr. TOŠEVSKI (Yugoslavia) said that according to his interpretation of the rules of procedure he did not see how his proposal could be divided into separate votes. He had proposed that the decision should be taken as a whole and, in the belief that it would further the work of the Commission, appealed to delegations to vote in favour of it. He was, however, prepared to accept the Chairman's ruling.
31. Mr. GONZALEZ de LEON (Mexico) strongly opposed the comments made by the representative of Uruguay and reiterated his support for the Yugoslav proposal.
32. Mr. HEREDIA PEREZ (Cuba) supported the Yugoslav proposal. He realized that it would mean foregoing a study of the situation of minorities in the United States but, in view of the short time at the Commission's disposal, he felt that the Commission would be unable to give the question sufficiently careful consideration at the present session. Perhaps the question of the situation of American Indians could be studied at the next session. The United States proposal to vote separately on draft decision E/CN.4/L.1609 was unacceptable because the Yugoslav proposal was indivisible and, according to rule 65 of the rules of procedure, had priority over voting on the draft resolutions. His delegation would vote in favour of the Yugoslav proposal and appealed to the members of the Commission to do likewise.
33. Mr. SALAH-BEY (Algeria) expressed appreciation to the representatives of Jordan and Syria for their co-operative approach. Moreover, in view of the shortage of time, discussion of item 13 should not be prolonged to the detriment of other items on the agenda. If the Commission decided to consider the situation of minorities in the United States, it must do so in the responsible and calm climate which that question deserved, and not in an atmosphere of polemics and confrontation. If the situation of individual persons such as Mr. Sakharov was to be discussed, his delegation would wish to refer to the cases of equally illustrious persons in comparable situations in other countries.
34. With regard to the procedural aspect, he did not think that the Yugoslav proposal could be split, as rule 65, paragraph 2, stated that "A motion requiring that no decision be taken on a proposal shall have priority over that proposal".

35. Mr. DAVIS (Australia) supported the United States delegation's request that a separate vote should be taken on draft decision E/CN.4/L.1609 on the basis of rule 62 of the rules of procedure, which stated that "Parts of a proposal ... shall be voted on separately if a representative requests that the proposal be divided", and of the principle of equity and natural justice. In his opinion, an attempt was being made to stultify the United States proposal by means of a retaliatory draft resolution and forced horse-trading.
36. Mr. SOYER (France) welcomed the co-operation displayed by Syria and Jordan and expressed the hope that the other delegations concerned would show the same conciliatory spirit. However, he considered that if a delegation requested a vote on its draft resolution it was within its rights. Rule 62 of the rules of procedure indicated that a proposal could be divided and its parts voted on separately, draft decision E/CN.4/L.1609 and draft resolution E/CN.4/L.1611 appeared to be covered by that rule. However, it was for the Commission to decide if it wished to consider those texts, bearing in mind the comments of the Algerian representative. He suggested that the Chairman should give a ruling.
37. Mr. MUBANGA-CHIPOYA (Zambia) said that he regretted the introduction of major-power politics into the Commission's deliberations, to the detriment of the people whom it was supposed to be helping. However, if that was the situation, the Commission must accord delegations the right to have their proposals considered.
38. Quite clearly, the Commission had had insufficient time to examine thoroughly all the issues before it. If one draft resolution was voted on, it would be only fair to allow a vote on the others, but in view of the shortage of time it would be better to accept the Yugoslav proposal and not vote on any of them.
39. Mr. GONZALEZ de LEON (Mexico) said that rule 65, paragraph 2, indicated that the Yugoslav proposal should have priority.
40. Mr. RANGACHARI (India) said that the Yugoslav proposal, which his delegation had co-sponsored, was in his delegation's view a motion under rule 65, paragraph 2. The representatives of Australia and France had referred to rule 62, but neither that rule nor rules 63 or 64 contained the word "motion". It was his delegation's understanding that a motion could be amended or revised only by the sponsors themselves and, in the present case, they had taken no such action. The Yugoslav motion should therefore be voted on as submitted.
41. Viscount COLVILLE OF CULROSS (United Kingdom) supported the view that rule 62 would allow a separate vote on draft decision E/CN.4/L.1609. It was understandable that the rules of procedure might not provide for every situation and, as the Australian representative had stated, it was only fair to allow a vote on a delegation's draft resolution if it so requested.
42. Mr. HEREDIA PEREZ (Cuba) said that, in his view, rule 65, paragraph 2, was the relevant one in that it accorded priority to a motion requiring that no decision be taken on a proposal. The Yugoslav motion was that there should be no decision on the draft resolutions and draft decision in question and his delegation supported it.

43. The CHAIRMAN said that the Yugoslav proposal was a "motion" under rule 65, paragraph 2, which, however contained the words "no decision be taken on a proposal", and not several proposals. He accordingly felt that he should take a decision which reflected the best interests of the Commission.

44. He invited the Commission to vote on the United States proposal that the draft resolutions referred to in the Yugoslav draft decision should be voted on separately.

45. The United States proposal was rejected by 21 votes to 17, with 3 abstentions.

46. The CHAIRMAN next invited the Commission to vote on the Yugoslav proposal that no decision should be taken on draft resolutions E/CN.4/L.1607, E/CN.4/L.1609, E/CN.4/L.1610 and E/CN.4/L.1611.

47. At the request of the representative of Uruguay, the vote was taken by roll-call.

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

In favour: Algeria, Argentina, Benin, Bulgaria, Burundi, Byelorussian SSR, Cuba, Ethiopia, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia.

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

Abstaining: Brazil, Cyprus, Philippines.

49. The Yugoslav proposal was adopted by 24 votes to 16, with 3 abstentions.

50. Mr. DAVIS (Australia), speaking in explanation of vote, said that he had voted against the Yugoslav proposal after taking due account of the agreement between Jordan and Syria relating to that question. He was surprised at the conduct of the delegation of the Byelorussian SSR, which had opposed a separate vote on its own draft resolution. That was an example of improper practice. If a motion was introduced it should be considered on its merits and not used as a bargaining counter.

51. Mr. MAKSIMOV (Byelorussian SSR) said that his delegation had voted in favour of the Yugoslav proposal even though it considered that its own proposal, contained in document E/CN.4/L.1611, was timely. Consideration should indeed be given to the massive violation of human rights in the United States. Enough had been said on that subject in the debate at the preceding session, but the Commission had lacked time for such a debate at the current session. His delegation had therefore supported the decision not to vote on its own proposal.

52. Miss SILVA y SILVA (Peru) explained that her delegation had voted against the Yugoslav motion because, in accordance with rule 62, separate decisions could have been taken. The four draft resolutions did not have the same scope and should have been voted on separately.
53. Mr. TWESIGYE (Uganda), speaking in explanation of vote, said that, in the opinion of his delegation, it was time to challenge the two Superpowers which had overshadowed the Commission's deliberations and to some extent frustrated them. The texts contained in documents E/CN.4/L.1609 and L.1611 both needed more careful examination. Nevertheless, his delegation had voted in favour of the proposal not to take a decision on them since there had not been enough time to discuss them both. He hoped that that would be possible on another occasion.
54. Viscount COLVILLE OF CULROSS (United Kingdom) said that the primary reason for wishing to subdivide the Yugoslav proposal was, as could be seen from the statements made at the current meeting, that some hope of reconciliation had been held out by those most concerned. That should have been welcomed. It had been decided, however, that the Commission should also deal with two other matters: the question of Mr. Sakharov, which deserved a decision, and the question raised by the Byelorussian SSR. Because all those questions had been combined, his delegation had found itself at odds with the Commission.
55. Mr. MUBANGA-CHIPOYA (Zambia), speaking in explanation of vote, said he regretted that politics had played so large a part in the discussions and that the Commission had not confined itself to the facts. He also regretted that an opportunity had been missed to promote and protect the rights of Mexicans, Puerto Ricans and black people in the United States, who would not thank the Commission for its action. On the other hand, persons in the Soviet Union suffering violations of their human rights would not thank the Commission for its failure to examine the Sakharov case. In view of all the circumstances, and after much hesitation, he had voted in favour of the Yugoslav proposal, believing that it would be better if the matter was raised the following year rather than at the present session.
56. Mr. ZORIN (Union of Soviet Socialist Republics) said that despite the contradictory nature of the resolutions and decisions concerned, the Soviet Union had voted in favour of the Yugoslav proposal, taking account of the general situation in the Commission and of the statements made by various delegations. The first group of questions, concerning proposals by Jordan and Syria, could obviously not be discussed in the Commission in view of the current situation and the Commission's duty not to exacerbate relations between States. Thus the decision not to take a decision had been a positive one for the Commission, consistent with its mandate and with the spirit which should prevail within it.
57. The aims of the two other proposals, however, were different. The first proposal, by the Federal Republic of Germany, the United Kingdom and the United States, as set out in document E/CN.4/L.1609, was aimed at worsening relations between States by using one individual case to raise the question of alleged mass violations of human rights in the Soviet Union. It clearly had a political move, and was intended not to promote human rights, but to provide a basis for all kinds of attacks relating to particular persons in particular

countries. If today the Soviet Union was under attack, tomorrow it would be the turn of another State. The Commission was dealing with individuals, when it should be dealing with broad masses of people; the fact that it had decided not to decide was a positive move. The Sakharov case was not a subject for the Commission, and the Soviet Union would regret any attempt by the United States to revert to that subject, as it would not be in keeping with the function of the Commission.

58. The second proposal, however, by the Byelorussian SSR, was of a different order. That delegation had rightly pointed out that the question it had raised had already been referred to in the statements of many States. The question involved the suffering of millions and related to the attitude of a major country to the suffering of people within its own borders and elsewhere. Unfortunately, the proposal could not be discussed in detail. His delegation regretted that, but the situation had developed in such a way that discussion had been rendered impossible. Perhaps at the following session it would be possible to discuss the matter. The timeliness of the Byelorussian proposal could not be disputed. Although various matters had been artificially settled in the deliberations, most members understood them well enough, and they must have found it difficult to act other than they had done in the circumstances. The Commission should now turn to other draft resolutions of importance for human rights.

59. Mr. GONZALEZ de LEON (Mexico), referring to the observations by the Zambian delegation, said that his country was always ready to examine the situation of racial minorities at any time or at any place, provided that was done seriously and not for ulterior motives.

60. Mr. MUBANGA-CHIPOYA (Zambia) stated, in order to remove a possible misunderstanding by the Mexican delegation, that by "Mexicans" he had meant those persons in the United States who were known as Mexicans; he had not been referring to citizens of Mexico.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

- (a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING;
THE RIGHT TO DEVELOPMENT
- (b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
(agenda item 3) (continued) (E/CN.4/L.1586/Rev.1; E/CN.4/L.1618)

61. The CHAIRMAN said that no vote had so far been taken on draft resolution E/CN.4/L.1586/Rev.1 because the financial implications had not been known; those implications were now stated in document E/CN.4/L.1618. He invited the Commission to adopt the draft resolution by consensus.

62. Mr. SCHIFTER (United States of America) requested that a vote should be taken on the draft resolution.

63. The CHAIRMAN agreed to the United States request.

64. Mr. SALAH-BEY (Algeria) announced that Pakistan had joined the sponsors of the draft resolution.

65. At the request of the representative of Cuba, the vote on draft resolution E/CN.4/L.1586/Rev.1 was taken by roll-call.

66. The Syrian Arab Republic, having been drawn by lot by the Chairman, was called upon to vote first.

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

Against: United States of America.

Abstaining: Germany, Federal Republic of, United Kingdom.

67. Draft resolution E/CN.4/L.1586/Rev.1 was adopted by 40 votes to 1, with 2 abstentions

68. Mr. BURGERS (Netherlands), speaking in explanation of vote, said that his Government was fully aware of the importance of the new concept of the right to development and considered it useful that it should be thoroughly studied by experts. For that reason his delegation had supported the resolution, albeit with certain reservations. It felt that the second part of paragraph 4 was unclear, in its opinion, the right to full and complete sovereignty over all natural resources should be exercised in accordance with international law. With reference to paragraph 10 the expert's study would gain in value if it also covered the nature of the right to development, including its collective and individual aspects, together with its national and international dimensions. In paragraph 13 the working group was given only one year in which to submit proposals for implementation and for a draft international instrument. That was far too short a time and more discussion was required before that stage could be reached.

69. Mr. HEWITT (United States of America), speaking in explanation of his delegation's vote against the draft resolution said that it represented the most recent of many international efforts to deal with a subject known as the "right to development". Paragraph 10 of the resolution recognized that the scope and content of that "right" had yet to be defined, and it was there that his delegation found difficulty, since the resolution appeared, at least partly, to prejudge the scope and content of such a "right". The ninth preambular paragraph could be interpreted as

meaning that nations as well as individuals enjoyed that "right", and that contradicted his delegations' understanding of the scope of any "right of development". Although the concept was not embodied in any human rights instrument; his delegation recognized that a "right to development" could be understood as an individual right to human development, directed towards achieving the civil, political, economic, social and cultural rights set forth in the Universal Declaration and the International Covenants. His delegation could not accept a definition of that "right" as inadequately based as that embodied in the resolution.

70. Another difficulty lay in paragraph 3, which was unacceptable as worded since the United States had not endorsed the Declaration and Programme of Action adopted at the sixth special session of the General Assembly.

71. Paragraph 4 failed to mention obligations under international law corresponding to the right to exercise full and complete sovereignty over natural resources. The United States recognized that right, but only when it was exercised in accordance with international law.

72. In paragraph 8, the Commission took note of the first part of the Secretariat study of the right to development as a human right (E/CN.4/1421). In the opinion of his delegation, that study was biased and based on certain unsubstantiated assumptions, and should be completed only if its remaining portions were more objective and more accurate.

73. The seminar on relations between human rights, peace and development and its agenda in the annex to the resolution met no genuine need and contained certain unacceptable assumptions. The impact of the arms race on development and peace might be an important subject, but it was not the business of the Commission.

74. Lastly, it was wasteful to establish a new working group to make proposals to implement the "right to development". There were other bodies within the United Nations dealing with development, and the Commission's scarce resources would be better put to other uses.

75. Mr. McKINNON (Canada) stated that his delegation recognized the right to development, but believed that it needed clarification before it could be realized. Much time and effort would be necessary in order to define its limits. His delegation therefore welcomed the establishment of a working group of experts; its terms of reference should be as flexible as possible so as not to prejudge its conclusion. However, it would be premature to expect the group to produce a new international instrument as paragraph 13 seemed to imply. The group would no doubt wish to work with other United Nations bodies in the economic field, and thus improve the chances of having its recommendations put into effect in due course. His delegation wished that the resolution had been more strictly worded and based on universally accepted tenets. It nevertheless endorsed the resolution in the belief that it represented an important step forward in deliberations on that question. His delegation could accept the concept of sovereignty over natural resources mentioned in paragraph 4 only if it was exercised in accordance with the recognized principles of international law. His delegation wished to pay tribute to the delegations of Algeria and France, which had been the principal negotiators of the text.

76. Viscount COLVILLE OF CULROSS (United Kingdom) said that his delegation sympathized deeply with the problems of the developing countries, especially the poorest among them, and was concerned that the right to development should be integrated into the existing human rights concepts, standards and instruments. It was therefore grateful to other delegations for their work in achieving a resolution which had commanded a wide consensus and welcomed the progress they had been able to make, although it had regretfully been unable to support the resolution.

77. His Government's reservations about certain of the resolution's general propositions were well known. With respect to the projected working group, it should be borne in mind that neither time nor resources were inexhaustible. The current session had clearly shown that there was insufficient time for full consideration of all the items on the agenda. The curtailment of the discussion of item 13 had been particularly regrettable. Lack of time had similarly hindered the existing working groups, some of which had been working for years on the drafting of instruments. The history of gross and flagrant violations of human rights in recent years made it even more important that time should be allotted to the protection of all rights covered by the International Covenants. The exceptional allocation of resources to one item therefore caused concern to his delegation, which hoped the Commission would ensure that that situation did not prevent it from dealing effectively with the other important issues coming before it.

78. The working group's mandate was a further subject of concern to his delegation, which had tried to point out some of the ambiguities inherent in the concept of a "right to development". The core of such a concept must be personal fulfilment. The Commission's first concern must be with the human rights of human beings, and it was regrettable that the working group's mandate did not reflect that vital human aspect. In spite of that reservation, however, his delegation would continue to view with interest the working group's studies and would examine its report with care, in the hope that it would contribute usefully to an integrated approach to development.

79. Mr. BOEL (Denmark) said that his delegation had voted in favour of resolution E/CN.4/L.1586/Rev.1 because it felt that the Commission should consider ways of integrating human rights into the development process. In paragraph 10 of the resolution it was stated that the working group should take account of the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights; his delegation had hoped for a clearer emphasis of the need to define the human factor in the working group's mandate. It also wished to remind the Commission that it did not subscribe to all the conclusions and recommendations of the seminar referred to in paragraph 7 of the resolution.

80. Ms. WELLS (Australia) said that her delegation had supported resolution E/CN.4/L.1586/Rev.1 in the belief that it could be important for the Commission's future work. Her delegation appreciated the acceptance by the sponsors of certain of its concerns, but it still had a number of reservations. In connection with paragraph 3, it did not regard the establishment of a new international economic order as the only or most important means of promoting the human rights of individuals, nor did it believe that development should be defined in terms of such an order. The final phase of paragraph 4 was unsatisfactory; a clearer reference to international law would have been preferable. The work of the group of experts would no doubt elucidate the meaning of the right to development and indicate how the Commission might more effectively promote human rights in the overall context of development. The working group should not reach hasty conclusions, nor should it depart from the consensus approach to decision-making. It should give

very careful consideration to the desirability and, above all, practicability of a draft international instrument on the right to development. Australia remained willing to explore the full meaning and implications of the right to development and as a human right.

81. Mr. LANG (Federal Republic of Germany) said that his delegation had abstained in the vote on resolution E/CN.4/L.1586/Rev.1, regretting that it had proved impossible to achieve a consensus. The text of the resolution dealt with a number of matters which were not within the competence of the Commission and even attempted to resolve issues which had for some time been the subject of discussions in the Second Committee of the General Assembly. Peace and disarmament had also been referred to in the resolution, but important though they were, those subjects were the business of other forums. Both the discussion on item 8 and the resolution showed that the Commission was no longer following its original mandate; the Commission should not attempt to solve problems which were properly within the competence of other bodies. In that context it was useful to remember the words of the Director of the Division of Human Rights, who, at the beginning of the session, had suggested that the Commission should move from high-sounding slogans to the people-orientated approach.

82. His delegation had specific objections to paragraphs 3, 4 and 5 of the resolution. It had opposed the Declaration and Programme of Action mentioned in paragraph 3. The principle of full and complete sovereignty over all national resources, mentioned in paragraph 4, was unacceptable to his Government if it was not linked to the concept of international law. In connection with paragraph 5, it wished to point out that every State was obliged to ensure the realization of the right to work, education, health and proper nourishment. These rights could not be ensured through international measures, as called for in that paragraph. All the parties to the International Covenant on Economic, Social and Cultural Rights had already assumed such an obligation and submitted regular reports on the subject to the Economic and Social Council. His delegation agreed that a working group should be established to study the scope and content of the right to development, but for the Commission to request the group to submit a report with practical proposals for the implementation of that right was to take the second step before the first. It would have been preferable to start with an examination and definition of the concept of the right to development.

83. Mr. IVRAKIS (Greece) said that his delegation had voted in favour of the resolution in accordance with the position it had expressed during the debate. However, a lot of work remained to be done on the definition of a right to development. His delegation was therefore pleased that a working group would soon take up the study of that right in close conjunction with civil and political rights.

84. Mr. BYKOV (Union of Soviet Socialist Republics) said that his delegation had voted in favour of the resolution which it regarded as extremely important. His delegation thanked the sponsors for their work on the drafting of the text, which contained pointers for further work on the basis of the concept of a new economic order. International peace and security were other important elements in ensuring the right to development, which was impossible unless each State enjoyed unlimited sovereignty over all its natural resources.

85. The Soviet Union failed to understand the reservations expressed by the States which had voted against the resolution, those reservations could only be neo-colonialist in nature. The reference to the arms race in the annex to the draft resolution was important but should have been further developed. The right to peace and the right to development were inseparable, and efforts to promote peace and détente and to curb the arms race were of prime importance in the people's struggle for progress and in the legitimate rights of the developing countries to eliminate neo-colonialism and exploitation. Members were all familiar with the damage done to the developing countries by the arms race in some Western countries, by the recently intensified arms build-up in the United States, and by the increases in the United States budget for the financing of international discord, which made the realization of human rights even more difficult. He hoped that all States whose delegations had voted against the resolution or had had reservations would change their views; their stand tended to negate development and to hinder work towards that goal.

86. Mr. SALAH-BEY (Algeria) announced that Argentina wished to join the sponsors of the resolution. His delegation and the co-sponsors were disappointed because they had hoped that on the important question before it the Commission would achieve unanimity and no reservations would be entertained. Not only had the resolution failed to win full support, but so many reservations had been expressed that the machinery set up might well be in jeopardy. The sponsors themselves had also had reservations, but they had been dispelled by the revised text of the resolution. Even the concept of the "right to development" had been called in question, although the sponsors had thought it self-evident that such a right existed.

The meeting rose at 11.10 p.m.