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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC) */ OF THE 51st MEETING

held at the Palais des Nations, Geneva,
on Friday, 5 March 1982, at 5.45 p.m.

Chairman:

Mr. GARVALOV

(Bulgaria)

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GE.82-15906

The meeting was called to order at 5.45 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 (agenda item 12) (continued)
(E/CN.4/1476-E/CN.4/Sub.2/472, E/CN.4/1478-E/CN.4/Sub.2/478,
E/CN.4/1495, E/CN.4/1500 and Add.1 and Corr.1, E/CN.4/1501 and Add.1-2,
E/CN.4/1502, E/CN.4/1503 and E/CN.4/1514-1517; E/CN.4/1982/4,
E/CN.4/1982/24; E/CN.4/1982/L.27; E/CN.4/1982/NGO/1 and Add.1,
9, 15, 21-23, 25-27 and 32)

1. Mr. van BOVEN (Director, Division of Human Rights), introducing agenda item 12, said that the statement which he had made at the opening meeting of the session could serve as an introduction to the item. In addition, he would refer members to the information contained in the annotations to the agenda (E/CN.4/1480/Add.1).
2. Mr. PACE (Secretary of the Commission) announced that the sponsors had withdrawn draft decision E/CN.4/1982/L.1.
3. Mr. GROS ESPIELL (Special Envoy) introduced his study (E/CN.4/1500 and Corr.1) on the human rights situation in Bolivia which he had undertaken pursuant to his mandate under Commission resolution 34 (XXXVII). He drew attention to the structure of his study and to the period it covered, namely, from 17 July 1980 to the time when his report had been completed, in late October 1981. Among his conclusions, he referred in particular to paragraphs 138 and 139 relating to action which the international community could take to help a country solve its human rights problems.
4. In his study, he had laid stress on the violations of civil and political rights, but the situation in Bolivia should be seen in its historical perspective, as mentioned in paragraphs 128 to 131. Bolivia was a developing country with a tragic history and its problems did not date from July 1980. He attached significance to the fact that during his visit as Special Envoy he had been given every facility by the Government to travel where he pleased and to interview individuals freely.
5. Bolivia's situation in international law was summarized in paragraphs 23 to 28 of his study. It was a party to neither of the two International Covenants on human rights. However, the fundamental principles of human rights were enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights, to which Bolivia had, of course, acceded. The right to life, the right not to be tortured and the right to a fair trial were rights that should be honoured in any circumstances: they were norms of the jus cogens incumbent on all States. However, there was no doubt that massive violations of human rights had occurred in Bolivia since the events of 17 July 1980. During his visit he had been able to speak to witnesses and to obtain further documentation. But it was also true that since the coming to power of the present Government in September 1981, there had been a progressive, but slow, improvement in the situation, to which the

Government's comments on his study (E/CN.4/1500/Add.1) bore witness. It should be noted that the Government was studying his recommendation that Bolivia should accede to the principal human rights instruments, in particular, the two International Covenants, the Optional Protocol to the International Covenant on Civil and Political Rights, and the 1977 Protocol to the 1949 Geneva Convention.

6. On the whole, matters had continued to evolve favourably between late October 1981 and the present time. The authorities had enacted various legal measures which marked progress in the recognition and safeguarding of human rights. Former decrees on trade union matters had been repealed and there had been some recognition of trade union rights. Furthermore, the miners' trade union had recovered the use of its broadcasting station - in deference to one of its most persistent demands. He had also received unofficial information that investigations would shortly open concerning some of the most regrettable events which had occurred since July 1980, including the assassination of Marcelo Quiroga Santa Cruz (see E/CN.4/1500, para. 65 (a)) and the murders of 15 January 1981. Disturbing events still occurred, such as the attack on the headquarters of the Bolivian Episcopal Federation on 11 February 1981, but he was convinced that, given economic, social and political stability, the over-all situation would continue to improve.

7. Mr. PASTOR RIDRUEJO (Special Representative), introducing the final report on the situation of human rights in El Salvador (E/CN.4/1502), prepared pursuant to Commission resolution 32 (XXXVII), said that the report took into account events in that country up to 18 January 1982. Information had been obtained from all possible sources, including the Salvadorian Government, specialized agencies, non-governmental organizations and statements by the victims of violations of human rights. The Salvadorian Government had co-operated with him to the utmost of its ability and allowed him complete freedom of movement; however, because of the confidential nature of his task and the short time available, as well as for security reasons, most of his contacts had perforce been with the authorities. A great deal of further information had been forwarded by the Permanent Representative of El Salvador to the international organizations in Geneva.

8. The report was divided into eight chapters. Chapter III, dealing with the exercise of economic, social and cultural rights, contained details on matters such as land reform, health and education. The contents of that chapter were important in regard not only to those rights themselves but to their inescapable relationship with civil and political rights. Chapter IV, relating to civil and political rights, contained inter alia information on murders, abductions, disappearances and other terrorist acts. In connection with the figures relating to murders, information received from the organization Legal Aid since the preparation of the report showed that murders were still being committed and that there had been a further 727 killings between 1 and 12 February 1982. Although differing figures had been received from various sources, it appeared that most murders stemmed from officially sanctioned acts of repression, including the use of paramilitary forces. According to a document issued by the United States Department of State, the 1980 report of the Inter-American Commission on Human Rights, and other sources, such acts were the work of State forces and of right-wing and left-wing groups.

9. With regard to abductions and disappearances, the report of the Working Group on Enforced or Involuntary Disappearances had noted 199 cases in El Salvador. The section relating to other terrorist acts gave details of deeds intended to prevent the expression of the right to peaceful assembly, trade union rights and other human rights - deeds which had occasionally caused loss of life. In some cases, the acts had apparently been carried out by State bodies or right-wing forces; in others, left-wing groups seemed to have been responsible.

10. The section of that chapter which dealt with other human rights violations contained details which gave cause for concern at the Salvadorian authorities' slowness in acting to prevent or punish human rights violations and at the questionable procedures used in detaining persons and bringing them before the courts. But note should be taken of the explanations given to him by the country's military authorities and the statement made by President Duarte to the United States press concerning the punishment of members of the National Guard for crimes against Salvadorian civilians.

11. Chapter VII contained his personal conclusions and judgements, based not on particular events but on the ~~over-all~~ human rights situation in El Salvador. It was clear that the majority of the Salvadorian people did not exercise even a minimum level of human rights and that far-reaching economic and social reforms, particularly in the agrarian sector, were required. He had noted the measures taken by the Government Revolutionary Junta in that connection and all the criticisms made about them. He was convinced that there had been a consistent pattern of gross violations of human rights in El Salvador since 15 October 1979, responsibility for which lay with representatives of the State machinery and right-wing and left-wing groups. In his earlier report to the General Assembly, he had not felt in a position to impute responsibility for certain violations; in the final report, however, he had been able to note that such violations could in fact be imputed, for the most part, to members of State forces in cases of attacks on the human person and to guerrilla groups in respect of attacks on property. The development of armed clashes between regular forces of the Salvadorian army and of opposition guerrilla groups had caused serious violations of human rights, culminating in death in many cases; but it was impossible at present to state even approximately in what proportions the violations were attributable to one sector or the other.

12. The chapter on recommendations reflected his conviction that democratic elections should be held in El Salvador in order to uphold the Salvadorian people's fundamental political rights, pursuant to article 21 of the Universal Declaration of Human Rights, article 25 of the International Covenant on Civil and Political Rights and article 23 of the American Convention on Human Rights. The Government authorities proposed to hold elections on 28 March 1982 and had undertaken to do everything possible to ensure that the elections were free and fair; opposition groups, on the other hand, stressed that the electoral process would have meaning only if a genuinely free climate existed. In his own view, the Government's plan for holding elections was perfectly legitimate and acceptable if the process took place in a climate of social peace, in which the rights of free expression, association and assembly were fully respected, a complete and genuine electoral roll was available, and the authenticity of the ballot and effective respect of the people's will were guaranteed. Details of his recommendations in that connection were contained in paragraphs 134 to 136 of the report.

13. He thanked the Government of El Salvador for the co-operation it had extended to him at all times; he also appreciated the assistance he had received from the Division of Human Rights.

14. Mr. BETTINI (Italy) said that, to judge from the degree of violence and cruelty practised by certain Government and opposition forces, violence now seemed to be the sole basis of relations within and between States. The increasing number of reports received from all sources led to the conclusion that respect for human rights received merely token recognition in a growing number of countries and that observance of the provisions of the Charter, the International Covenants on human rights and related instruments was being increasingly subordinated to so-called higher interests of State, which were also used to justify measures implemented at untold cost to the peoples concerned.

15. The Italian delegation had consistently borne in mind, from the Commission's earliest days, the spirit and the objectives which had prompted the international community to establish it and had striven to enunciate clear and simple ideas based on the principle of democracy, the logical corollary of the belief in freedom which, in Benedetto Croce's words, had always inspired the actions of the Italian people. His delegation's attitude to the situations brought to the Commission's attention was based strictly on its deep conviction that democracy was the sole form of government capable of acceptably interpreting the relations which should exist between a State's Government and its citizens, and of allowing a Government to act as a true spokesman of the people's will - an approach opposite to that which would regard the State as an abstraction for the imposition of ideological convictions.

16. It was difficult to dwell on any situation in particular, or to state that one was worse than another. Human rights violations took many forms, and any classification would be arbitrary. His delegation had already expressed its Government's concern about the gross and flagrant violations of human rights in countries such as Afghanistan, Cambodia, South Africa and Chile. But the situations in other countries - for example, Guatemala, El Salvador, Equatorial Guinea, Iran and Bolivia - were equally disquieting. A climate of uncertainty and frequently of naked terror existed, gravely threatening the security and physical integrity of individuals and undermining fundamental freedoms. With regard to Guatemala, Bolivia and Equatorial Guinea in particular, the reports by the Secretary-General and the special envoys testified to highly precarious situations with regard to human rights and fundamental freedoms. His delegation reiterated its concern and indignation at certain events and invited the Governments of the States concerned to take the necessary steps speedily in order to restore normal and satisfactory conditions. The alarming situation in El Salvador, which still seemed to be deteriorating, deeply disturbed the Italian Government, which was making every effort to promote an equitable peace based on agreement between the parties concerned, free from outside interference, in order to end the armed confrontation which had already cost so many lives.

17. With regard to the situation in Iran, where summary executions seemed to have become an almost institutionalized practice, the Baha'i community was the victim of a religious persecution almost inconceivable nowadays when there was so much talk in international circles of individual freedoms of all types. Italy again appealed to the Iranian Government to act in accordance with the International Covenants to which it had acceded.

18. Italy had always striven for the observance of all basic human rights both at home and abroad. That concern could not be construed as a wish to interfere in the internal affairs of States; on the contrary, discussion of such delicate matters should always be held in a spirit of constructive collaboration between States. It was on that basis, and bearing in mind the importance and indivisibility of political, social and cultural rights, that the growing phenomenon of "dissidence" in some countries of Eastern Europe, stemming directly from Government limitation of the exercise of certain fundamental rights, had to be noted. A country could not progress if it disregarded certain of its citizens who, having contributed to its scientific attainments at the highest level, were now discarded and persecuted. His delegation, and doubtless others too, formally appealed to all the Governments concerned to free, and restore to their rightful places, those persons who had been persecuted and imprisoned on ideological grounds or because of their activity in the cause of human rights.

19. Italy could not remain silent about recent violations of human rights in Poland stemming from the imposition of martial law three months before and the consequent restrictions in all fields. The provisions of the Universal Declaration and the International Covenants, which applied to individuals as well as States, must be reflected in every citizen's daily life and in international society if the principles set forth in those instruments were to be properly exercised in the international community's development. The many violations of human rights currently occurring in Poland, such as the arrest of thousands of trade unionists, intellectuals and students, the "militarization" of workers and the restrictions on freedom of movement and information, prompted his delegation to address an urgent appeal to the Polish Government speedily to restore the conditions essential to democracy.

20. Mr. KOOIJMANS (Netherlands) said that agenda item 12, which concentrated neither on any country nor on any specific phenomenon, compelled the Commission to focus on the question of how it was doing in the field of human rights and fundamental freedoms - a question which should be raised on behalf of the peoples of the United Nations whose interests the Commission was required to promote. The answer to that question was unfortunately that it was not doing well at all. Reports about the most unbelievable infringements on the physical integrity and security and liberty of persons showed that a number of Governments were clearly not giving priority to respect for the human person, human dignity and basic human values.

21. The question should frankly be asked whether agreement could or could not be reached on some of the most fundamental factors for the protection of human rights. Clearly, no immediate agreement could be reached on how to organize society economically or politically or on the way in which the people should be granted a say in political decision-making. It must, however, be possible to agree on what was essential in the treatment of the individual by the omnipotent State. There was no basis in law or in custom or tradition on which the State could feel justified in wantonly killing its citizens, executing people without due process of law or to torturing detainees. All Governments must be bound by a minimum standard of humanity, not only because they were parties to the International Covenants or had accepted the Universal Declaration, but primarily because human minds had been endowed with reason and with the capacity for moral judgement. The Commission on Human Rights could not but agree on such basic values.

22. Some of the draft resolutions before the Commission drew their inspiration from those basic values and he hoped they would receive general support. Those resolutions were based on reports - both official and non-official - received by the Commission. As to the latter, his delegation expressed appreciation for the continuous and comprehensive reports published by a number of non-governmental organizations. The representatives of those organizations were sometimes better spokesmen for those whose interests they promoted than the representatives of Member States. The Commission could not do its job well without their participation. Those who tried to curtail their rights had probably good reason to fear the exposure of human rights violations. As to the official reports, he praised the thoroughness of those on human rights and massive exoduses (E/CN.4/1503), on the question of missing and disappeared persons (E/CN.4/1492) and on the human rights situations in specific countries, such as those on Guatemala (E/CN.4/1501), El Salvador (E/CN.4/1502) and Bolivia (E/CN.4/1500).

23. His delegation supported the suggestion that the Commission should in future concentrate more on phenomena. The formula adopted with the establishment of the Working Group on Enforced or Involuntary Disappearances provided a promising example in that respect. By concentrating on phenomena which occurred in several countries, the Commission adopted a more effective and less selective approach and there was less risk of politicization. Other phenomena lent themselves to a similar approach; a good example was provided by the appointment of a special rapporteur on human rights and mass exoduses. Another phenomenon which clearly called for similar attention was the fairly widespread one of indiscriminate killings and summary or extra-legal executions. The Commission would be forsaking its task if it did not pay immediate attention to the horrifying reports on that subject.

24. His delegation's support for the phenomenon-oriented approach did not imply that the Commission should give up its method of public discussion of the human rights situation in certain countries. If a country caused serious concern because of massive or systematic violations, the Commission was obliged to discuss that situation, make recommendations to the Government concerned and institute such procedures as it deemed necessary. His delegation therefore favoured a two-tier approach; phenomenon-oriented where possible and desirable, country-oriented where necessary.

25. The reports on Guatemala (E/CN.4/1501) and El Salvador (E/CN.4/1502) provided evidence precisely of massive and systematic violations of human rights. With regard to Guatemala, the Organization of American States had drawn attention to the alarming violence which had prevailed there in recent years, violence which had been "either instigated or tolerated by the Government, which has not taken steps to contain it". The illegal executions by the security forces "not only violate the right to life, they have created an endemic climate of total alarm and even terror, which has subverted the rule of law". On the basis of such a report - and from such a source - the Commission could not but take a unanimous and unequivocal position as to the absolutely unacceptable attitude of the Guatemalan Government and should not acquiesce in the refusal of that Government to co-operate with the Secretary-General.

26. The point which he had made earlier about the minimum set of values which must at all times be upheld by everyone was also made by the Special Envoy to Bolivia, who stated in his report that "any suppression and/or violation of those human rights which at all times constitute the necessary and irreducible minimum, and the existence and respect of which is essential at all times and in all circumstances, is unacceptable and inadmissible. No argument advanced in an attempt to justify the derogation, disregard or violation of such rights can be accepted" (E/CN.4/1500, para. 126). Unlike the one on Guatemala, the report on Bolivia mentioned a certain improvement in recent months and expressed the hope that that positive trend would continue. His delegation agreed with the Special Envoy's conclusion that international isolation of the Bolivian Government was not desirable; dialogue must at all times be continued, or at least sought. His delegation accordingly supported the extension of the Special Envoy's mandate.

27. The report on El Salvador revealed a very tragic civil war-like situation which, as pointed out by the Special Representative, had its roots in problems of distribution of wealth, land and power. The Special Representative had arrived at the alarming conclusion that there was a widespread attitude of passivity on the part of the judicial organs with regard to human rights violations. At the same time, terrorist acts against public and private property were being committed by guerrilla groups. There again, the Special Representative had stressed that human rights violations could not be condoned because they were perpetrated "in the guise of exceptional measures" (E/CN.4/1502, para. 130).

28. It was essential to restore in El Salvador respect for human life and human rights in general. His Government appealed to all the parties concerned to restore conditions calculated to lead to a political settlement that could create conditions for the establishment of a genuine democracy.

29. Turning to the situation in Iran, he noted the ample evidence in the Secretary-General's report (E/CN.4/1517) of executions of political opponents, extra-legal killings (both of adults and of minors), torture of detained opponents and persecution of a religious minority (the Baha'is). If ever an appeal from Government to Government was justified, it was in that case: the Netherlands Government publicly appealed to the Government of Iran to abide by its international commitments and to seek guidance in the Universal Islamic Declaration of Human Rights which had been adopted in September 1981 and "which is based on the Qur'an and the Sunnah and has been compiled by eminent Muslim scholars, jurists and representatives of Islamic Governments and thought", according to its foreword. That Declaration, which guaranteed inter alia the right to life, the right to freedom, freedom of religion and the right to protection against torture, should be a source of inspiration for the Government of Iran.

30. In other parts of the world, no less objectionable acts were being committed, even if in another form and on another scale. His delegation was disturbed at the continuing reports about persons detained in psychiatric hospitals in the Soviet Union being ill-treated with powerful drugs. The derailment of the mind should be considered to be as unacceptable as the infliction of bodily harm.

31. Turning to Poland, a country where human rights had been seriously curtailed quite recently, he expressed the concern of the Netherlands Government and people at the course of events since 13 December 1981. Since the proclamation of the state of war, thousands of persons had been interned, and the right to freedom of expression and the right to form and join trade unions had been suspended. The claim by the Polish authorities that the imposition of martial law was justified under constitutional provisions was untenable in view of the absence of any exceptional circumstances to warrant it.

32. The imposition of martial law was a cause for concern precisely because it deprived people of their civil and political rights and freedoms. It was reported to have led in Poland to repressive measures and to a system of intimidation in which violations of the most sacred values and principles were taking place. Numerous members of the Solidarity trade union had been arrested or had lost their jobs and many of those detained had received unusually severe sentences under

martial law procedures. The result had been to create a climate of fear and despair. The Netherlands Government was all the more concerned because, prior to those events, there had already been for many months strong pressure by the USSR on Poland to reverse the widely supported process of reform.

33. During the discussion on agenda item 5, his delegation had welcomed the Polish delegation's expression of disapproval of the system of suppression and of the state of emergency existing in Chile. The Polish delegation had called it "the moral duty" of the Government of Chile to abide by the obligations freely contracted under the International Covenant on Civil and Political Rights. The Netherlands delegation could not agree more with the Polish delegation. It was in that spirit that his Government repeated its urgent appeal to the Polish Government to end the state of war both in law and in practice, to release all those arrested and to restore a genuine dialogue with all representative parties involved, in particular with the Church and with Solidarity.

34. It had been argued that, by examining the human rights situation in Poland, the Commission would be interfering in that country's internal affairs. That same argument had been used by Chile in 1974 but it had not prevented the Commission from taking action with regard to that country. His delegation was convinced that, whenever reports of human rights violations reached the Commission, it was legally entitled and morally obliged to take cognizance of those reports and to consider what measures were necessary.

35. The situation in Turkey was also a cause of concern for the Netherlands Government, which had taken note of the Turkish military Government's announced intention to restore the democratic political process in the near future. His delegation hoped for rapid progress in that direction. Nevertheless, the present situation had caused his Government to consider the possibility of referring, together with other States members of the Council of Europe, the human rights situation in Turkey to the European Commission of Human Rights in accordance with article 24 of the European Convention on Human Rights.

36. In conclusion, his delegation appealed to all Governments concerned to implement immediately the rules contained in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the American Convention on Human Rights, the European Convention on Human Rights, the African Charter of Human Rights and People's Rights and the Universal Islamic Declaration of Human Rights.

37. Mr. JAHN (Federal Republic of Germany) said that if it overlooked any part of the world when considering agenda item 12, the Commission would expose itself to the charge of applying a double standard. The credibility of the Commission's work as a whole was determined by its willingness to occupy itself with human rights violations wherever they might occur and irrespective of whether they were committed by Governments or by groups of persons wishing to bring about or prevent political change by violent means.

38. The bloodshed at present taking place in El Salvador was the result of a struggle waged with brutality and contempt for human rights on both sides. The report of the Special Representative of the Commission (E/CN.4/1502) showed that human rights violations in that country had reached staggering proportions. The numbers of political murders, abductions, disappearances and other terrorist acts, and of refugees and displaced persons, testified to a complete lack of respect for fundamental human rights. Justice seemed to be virtually paralysed. The vast majority of the people of El Salvador were deprived of important economic, social and cultural rights. The agrarian reforms undertaken by the Government contained positive elements, but were clearly meeting with difficulties and resistance. The free elections planned for the end of the current month could provide an opportunity for restoring the people's fundamental political rights. His delegation appealed to all parties to the conflict to respect the rights of the individual, especially the right to life. It wished to thank the Special Representative for his work and expressed appreciation for the co-operative attitude shown by the Government of El Salvador in extremely difficult circumstances.

39. Unfortunately, the same could not be said of the Government of Guatemala, which had thus far practically refused to co-operate with the United Nations in human rights matters. The note by the Secretary-General on the situation of human rights in that country (E/CN.4/1501), based principally on submissions from non-governmental organizations, painted an extremely sombre picture. Failure to respect the right to life and other brutal violations of fundamental rights appeared to be the order of the day. Trade union activities and the press were suppressed by the authorities; the Church and the universities were constantly under attack; abductions and the use of torture in prisons were a common occurrence. His delegation condemned the flagrant violation of human rights in Guatemala and appealed to the Government of that country to abandon those practices and to strive for better co-operation with the Commission in the future.

40. His delegation noted with satisfaction that the Government of Bolivia was co-operating closely with the Special Envoy of the Commission and, as could be seen from the study in document E/CN.4/1500, was taking practical steps to improve the human rights situation in that country. The serious political and economic difficulties which Bolivia had experienced in the past should not serve as a continued excuse for limiting human rights and interfering with justice. Respect for human rights was an important precondition for political stability, and Bolivia had much to gain in that respect by energetically pursuing the restoration of human rights on which it had embarked.

41. A new situation affecting human rights had recently developed in the European region. The events in Poland since 13 December 1981 and the far-reaching suspension or active violation of human rights as proclaimed in the Universal Declaration and in the International Covenant on Civil and Political Rights were matters of particularly grave concern to his country, for two main reasons.

42. First, it was anxious that nothing should jeopardize the mutual understanding and co-operation between the Polish and German peoples achieved by patient effort over the past 10 years after a century of strife. The German people, as good neighbours, wanted to help Poland to overcome a situation which in the long run threatened peace and development in Central Europe. Secondly, his Government, which took pride in its close and excellent relations with the trade union movement within its own country, felt that it could not look on in silence when, in a

neighbouring country, the dialogue with free trade unions was broken off and replaced by oppressive authoritarian rule. To raise the question of workers' rights had nothing to do with confrontation or interference. Regardless of the country concerned, his Government had always maintained that internal political difficulties did not justify breaches of the law or of international agreements. It was prepared to listen to criticism and expected others to do likewise. Criticism did not constitute interference in domestic affairs; if it did, the Commission would have to stop its activities. All delegations had a right to discuss the emergency situation in Poland from the human rights standpoint and to try to reach appropriate conclusions.

43. The introduction of martial law in Poland had brought oppression and violence to the country. Workers' protests had been bloodily suppressed. A broad wave of arrests had affected thousands of members of Solidarity - workers, intellectuals, journalists, artists, scientists and students. Draconian prison sentences had been imposed solely on grounds of trade union activity or political dissidence. Trade unions had been suspended, the independent student association NZS banned, freedom of movement and information suppressed, foreign broadcasts jammed and the right of assembly withdrawn. Unless they wished to lose their jobs or, worse still, their freedom, workers and officials had been forced to sign loyalty pledges renouncing their political convictions.

44. When proclaiming the state of emergency on 13 December 1981, the Polish "Council of National Salvation" had made a number of specific promises, which had since been frequently reiterated. It was disappointing to note that, apart from minor relaxations, no steps had yet been taken towards the promised return to a policy of national reconciliation and reform. The situation in Poland remained essentially unchanged. On 21 January 1982, General Jaruzelski, the Polish Prime Minister, had himself admitted a total of 4,549 internees who could not be charged with any legal offence.

45. The questions which the Commission should address to the Polish Government were the following. Did everyone in Poland have the right to life, liberty and security of person, as set forth in article 3 of the Universal Declaration? Was no one subjected to cruel, inhuman or degrading treatment or punishment, as provided for in article 5? When would the provisions of article 9, namely, that no one should be subjected to arbitrary arrest or detention, become fully applicable once more to all Poles? When would article 12, which established the right to the protection of the law against interference with the private life of citizens, regain its full validity? Could a date be set on which all Poles would once again enjoy freedom of movement and residence within their country and the right to leave their country and to return to it, as provided for under article 13? When would the right to freedom of peaceful assembly and association (art. 20) be restored? And lastly, when would there be a review of the decision that certain categories of workers could no longer join independent trade unions for the protection of their interests, as provided for in article 25? In expressing the hope that the Commission would ask those questions and that the Polish Government would answer them, he referred to the following passage in the preamble of the Universal Declaration: "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law".

46. The Polish people had suffered long enough. To ignore human rights was not the way to achieve national reconciliation. Neither did exile to a foreign country represent an acceptable alternative to internment or prolonged imprisonment. As Mr. Schmidt, the Federal Chancellor, had pointed out in a letter to Mr. Brezhnev as early as 25 December 1981, Poland should be allowed to solve its problems by its own efforts. No State, and that included the Soviet Union, had the right to determine the political and social development of another State. Stability in a dynamic world could not be achieved by trying to stem the tide of history. To block new developments, to deny the legitimate aspirations and expectations of men and women, was to oppose the very spirit of history. So long as the present situation in Poland continued and threatened to deteriorate still further, the Commission should occupy itself with the problem of human rights in that country. It should endeavour to obtain an accurate picture of the situation and take steps towards achieving an improvement.

47. Responsibility in the matter rested on the Commission as well as on the Polish authorities, on Poland's allies and on its friends throughout the world. That common responsibility should manifest itself, not through accusations or confrontation, but through a common will to help Poland to solve its great problems in a spirit of respect for human rights.

48. Turning to the situation in Iran, he noted that the Government of the Islamic Republic of Iran had come to power with the claim of replacing a régime guilty of severe human rights violations. Reports of events in Iran indicated, however, that the violations committed by the new régime put those of the old régime completely in the shade. What had originally been a broad consensus in favour of the new Government had, as a result, been transformed into widespread resistance. In his delegation's view, the human rights situation which had prevailed in Iran for some time, and more especially since June 1981, merited urgent consideration by the Commission.

49. The very high number of executions (at least 3,200 over the past three years, including 2,000 since June 1981) reported from Iran was deeply disturbing, especially as the majority did not appear to have been preceded by a trial. Many of the victims were reported to be under age. Another alarming aspect of the situation was the treatment of religious minorities. A régime based on one of the world's great religions owed it to itself and to the international community to practise particular tolerance of, and respect for, other religions. In the light of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, recently adopted by the General Assembly, reports of the persecution of the Baha'i religious community by the Iranian authorities, including the execution of 15 Baha'i dignitaries in December 1981 and January 1982, gave grounds for grave concern. His delegation appealed to the Iranian Government to guarantee the protection of human rights for all Iranians, irrespective of their political or religious views. The ending of summary executions and of the persecution of the Baha'i community should constitute the first and most important steps in that direction.

50. He expressed concern about the growing number of reports of persons denied freedom of movement and residence within their own countries for no reason except that they had tried to defend their rights. Cases of that kind were known to have

occurred in South Africa, where several opponents of the apartheid policy had been placed under house arrest and denied visits by members of their families in 1981, and also in the Soviet Union, where critics of the régime and, particularly, adherents to so-called Helsinki Groups had been sentenced to imprisonment and exile to remote parts of the country. Measures of that kind ran counter to article 13 of the Universal Declaration and article 12 of the International Covenant on Civil and Political Rights. His delegation was particularly alarmed by such reports, not only because of the great hardship involved for the victims and their families, but also, and more especially, because the persons concerned were convinced and dedicated supporters of human rights. The Commission was in duty bound to take up the cause of such people.

51. In conclusion, he deplored the large number and wide range of human rights violations with which the Commission was faced and expressed the wish that more time should be set aside in future for a more careful examination of each particular situation.

52. Mr. HUTTON (Australia) stressed that the Commission should be guided by humanitarian considerations; any evidence that the standards upheld by it were being conspicuously violated in any country should command the Commission's interest.

53. As he saw it, the Commission's first responsibility was to act in accordance with the Charter and therefore not encourage any undue interference in the internal affairs of any Member State. In accordance with Article 55 of the Charter, the Commission's endeavours should be based on a spirit of co-operation and universal respect for human rights for all. Secondly, the Commission should not depart from the procedures (both public and confidential) which it had developed and which did not prevent Member States from bringing to its attention the situation in any country. Thirdly, the Commission had a responsibility to judge each situation on its merits. In many situations those in power had to face a terrible dilemma when resolving internal conflicts. The elements of each situation were necessarily different and the Commission's response should accordingly be both magnanimous and mindful of those who were powerless to protect their basic interests. On the basis of those three principles, he believed that the Commission was not establishing any rigid precedents. The various situations which had been discussed in the Commission showed that its procedures were sufficiently flexible to ensure that each case was dealt with on its own merits.

54. The Commission had before it four reports on situations in Latin America, as well as a report from the Secretary-General giving evidence of the deteriorating human rights situation in Iran (E/CN.4/1517). However, the situation in Poland, on which no report had been submitted, called for serious study by the Commission. It was a situation in which an internal state of war had been proclaimed by a military Government and which was characterized by the internment of thousands of people seeking to exercise their human rights. Events in that country had shaken the conscience of the international community. In proclaiming martial law, the Polish military Government had stated that it had been acting in the best interests of the country; yet it had been unable to accommodate the aspirations of ordinary Polish citizens who had been seeking peacefully to participate more effectively in the decisions which affected their lives. There was a sizable Polish community in Australia which shared the basic Australian instinct to give everyone a fair opportunity to express his aspirations. Australia could only look with distress at the resort to military means to defend a form of government which claimed to draw its authority from the wishes of working people.

55. Poland was a party to the International Covenant on Civil and Political Rights; in accordance with article 4 of that Covenant, the Government of Poland had announced the derogation of its obligations to respect some of the rights contained in the Covenant. Such derogation, however, could be made only in time of public emergency which threatened the life of the nation. It was difficult to believe that the establishment of trade unions and the development of a genuine process of consultation could ever constitute such a threat. It was a matter of great regret that there had been no sign from the Polish Prime Minister that he was prepared to fulfil his earlier undertaking to allow a genuine restoration of reform in Poland. He had therefore a heavy responsibility not only to his own people but to the international community, since the continuing imposition of martial law gave rise to potentially grave consequences for East-West relations and for international stability.

56. The Australian Government condemned the continuing violation of human rights and civil liberties which martial law had brought to Poland. The international community could not, and would not, remain indifferent to the suppression of the courageous attempts of the Polish people to give expression to their just and natural aspirations. As the Australian Prime Minister had pointed out on 26 January 1982, "because they dared to try to obtain for themselves some small part of the freedoms which we take for granted, the Polish people are now suffering unbelievable hardship and repression under martial law". Australia called for the lifting of martial law, the release of detainees and the early return to circumstances in which the people of Poland could be free to find their own solutions to their internal political and economic difficulties.

57. Under agenda item 20, his delegation had already expressed concern at the evidence of persecution of the Baha'i community in Iran. Since then, it had heard the explanations of the observer for Iran. Reports from the country itself, however, suggested that there was no lessening of the serious violations of the human rights of that minority. While recognizing that Iranian society had suffered intolerable stress in recent years, his delegation must register its concern at the continuing instances of the violation of human rights of Iranians and express its hope that the Commission, at the present session, would find appropriate means to encourage the full observance of human rights for all citizens in Iran, in accordance with that country's international obligations. His delegation therefore strongly supported the draft resolution on the subject.

58. With regard to the situation in Latin America, his delegation was extremely disappointed at the failure of the Secretary-General's efforts to establish contact with the Government of Guatemala. The report on that country (E/CN.4/1501) proved beyond doubt that major violations of human rights had occurred and were occurring there. His delegation appealed to the Government of Guatemala to co-operate with the Commission with a view to putting an end to human rights violations.

59. As to El Salvador, his delegation supported the recommendations in the relevant report (E/CN.4/1502) calling upon the Government of that country to repeal all legal enactments which were incompatible with international human rights standards, to exercise effective control over all members of the armed and security forces, and to adopt all appropriate legal measures to prevent human rights violations and to punish those responsible for past violations. His delegation was deeply concerned at the loss of life and human suffering in

El Salvador and welcomed the elections due to be held on 28 March 1982, hoping that they would contribute in due course to peace and stability.

60. In relation to Bolivia, his delegation welcomed the indication of improvements in the Special Envoy's report (E/CN.4/1500).

61. His delegation hoped that the Commission could take action at the present session on the question of summary executions, a practice which had been resorted to on an increasing scale in various parts of the world. On another plane, the Commission had a special responsibility to defend those who sought to advance the purposes and principles of the United Nations in the area of human rights. It was incumbent upon the Commission to ensure that such activity on the part of individuals and groups could be undertaken freely and without hindrance in every part of the world.

62. Mr. REPSDORPH (Denmark) recalled that, in previous statements, his delegation had stressed that human rights must be understood as rights which belonged to the individual and which must be respected by the authorities. With regard to agenda item 12, the primary task of the Commission should be to take action on violations of the integrity of the individual, no matter where they occurred. He had in mind such acts as torture, inhuman and degrading treatment of prisoners and detainees, summary or extra-legal executions and persecution on ideological or religious grounds. Such violations were unfortunately taking place in defiance of the solemn undertaking of all the States Members of the United Nations to promote and respect human rights. The international community had at its disposal precise texts that were universally accepted, on the basis of which the Commission should work for the recognition and observance of human rights everywhere, irrespective of political systems.

63. Since his delegation had already expressed its views on a number of serious human rights violations dealt with under other agenda items, its remarks at the present stage would be confined to questions normally dealt with in the context of the item under consideration.

64. With regard to the human rights situation in El Salvador, the Danish delegation thanked the Special Representative for the conscientious and objective way in which he had discharged his mandate. His report (E/CN.4/1502) was a shocking and tragic document: it revealed a consistent pattern of gross violations of civil and political rights involving murders, mass killings, cases of torture, cruel, inhuman and degrading treatment, abductions and disappearances. The report noted that the bulk of those violations had been perpetrated by members of the State apparatus and violent groups of the extreme right. It also noted that terrorist acts against public and private property were mainly due to guerrilla groups. The Danish Government condemned all those responsible for the continuing atrocities and violations of human rights and urged the Government of El Salvador to take the necessary steps to ensure full respect for human rights.

65. The report made it clear that the situation in El Salvador had its roots in internal political, economic and social factors. It was essential to find a solution of peace and social justice in which human rights were recognized. The people of El Salvador had the right to determine their own future democratically and free from outside interference. His delegation believed that all political forces in the country should participate in the solution of its problems.

66. In Guatemala, the situation was getting worse, as shown by the information collected by the Secretary-General (E/CN.4/1501). There was evidence of massive killings perpetrated by elements of the security forces and armed extremists, an increase in the numbers of disappearances and kidnappings, torture and summary and extra-legal executions. One of the underlying causes of that situation was the fact that the great majority of Guatemalan people did not exercise economic, social and cultural rights. Justified demands for reforms had been met by repression. The political opposition had been one of the main victims of illegal executions and disappearances. The régime in power was obviously trying to frighten the population into submission. His delegation urged the Government of Guatemala to take the necessary steps to prevent violations of the right to life and to put an end to the participation of Government authorities and paramilitary groups in violence and terrorism.

67. The right to life was the most fundamental of human rights. The use of summary and extra-legal executions was unfortunately not confined to El Salvador and Guatemala. As stated by the representative of Amnesty International, over 3,000 executions had taken place in 1981, of which three quarters had been carried out in cases where the political activities of the victims had been involved. In Iran, there was evidence that the courts which handed down death sentences lacked the most elementary safeguards for a fair trial and that prisoners had frequently been executed almost immediately after imposition of the sentence. The number of prisoners executed in Iran over the past two years was very high and included some very young people. The Danish Government was deeply concerned about those developments which contravened the relevant provisions of the International Covenant on Civil and Political Rights, which had been ratified by Iran.

68. The Danish Government had already approached the Government of Iran on the question of members of the Baha'i community in Iran - a group which had been systematically persecuted. There could be no justification for the serious violations of human rights of that or any other group of persons of Iran and he reiterated his delegation's appeal to the Government of Iran to respect the internationally accepted human rights standards.

69. His delegation was also greatly concerned about situations in which measures were being taken against individuals or groups simply because they were defending the cause of human rights. Although both the Universal Declaration and the International Covenants on human rights recognized the right of the individual in the promotion and execution of human rights, in a number of countries courageous proponents of human rights were being silenced. His delegation had already commented on the plight of such persons in Chile. In recent years, the same phenomenon had been observed in the Soviet Union and other East European countries, where persons had been prosecuted and sentenced to imprisonment simply for demanding that their Government should honour its international commitments in the human rights

area. In a number of cases defenders of human rights had been exiled with no prospect of return to their own country. The Commission should deplore those practices and consider ways of ensuring that the defenders of human rights received the support and protection of the international community.

70. Another cause of concern to his country was the situation in Poland, where widespread violations of human rights had been occurring since the imposition of martial law on 13 December 1981. The use of force against Polish workers, the deaths that had followed, the thousands of internments and harsh prison sentences all bore witness to the fact that the Polish people had been deprived of their rights and freedoms, in particular their trade union rights, in contravention of the Charter, the Universal Declaration, and the International Covenants on human rights.

71. His delegation accordingly felt that the situation in Poland should be taken up in the Commission and had co-sponsored draft resolution E/CN.4/1982/L.27, in which the Commission would request the Secretary-General to undertake a thorough study of the human rights situation in Poland, and present an interim report to the Economic and Social Council at its first session in 1982 and a comprehensive report to the Commission at its thirty-ninth session. The Danish delegation hoped that the Government of Poland would, in that connection, extend its co-operation to the Secretary-General or the person designated by him.

72. The human rights situation in Turkey gave cause for concern and his Government had on a number of occasions expressed anxiety on that score. Together with other countries, it was actively considering how the matter could most effectively be pursued in a European context. At present, therefore, it would refrain from commenting in the Commission on the situation in Turkey.

73. In conclusion, he stressed that the lack of positive response by certain Governments to the international concern aroused by their actions, although regrettable, should not discourage the Commission. Human rights were of universal application and without the co-operation of all concerned in the international community tangible results would not be achieved. His delegation continued to work for the attainment of such co-operation and for the progressive achievement of human rights throughout the world.

74. Mr. LOPATKA (Poland) said that the delegations of certain NATO member countries had raised in the Commission the question of the present internal situation in Poland; their statements, as well as the draft resolution contained in document E/CN.4/1982/L.27, constituted an expression of the present policy of the President of the United States of increasing tension in international relations. The representatives of those countries had repeated a number of slanders about the situation in Poland, as well as many completely false interpretations; their unfounded allegation of widespread violations of human rights in Poland merely reflected an invention of the United States Government and bore no relation to the actual situation in his country.

75. For a number of years, Poland had been experiencing an economic and social crisis caused by the misguided economic policy of the former leaders of the country. Its main features had been an imbalance between the prices of goods and wage levels, certain injudicious investments and exorbitant indebtedness towards the Western countries.

76. The Polish working class had opposed that policy. That opposition had found expression first in strikes and then in the setting-up of new trade unions. The socialist rebirth had begun. That necessary and desirable process had, however, been increasingly abused by the adventurist right wing. The extremists within Poland had been subsidized and encouraged by Western reactionary circles; Poland had been heading towards civil war. In order to stop that dangerous process and ensure the continuation of the socialist rebirth, the Polish authorities had adopted exceptional and effective measures: on 13 December 1981 a state of war had been proclaimed.

77. That proclamation was a purely internal affair of Poland. Consequently, in accordance with Article 2, paragraph 7, of the Charter, the Organization had no authority to intervene in the matter and Poland was not under any obligation to submit a case of that type to the procedures of the Commission. A state of war had been proclaimed in Poland in conformity with the provisions of the Polish Constitution and of international law. There had been no coup d'état in Poland; all the constitutional organs, including Parliament, were functioning normally.

78. The State Council - the collegiate executive authority of Poland under article 33 of its Constitution - was the sole competent organ in the matter. It could proclaim a state of war over all or part of Polish territory if so required by considerations of defence or security of the State. As pointed out on numerous occasions by the Polish Government, the proclamation of a state of war had been dictated by a state of urgent necessity created by the undermining of State functions and the danger of bloodshed and civil war. The sovereign decisions taken on 13 December 1981 were in the basic interest of the Polish nation and had prevented an internal conflict whose international consequences could have been much graver. They protected the right to life, which was the most fundamental human right.

79. The present situation in Poland did not constitute a threat to any other State or person in Europe or elsewhere. A return to normal and organized social and economic life was now taking place and it was possible to relax gradually the limitations resulting from the state of war, which would be brought to an end as soon as the situation permitted.

80. In its policy, Poland was guided by the interests of the Polish nation, its sovereignty, its independence and its security, as well as by its devotion to peace and to co-operation among peoples. It was strengthening its friendship and co-operation with the Union of Soviet Socialist Republics and the other socialist States and would continue to base its relations with States having a different social system on the principles of peaceful coexistence and co-operation.

81. On 25 January 1982, the Polish Diet had approved the decrees issued by the State Council on the proclamation of the state of war and had recognized the necessity for that proclamation as representing a lesser evil than confrontation and bloodshed, acknowledging that it created conditions for a return to normality. There could be no more competent judge of the situation than the Diet, which was the supreme representative of the Polish people and the depositary of the Nation's sovereignty. In that connection, he wished to remind the Netherlands representative that the issue under discussion was one solely for Poland and for the Polish people, which did not need instructions in the matter from anyone.

82. Like all other States Members of the United Nations, Poland had an inalienable and exclusive right to determine its own path to social, political, economic and cultural development and to adopt legislation to safeguard the fundamental interests of the State and the nation. His delegation was convinced that all members of the Commission would refrain from any interference in the internal affairs of Poland on the pretext of alleged human rights violations.

83. The Polish authorities had stressed that the restrictions in question were provisional in character. Their only purpose was to eliminate existing dangers and to enable the country to overcome a grave crisis by its own means. Those restrictions would be lifted as and when the situation stabilized. The objective of the authorities remained unchanged, namely, the implementation of essential reforms, the continuation of the process of political, social and economic renewal begun in August 1980, and the consolidation of socialist democracy on the basis of joint action by all patriotic forces.

84. A number of limitations had in fact been lifted very recently. Thus, all the restrictions imposed on foreign embassies, missions and consulates had been abolished, as had the limitations imposed on the movement of persons in Polish territory. Air communications with other countries had been restored and most of the restrictions imposed on the right of assembly had been terminated. The process of releasing interned persons was continuing. The principles of trade union legislation had been proclaimed and it was proposed to end shortly the suspension of the activities of trade unions and of worker self-management bodies.

85. The action taken by the Polish authorities on 13 December 1981 was fully in conformity with international law and, in particular, with the International Covenant on Civil and Political Rights, which Poland had ratified. In accordance with article 4 of that Covenant, the Polish Government had informed the Secretary-General of the temporary suspension, or rather the limitation, of the application of certain articles of the Covenant. That information had been conveyed orally by the representative of the Polish People's Republic on 14 December 1981 and confirmed in writing on 29 January 1982.

86. The decisions in question were justified in view of the exceptional public danger which had existed and their scope was strictly confined to the requirements of the situation. They were thus not incompatible with Poland's obligations under international law. They did not give rise to discrimination based on race, colour, sex, language, religion or social origin. Accordingly they did not constitute a breach of articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 or 18 of the International Covenant on Civil and Political Rights. They were of a purely provisional and temporary character. Poland was honestly abiding by the requirements of international law. It was therefore entitled to require other States to do likewise and refrain from exceeding the limits laid down by international law, and in particular the Charter of the United Nations.

87. The baseless accusations of the delegations of the United States and some other NATO countries did not proceed from any real concern for human rights; they merely showed the dissatisfaction of the United States Government with the continued stabilization in Poland. With the aid of its allies and friends, Poland would continue to oppose the attempts of certain Western circles to interfere in the internal affairs of sovereign States, as well as all attempts to make use of the events in Poland in order to complicate the international situation and hamper the social and economic development of Poland. At the same time, Poland took note of the actions of the non-aligned States and of certain Western States, whose Governments had shown a realistic spirit and an understanding of the position in Poland.
88. The hysteria generated in connection with the internal affairs of Poland also constituted an attempt to divert attention from the political situations in the Near East, South Africa and Central America, which represented a danger to international security and where human rights were being constantly and massively violated.
89. The so-called economic, financial and other sanctions against Poland were directed against the national interests of his country and could not but increase the difficulties of normalization and aggravate the crisis. They could only harm all the States concerned in the development of international economic relations. Those sanctions were in direct contrast with the help given to Poland by the USSR and other socialist countries and with the peaceful and friendly relations of Poland with a great many countries, regardless of social and economic systems.
90. The behaviour of the Government of the United States and of certain NATO countries towards Poland was incompatible with the Charter and other human rights instruments. In that context, he wished to recall General Assembly resolution 36/103 of 9 December 1981 embodying the "Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States", which declared the observance of that principle "essential to the fulfilment of the purposes and principles of the Charter of the United Nations". That Declaration stated the duty of all States "to abstain from any defamatory campaign, vilification or hostile propaganda for the purpose of intervening or interfering in the internal affairs of other States". Poland had been for a number of weeks precisely the victim of such a defamatory campaign.
91. That Declaration also stated the duty of all States "to refrain from the exploitation and the distortion of human rights issues as a means of interference in the internal affairs of States, of exercising pressure on other States or creating distrust and disorder within and among States or groups of States". The delegation of the United States and some of its allies in their relations with Poland thus stood directly condemned by the General Assembly.
92. His delegation expressed its steadfast opposition to any debate in the Commission on the internal affairs of Poland - a debate which would be illegal and contrary to the Charter. His delegation also opposed the draft resolution contained in document E/CN.4/1982/L.27, which was unfounded and ignored the procedures established by the relevant Economic and Social Council resolutions.

It also ignored the fact that Poland was a party to the International Covenant on Economic, Social and Political Rights, article 40 of which made provision for a reporting procedure on measures to give effect to the rights recognized in the Covenant. Those procedures, being special, prevailed over the general procedures applicable before the Commission. The draft resolution represented an attempt to misuse human rights for political purposes prejudicial to international co-operation. Once again, the Commission was confronted with the well-known double standards used by certain States.

93. In conclusion, he stressed that there was no need to encourage the Polish Government to take measures for the promotion and protection of human rights. The Polish Government was dedicated to the protection of human rights and applied all appropriate measures to ensure the optimum enjoyment by its people of those rights and freedoms.

The meeting rose at 9 p.m.