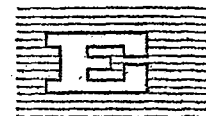


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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 1st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 1 February 1982, at 11 a.m.

Temporary Chairman: Mr. CALERO RODRIGUES (Brazil)

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 11.35 a.m.

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the thirty-eighth session of the Commission on Human Rights.

OPENING STATEMENT BY THE DIRECTOR-GENERAL OF THE UNITED NATIONS OFFICE AT GENEVA

2. Mr. COTTAFVI (Director General of the United Nations Office at Geneva) said that the Commission on Human Rights was one of the most essential organs of the United Nations and that it had played a role of prime importance ever since its establishment. The present situation in the sphere of human rights was particularly acute; Action in a humanitarian spirit was therefore required so as not to disappoint the thousands of persons for whom the Commission represented the resort of ultimate hope. It was largely in the light of its performance in the field of human rights that the effectiveness of the United Nations would be judged in the years to come.

3. The opening of the session of the Commission coincided with the appointment of the new Secretary-General of the United Nations, Mr. Javier Pérez de Cuéllar, who also attached enormous importance to humanitarian questions and to respect for human rights throughout the world.

4. The Commission had a very arduous task, consisting of seminal studies, fact-finding in connection with certain situations and standard-setting on crucial questions. It was concerned not only with the way in which Governments treated their subjects, but also with national and international structural conditions and the humanitarian norms on which the dignity, freedom and equality of the peoples of the world depended.

5. He assured the Commission that he would do his utmost to assist in making the session a fruitful one.

ADDRESS BY THE DIRECTOR OF THE DIVISION OF HUMAN RIGHTS

6. Mr. Van BOVEN (Director of the Division of Human Rights) said that the United Nations human rights programme had broadened while human rights concept had been enriched. However, the debates of the Commission tended to be somewhat abstract at times.

7. The right to life, proclaimed in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, was without doubt the most fundamental of all human rights. Respect for that right should therefore be one of the most basic concerns of the Commission. The right to life involved not only the protection of the human person but also the right of everyone to freedom from want and fear. Protection against want and fear were preoccupations of the specialized organs of the United Nations such as FAO, the Economic and Social Council, and various disarmament bodies. The Commission's role was essentially to identify the human rights dimensions of those issues and to call upon the specialized organs concerned to take account of them. The recommendations of the "Seminar on the relations that exist between human rights, peace and development", held in 1981, were in keeping with that perspective.

8. The role of the Commission with respect to the right to life was par excellence to protect the human person and to prevent deliberate killings perpetrated by organized power. Deliberate assaults on life took various forms. In order to express its concern about that phenomenon, the General Assembly had recently adopted recommendations condemning, for example, the practice of summary and arbitrary executions, and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had decided to draw the attention of the Commission to the increasing number of politically-motivated executions with a view to ending them.

9. The deliberate killing of human beings ranked among the most severe and shocking violations of human rights in the world today. Examples were unfortunately only too numerous, particularly in Democratic Kampuchea, where the killings which had taken place under the Pol Pot régime, according to the Special Rapporteur entrusted by the Sub-Commission with fact finding on the situation in that country, constituted nothing less than auto-genocide.

10. Other reports submitted to the Commission or the General Assembly had related similar horror stories in numerous countries and different parts of the world; it emerged that thousands of persons had been made to disappear involuntarily or had been killed, while the number of deaths resulting from torture continued to be alarmingly high. Mass killings and massacres continued in southern Africa; thousands of persons were reported killed or missing in Chile; in Uganda, over 250,000 persons were reported to have been killed under the régime of President Amin; atrocious killings were reported to have taken place in Equatorial Guinea under the previous régime; in 1980, 8,062 political murders were reported to have been committed in El Salvador and 5,000 in Guatemala; similarly, the mass executions in Iran gave rise to serious concern. In its most recent annual report, the Inter-American Commission on Human Rights had also reported in 1980-1981, in the climate of generalized violence prevalent in some countries, an alarming number of summary, illegal and extrajudicial executions. In most cases such executions had been directly committed by security groups which acted with impunity outside the law, and by paramilitary groups which operated with the acquiescence or tacit consent of the Government. As a general rule such consent had indicated that government authorities had failed in their obligation to carry out adequate and effective investigations to determine those responsible for the crimes.

11. The Commission was duty bound to address itself to those issues as urgent priority concerns, bearing in mind two crucial principles embodied in the international instruments on human rights and humanitarian law: Governments had a responsibility to prevent killings in their respective countries and should not themselves engage in or condone such killings. The International Court of Justice had held in one case that "the obligations of a State towards the international community as a whole ... are the concern of all States... In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations erga omnes ...". The Court had cited as examples obligations deriving "from the principles and rules concerning the basic rights of the human person".

12. It was a fact that the victims of gross violations of human rights and fundamental freedoms placed their hope in the United Nations and regarded the Organization as their lifeline. It was difficult to conceive that the United Nations could shut its eyes to such pleas. It should analyse all situations where there were violations of human rights. Its authority derived from a political choice on the part of Member States; when they felt that violations of human rights were taking place, it was for them to bring such situations before the appropriate forums and to propose that appropriate action be taken. There was room for improvement in the selection of such cases; in the interim, however, it was unacceptable that a situation of gross violations of human rights in any country should not be discussed or action not taken thereon simply because other situations had not been taken up as well. The United Nations could not wait to condemn all countries guilty of human rights violations before it focused on violations in some countries. It would have great difficulty in explaining to victims that it could not act to relieve their suffering because other situations had not been given attention; it could not justify its inaction on specious grounds of injustice or discrimination vis-à-vis other States. If it was to retain its credibility in the field of human rights, it must urgently deal with the protection of human life and address the problems of genocide or political liquidation, mass killings, arbitrary or summary executions, disappearances, tortures, the killing of refugees, or the indiscriminate killings of civilians during armed conflicts.

13. Although action was a matter for the representatives of States members of the Commission entrusted with the powers of decision, he wished to indicate some of the options which appeared to be available. The protection of human life and the prevention of killings could become a priority theme of the Commission in its future programme and in the consideration of specific situations involving gross and consistent violations of human rights. That theme could also be the focus of the discussions to be held in 1983 in the context of the thirty-fifth anniversary of the Universal Declaration of Human Rights. The Commission could designate a special rapporteur to examine the question and situations of deliberate killings and taking of human lives by organized power, and submit a report to the Commission at one of its future sessions. A high-level meeting of experts could also be convened to discuss those questions and situations and to report to the Commission.

14. Unless the Commission considered those questions urgently and took appropriate and meaningful action, it would hardly be deserving of its name and the anguish of people on the edge of survival would weigh upon everyone's conscience.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

15. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) nominated Mr. Garvalov (Bulgaria) for the office of Chairman.

16. Mr. SALAH-BEY (Algeria), Mr. BEAULNE (Canada), Mr. FOUYOUROS (Cyprus) and Mrs. ODIO BENITO (Costa Rica) supported the nomination.

17. Mr. Garvalov (Bulgaria) was elected Chairman by acclamation.

18. Mr. Garvalov (Bulgaria) took the Chair.

19. The CHAIRMAN thanked the Commission and said that his election constituted an honour for the People's Republic of Bulgaria for its contribution to the activities of the United Nations and to those of the Commission in particular. Ever since the Commission had been established, it had unceasingly concerned itself with the most important issues in the field of human rights; the ways and means it had proposed to that end and its work on the codification of norms had contributed to the furtherance of international co-operation in that field. He was sure that the Commission would continue to play an important role in achieving the objective enunciated in Article 1, paragraph 3, of the Charter of the United Nations, which he quoted.

20. He did not wish to undertake an evaluation of the work of the Commission, but rather to give a synopsis of the views which he had already aired before the Commission and elsewhere on a number of occasions. Rarely if ever had the Commission met at a more demanding time than the present. While international co-operation was the prerequisite for respect for human rights, it could be seen that international relations had taken a turn for the worse and there was even talk of nuclear war, which threatened the inviolable right of all nations to live in peace and security. All human rights depended on that primordial right. The peoples of the world were unanimous in demanding the right to live in a world at peace, free of the threat of war; the international community should therefore intensify its efforts to promote peace and disarmament, for which international détente provided a framework. Détente must be promoted, since the peoples of the world wished to devote their resources to improving their living conditions rather than spending them on arms, and were certainly not indifferent to the approach of a nuclear catastrophe which would wipe out civilization.

21. In discharging its mandate, the Commission must help States and the international community to ensure the inviolability of the right to life, and to achieve international détente and disarmament. At the same time it should take account of the primary importance which many developing States attached to the promotion of economic, social and cultural rights. In that respect, the right to development merited particular attention and the codification of that right was one of the main tasks of the Commission. The drafting of international instruments would be another important task. The Commission should also continue to pay due attention to cases of flagrant and systematic violations of human rights. It had a crowded agenda, in which all the items were important; the Chairman intended, with the co-operation of the members of the Commission, to ensure the consideration of each item under normal conditions.

22. The success of the session depended to a great extent upon collaboration between the members of the Commission. For his part he would very much appreciate such co-operation and assured members that he would be in constant touch with them. He would seek general agreement whenever possible, and would not hesitate to give a ruling whenever a situation so warranted or to rule out of order matters outside the agenda. When the rules of procedure lent themselves to different interpretations, common sense should prevail. He concluded by welcoming the new members of the Commission (China, Gambia, Italy, Japan, Rwanda, Togo, Zimbabwe) and congratulated those members which had been re-elected at the first regular session of the Economic and Social Council in 1981.

23. Mr. BEAULNE (Canada) nominated Mr. Kooijmans (Netherlands) for the office of Vice-Chairman.
24. Mr. HILALY (Pakistan) seconded the nomination.
25. Mr. SENE (Senegal) nominated Mr. Salah-Bey (Algeria) for the office of Vice-Chairman. He congratulated Gambia, a new member country of the Commission which had formed a new confederation with Senegal, Senegambia, the birth of which had been proclaimed that day.
26. Mr. BARAKAT (Jordan) nominated Mr. Pouyouros (Cyprus) for the office of Vice-Chairman.
27. Mr. MARTINEZ (Argentina) supported that nomination and the two which had preceded it.
28. Mr. SALAH-BEY (Algeria) supported the nomination of Mr. Pouyouros for the office of Vice-Chairman.
29. Mrs. ODIO BENITO (Costa Rica) supported the three nominations which had been made.
30. Mr. Kooijmans (Netherlands), Mr. Salah-Bey (Algeria) and Mr. Pouyouros (Cyprus) were elected Vice-Chairman by acclamation.
31. Mrs. ODIO BENITO (Costa Rica) nominated Mr. Daverede (Argentina) for the office of Rapporteur.
32. Mr. SALAH-BEY (Algeria) seconded the nomination.
33. Mr. Daverede (Argentina) was elected Rapporteur by acclamation.
- ADOPTION OF THE AGENDA (item 2 of the provisional agenda) (E/CN.4/1480)
34. The provisional agenda was adopted.

The meeting rose at 1.05 p.m.