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SUMMARY RECORD OF THE 6th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 2 February 1989, at 3 p.m.

Chairman: Mr. BOSSUYT (Belgium)

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at this session will be consolidated in a single corrigendum, to be issued
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The meeting was called to order at 3.10 p.m.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (E/CN.4/1989/13, 14, 52 and 53; A/43/735)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the agenda item, said that one of the purposes of the United Nations, as set out in article 1 of the Charter was to "develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples". Accordingly, one of the Organization's principal contributions to respect for human dignity had been to promote the genuine achievement of self-determination of peoples throughout the world. Although the Universal Declaration of Human Rights did not refer specifically to the right to self-determination as a human right, it was clearly set forth in the first article of each of the two International Covenants on Human Rights.
2. With regard to the work of the Commission itself, which had been dealing with the issue since 1975 on the basis, inter alia, of two important reports prepared by the Special Rapporteurs of the Sub-Commission, and it was encouraging to note that the author of one of the reports on self-determination, Mr. Gros Espiell, was currently the Secretary-General's Special Representative on the Western Sahara.
3. By resolution 1988/3, the Commission had, at its forty-fourth session, with respect to agenda item 9, reaffirmed the inalienable right of the Palestinian people to self-determination without external interference and the establishment of their independent and sovereign State on their national soil, and their inalienable right to return to their homeland and to their own property.
4. By its resolution 1988/4, the Commission had called for a political settlement of the situation in Afghanistan on the basis of the withdrawal of foreign troops and full respect for the independence, sovereignty, territorial integrity and non-aligned status of Afghanistan, with strict observance of the principle of non-intervention and non-interference. The Commission had urged continued co-operation with the Secretary-General in his efforts to promote a political solution in that country and had appealed to all States and national and international organizations to extend humanitarian relief assistance to the Afghan refugees.
5. By resolution 1988/5, the Commission had reaffirmed that the question of Western Sahara should be resolved on the basis of the exercise by the people of their inalienable right to self-determination and independence, and that its solution lay in the implementation of resolution AHG/Res.104 (XIX) of the Assembly of Heads of State and Government of the Organization of African Unity (OAU). It had decided to follow the development of the situation in that region and to consider the matter at its forty-fifth session under the heading of agenda item 9.

6. By resolution 1988/6, the Commission had repeated its condemnation of the persistent occurrence of gross and flagrant violation of human rights in Kampuchea and reaffirmed that the continuing illegal occupation by foreign forces deprived its people of their right to self-determination. It had decided to accord the situation high priority at its forty-fifth session. That resolution had been endorsed by the Economic and Social Council in its decision 1988/143.

7. By resolution 1980/8, the Commission had called upon all States to implement fully and faithfully the resolutions of the United Nations, in particular General Assembly resolution 1514 (XV), and to take all necessary steps to enable the dependent peoples of southern Africa to exercise fully and without further delay their inalienable right to self-determination and independence. It had reaffirmed the inalienable right of the people of Namibia to self-determination, freedom and national independence in a united Namibia, and the legitimacy of its struggle against the illegal occupation of its territory by all means at its disposal.

8. It had also reaffirmed the legitimacy of the struggle of the oppressed people of South Africa and their liberation movements, by all available means, to eliminate the apartheid system and to achieve self-determination.

9. It had once again emphasized that the continuation of colonialism in all its forms was incompatible with the Charter of the United Nations, the Universal Declaration of Human Rights and the Declaration on the Granting of Independence to Colonial Countries and Peoples, posing a serious threat to international peace and security. It had decided to give the matter high priority at its forty-fifth session.

10. The Commission might wish to take note of resolution 1988/7 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fortieth session, in which it appealed to the international community to support the parties concerned in their efforts to achieve Namibian independence in accordance with Security Council resolution 435 (1978). Also relevant to the agenda item in question were General Assembly resolutions 43/105 and 43/106.

11. At its forty-third session, the Commission had appointed a Special Rapporteur to examine the question of the use of mercenaries as a means of violating human rights and of impeding the exercise of the right of peoples to self-determination. At its forty-fourth session, it had decided to extend by two years the mandate of the Special Rapporteur on the question of mercenaries. The Special Rapporteur had submitted a preliminary report (A/43/735) to the General Assembly at its forty-third session, through the intermediary of the Economic and Social Council, which had approved the Commission's resolutions on the subject by its decisions 1988/126 and 1988/129.

12. General Assembly resolution 43/107 had commended the Special Rapporteur, noting, in particular, his preliminary conclusions and recommendations. At its current session the Commission had before it both the report of the Special Rapporteur to the General Assembly and an additional report bringing the situation up to date.

13. Mr. BERNALES BALLESTEROS, Special Rapporteur on the question of the use of mercenaries, introducing his report (E/CN.4/1989/14) supplementing the preliminary report he had submitted to the General Assembly at its forty-third session (A/43/735), said that his contacts with member States, United Nations bodies and international organizations, recognized national liberation movements, non-governmental organizations in consultative status with the Economic and Social Council, and experts on the subject had shown that, in spite of repeated condemnations of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, such practices had not yet disappeared. Mercenaries appeared to be involved in various armed conflicts, particularly undeclared wars, involving intervention in the internal affairs of States, affecting self-determination and bringing about the destabilization of lawfully constituted Governments. Mercenary activities had also eroded universally recognized rights, such as the right to life, freedom and security, causing untold damage in the areas concerned.

14. In view of the unanimous rejection of such a harmful practice that had emerged from the information received, efforts should be made to adopt positive measures to help bring it to an end. Accordingly, national legislation should penalize offences connected with mercenarism, and the work done by the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries should soon be crowned by the adoption of its text by the General Assembly.

15. An attack on the Government of Maldives in November 1988 had, according to press sources, involved Tamil mercenaries from Sri Lanka. Since any recurrence of that event was likely to create disturbances in the region, the Special Rapporteur had requested relevant information from the Governments of India, Maldives and Sri Lanka.

16. His two main activities in 1988 had been visits to Angola and Nicaragua, at the invitation of their respective Governments, to verify reports on mercenary activities affecting national sovereignty and self-determination. With regard to Angola, he had concluded that the country had indeed suffered attacks on its territory, its installations and population, which had involved the participation of mercenaries. His report indicated that the Government of Angola, the South West Africa People's Organization (SWAPO) and the African National Congress (ANC) all held the South African Government responsible for recruiting, financing and using mercenaries to attack their respective peoples. Furthermore, he had concluded that the mercenary activities were directly linked with the unlawful occupation of Namibia, and with the conflicts between South Africa and UNITA on the one hand, and the Government of Angola, on the other. Elimination of the problem would, therefore, require détente in the region and peace agreements guaranteeing the self-determination, sovereignty and territorial integrity of the parties to the conflict.

17. He had recommended that the Government of South Africa should be notified of the complaints made and that strong support should be given to the negotiations between Angola, Cuba and South Africa. Fortunately, those negotiations had produced a peace agreement that should guarantee the independence of Namibia and respect for the sovereignty, self-determination and integrity of the States of the region.

18. The current report (E/CN.4/1989/14), which focused largely upon his visit to Nicaragua, was necessarily a preliminary one, given the complexity of the matter, the deadlines involved, and the need both to collect further information and to take account of the views of the other States concerned. It covered the various aspects of his visit and set out evidence that had been provided concerning mercenary activities in Nicaragua.

19. The Nicaraguan Government itself held the view that it had been the victim of external, economic and military aggression, designed to bring it down, and that the United States Government was responsible for open intervention in violation of international law and conventions. It regarded the contras as a mercenary force, including Nicaraguan nationals, that had been set up with external support to attack Nicaragua, and pointed to a number of factors attesting to foreign intervention and to the use of mercenaries. The Special Rapporteur had quoted various texts, particularly the judgement of the International Court of Justice, which the Government itself claimed supported its own viewpoint, namely, that the United States had breached customary international law which provided for the obligation not to intervene in the internal affairs of other States, and that the contra forces were essentially mercenary in nature.

20. The report provided a number of observations that would provide a useful basis for analysis of the information received and for the eventual formulation of conclusions and recommendations. The regional conflict was analysed in relation to the principles of non-intervention and self-determination, and mercenarism was shown to exist in that context, taking account of the relevant international instruments.

21. Conclusions were based on a number of objective factors: an extensive armed conflict existed in which external aid was a major consideration, the contra forces were receiving that aid, and the International Court of Justice had passed judgement to the effect that the United States had violated the obligation under customary international law not to intervene in the internal affairs of other States. He had also concluded that the basic human rights of the Nicaraguan people had been affected by the conflict, and that the Nicaraguan Government's view that the contra forces were mercenary was inconsistent with the definition laid down in article 47 of Additional Protocol I to the 1949 Geneva Conventions. Nevertheless, the military and paramilitary forces in Nicaragua included foreigners who could be termed "mercenaries". Lastly, the Esquipulas II Agreement represented a landmark, providing for the achievement of regional co-operation through political means.

22. The report contained three recommendations in that regard. The first recommended the reaffirmation of the right of Nicaragua and other countries in the Central American region to non-interference, self-determination and full sovereignty, and the promotion of a peaceful, negotiated solution. Secondly, it was recommended that the Commission should seek the views of the United States with regard to the accusations made by Nicaragua, and, thirdly, vigorous support should be given to the peaceful solution outlined in the Esquipulas II Agreement and other measures promoting durable peace, based on mutual respect, friendship and co-operation.

23. Final conclusions would be set out in later reports, after further analysis and consideration of the views of all those concerned. He hoped to be able to complete his work in the course of the current year.

24. Mr. JAEGER (Federal Republic of Germany) said that the right to self-determination had become a cornerstone of the order that the United Nations upheld. That right, however, implied not just freedom from colonial and foreign domination but also the right of all peoples freely to determine their political status and pursue their economic and cultural development, as reflected in the International Covenants on Human Rights. Pursuant to those instruments, the right to self-determination was indivisible from the individual's right to take part in the conduct of public affairs. Exercise of the right to self-determination required the democratic process, which meant the full exercise of human rights such as freedom of thought, conscience, religion and expression, peaceful assembly and association, participation in cultural life, liberty and security of person and freedom to move in one's country, to leave any country, including one's own, and to return to one's country. A society that denied its members such individual rights pursuant to the Covenants was denying its people the right to self-determination.

25. That right was threatened in many ways. It was threatened from within when States - often those claiming to champion the right to self-determination - violated or abolished democratic freedoms at home. It was also threatened from without, by military intervention, new forms of dependence and new policies of hegemony. The right to self-determination was of central importance to human-rights issues within the United Nations system, and the Commission had not only the right but the obligation to address all situations in which it was violated. Despite the many instances in which that right had been achieved since the Organization's foundation, there were still situations in which the right was denied or abused and the independence of States impaired.

26. In Namibia, independence and self-determination for its people had come a good deal closer; his Government supported the earliest possible establishment of Namibian independence on the basis of Security Council resolution 435 (1978) and thus welcomed the trilateral agreement concluded by South Africa, Angola and Cuba. It also supported the Palestinian people's right to self-determination, which should be given effect within the framework of a peace settlement for the Middle East to guarantee the right of all the region's States, including Israel, to exist within secure borders. With regard to Afghanistan, it was hoped that the Soviet troop withdrawal would permit a new political start leading to the full restoration of the Afghan people's right to self-determination. In Kampuchea, the continued presence of Vietnamese troops violated the Khmer people's right to self-determination; his Government therefore urged Viet Nam to withdraw all its troops promptly and unconditionally.

27. In Europe, too, the right to self-determination was not everywhere exercised. The German nation remained divided against its will. Just as the Federal Republic of Germany supported peaceful attainment of the right of peoples to self-determination everywhere, it remained committed to its aim of working for a state of peace in Europe in which the German nation would regain its unity through free self-determination.

28. One of the United Nations aims which his Government fully supported, was to develop friendly relations among nations based on respect for the principle of equal rights and self-determination. Only on that basis could universal peace be built. Peaceful achievement of the right to self-determination of all peoples was a cornerstone of his country's policy; world-wide respect for that right and the full implementation of human rights were the only reliable foundation on which peace could be built.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1989/2-E/CN.4/Sub.2/1988/38, E/CN.4/1989/4, 5 and 6; E/CN.4/1989/NGO/26 and 27; A/43/694 and 806)

29. Mr. AL-FARSY (Observer for Oman) emphasized the importance of three essential rights: the right of return to one's homeland, the right to self-determination without external interference, and the right to independence in a sovereign State. Expressing their firm belief in those principles and their aspirations to establish an independent Palestinian State, the unarmed Palestinians had, for over a year, been conducting their uprising (intifadah) against the heavily-armed Israeli occupying forces. Israel continued to challenge international conventions and laws at a time when the world as a whole welcomed the creation of the Palestinian State and the Palestine National Council's call for the establishment of a just peace for all those concerned.

30. There had been a serious escalation in violent and repressive practices on the part of the Israelis, such as the burying alive in their houses of people who resisted them, and the shooting and imprisonment of men, women and children. Such action unmasked Israel's spurious democracy and revealed its true face. Its violation of all human-rights resolutions and recommendations and its flouting of the Universal Declaration of Human Rights constituted a challenge to mankind as a whole. In accordance with Article 56 of the Charter of the United Nations, the international community should bring to an end the suffering of the Palestinian people and make Israel recognize their rights.

31. As the conscience of the international community, the Commission should assume special responsibility in that regard, adopting appropriate measures consistent with the aspirations of the Palestinian people, particularly since their drive for liberation has received world-wide support and Israel itself was becoming increasingly isolated.

32. In addition to Security Council resolutions 605, 607 and 608 (1987), General Assembly resolution 43/21 of 3 November 1988 had also provided proof of international opposition to the occupation and the support of international public opinion for the Palestinians.

33. Mr. LAMBERT (Parliamentary Association for Euro-Arab Co-operation) said that his organization wished to submit to the Commission a list of human-rights violations committed by the Israeli occupying forces in Palestine during the first year of the people's uprising, from 9 December 1987 to 8 December 1988. All the members of the International Co-ordination Committee for NGOs on the Question of Palestine felt that there could be no comparison

between the Palestinians' resistance against their oppressors and the terror waged by the Israelis as a government policy. The deeds carried out pursuant to that policy ranged from the closure of educational and humanitarian institutions to the use of live ammunition, plastic bullets and toxic gases, as well as measures such as illegal arrest, physical ill-treatment, collective punishments, destruction of houses and crops, curfews, night raids on homes, expulsions and the arrest of journalists, lawyers, doctors and teachers, all with the aim of destroying the Palestinians' entire social infrastructure.

34. On 19 January 1988, the Israeli Minister of Defence had said that the first priority was to use force, power and blows; he had even declared, during the summer of 1988, that the purpose of using plastic bullets was to pick off ringleaders deliberately before demonstrations grew violent. That statement and a number of others by high-ranking Israeli officials, quoted in the press, had clearly provided the so-called technical grounds for the deeds of the occupying armed forces. In November 1988 the Minister of Defence had also said, referring to the forthcoming nineteenth session of the Palestine National Council at Algiers, that Israel would deem null and void any resolutions it adopted.

35. There had been protests by eminent Israelis, however, against their Government's systematic policy of repression; many of them, matching words with deeds, had held demonstrations, visited afflicted villages and undergone imprisonment for refusing to do military service in the occupied territories. Such courageous deeds were a reminder that human rights had their defenders in Israel - a sign of hope for a future of reconciliation and peace. One example was a former Minister for Foreign Affairs of Israel who had reproached those among Israel's friends and in Israel itself who sought to portray that country as a poor, helpless nation. He thought that Israel should observe the relevant Security Council resolutions and withdraw from the occupied territories in exchange for peace - a step which it was strong enough to take.

36. The details in the submitted list of violations, horrific as they were, could all be proved, although certain figures might not be exact because the Israeli army's habit of imposing military rule on areas at a moment's notice made close monitoring difficult.

37. In view of all the suffering involved, the Commission should once again condemn the flouting of the Universal Declaration of Human Rights and the Geneva Conventions, in the hope that the pressure of world public opinion would induce the Israeli authorities to desist from their acts of repression in the occupied territories so as to pave the way for a negotiated peaceful settlement of the conflict between Israel and Palestine.

38. Mr. GIACOSA (International Youth and Student Movement for the United Nations) said that he felt obliged to testify to the repression suffered by many young people and students in the occupied territory of Palestine, the majority of them members of the General Union of Palestinian Students (GUPS), an affiliate of his Movement. Many of them had suffered beating, arrest, imprisonment and other forms of ill-treatment, solely because they had demonstrated in the cause of justice, freedom and the right to self-determination. The toll included over 550 deaths and 45,000 injured.

39. Educational institutions had not been spared the repression, many having been closed. All of them, including the major Islamic, Christian and secular universities, which accounted for over 10,000 students all told, had been forced to struggle under severe handicaps such as censorship, restrictions on the movement of students and teachers, house arrest, administrative detention and expulsion, as well as faculty closures, at times for months on end. Since the intifadah began, the higher education institutions in the occupied territories had been closed; as a result, over 10,000 Palestinian students had been deprived of education for over a year, in violation of the right to education set forth in articles 26 and 27 of the Universal Declaration of Human Rights and endorsed in other international instruments.

40. Primary and secondary schools had suffered too. Those of the West Bank and Gaza Strip had been closed for varying periods throughout 1988. And when further repressive measures were introduced at the beginning of 1989, all educational institutions had been closed indefinitely, thus depriving over 350,000 children and young persons of access to education. In addition, all research institutes of the West Bank had been closed by the Civil Administration in September 1988 and People's Committees had been declared illegal - further measures to prevent the holding of classes, thus revealing a systematic undermining of educational opportunity for the young generation of Palestinians. The Israeli Government's negative attitude was also reflected in its refusal to receive a UNESCO expert mission to study the situation in the occupied territories.

41. Of the deaths mentioned, most of the victims had been adolescents; 73 per cent had been killed by either live ammunition or plastic bullets and 18 per cent had died from tear gas fired indiscriminately inside dwellings despite the express prohibition of its use in enclosed spaces. The remainder had been victims of beating or electrocution. Some 7 per cent of the victims had died at the hands of armed Israeli settlers. The estimate of 45,000 wounded was arrived at from data obtained by various organizations, including the Palestinian Human Rights Campaign in the United States and from sources such as hospitals and inquiries in various townships and refugee camps.

42. Another unacceptable feature was the punishment of the arrested young persons' families; since the outset of the intifadah, over 280 dwellings had been demolished or sealed off. Other repressive measures included administrative detention, economic blockade, states of siege, destruction of crops and deprivation of public services and hospital treatment.

43. Israel's response to the PLO's offer of dialogue and negotiation had simply been to step up its repressive measures early in 1989, arousing protest even in the Israeli Parliament, where one speaker had declared that killing in order to punish or deter was utterly illegal.

44. It was essential to envisage a future of peace, mutual understanding and international co-operation. The youth of Palestine looked forward to such a future, which they could share within a new State of their own. All young Palestinians desired freedom from uncertainty and oppression, and that desire could not be quenched by closing educational establishments or by any other

repressive measure. He was convinced that the Commission would adopt a firm resolution under the current agenda item, in view of the grave situation in the occupied territories, so as to encourage the urgent convening of an international peace conference on the Middle East in accordance with General Assembly resolution 38/58C.

45. Mr. LEPRETTE (France) said that his Government was gravely concerned about the tension in the territories occupied by Israel; it had been expressing its concern about the violence in the West Bank and Gaza from the outset, and had on many occasions reminded the Government of Israel of its obligation under international law including the Geneva Convention of 12 August 1949, to do its utmost for the protection and safety of the population in those territories. His Government considered that Israel, the occupying Power, was continuing to contravene the international provisions relating to the protection of civilians in time of war, and had spoken out on many occasions against the alarming growth in the number of expulsions, administrative arrests and collective punishments such as the destruction of homes, as well as the use of plastic bullets. It had increasingly made representations to Israel, both alone and with its European Community partners, for an end to such practices.

46. His delegation fully subscribed to the proposals set forth by the Secretary-General in his report (S/19443) on the situation in the occupied territories, particularly those for the strengthening of humanitarian protection. France continued to contribute to the latter goal, both individually and through the European Community, and had increased its humanitarian assistance to the peoples in question, through UNRWA and other humanitarian bodies active in those territories. The international community had a duty to provide the International Committee of the Red Cross (ICRC) and UNRWA with the requisite means to carry out their missions and expand their activities in the West Bank and Gaza.

47. His delegation reiterated the overwhelming need for a political settlement to the Middle East conflict. Recent developments signalled a prospect of reaching such a settlement, and it was up to all parties to seize the opportunity of convening an international peace conference speedily, with the participation of all the parties concerned and the five permanent members of the Security Council. To that end France supported, nationally and as a member of the European Community, increased contact with those parties in order to narrow the differences, since such a conference seemed the most realistic way to arrive at a just and lasting political settlement; and it was in that light that the Commission should contribute, since the protection of human rights was an important element of the overall improvement to be sought in a situation which was becoming daily more reprehensible.

48. Mr. STRUYE DE SWIELANDE (Belgium) said that, after years of deadlock, positive events had recently taken place which made it possible to hope for a peaceful settlement to the Israeli-Arab conflict. The decisions taken by the Palestine National Council on 15 November 1988 and the opening of a dialogue between the United States and the PLO were welcome developments, but his Government was deeply concerned at the deterioration in the human-rights situation in the territories occupied by Israel since 1967.

49. His delegation, which attached great importance to the human rights of all human beings, considered that respect for human rights and international law was essential for the well-being of the populations of the occupied territories. Any violation of those rights could not but aggravate the tensions in the region. It was in that spirit that it wished to express once again its grave concern at the fact that the situation in those territories had worsened since the beginning of the uprising on 9 December 1987.

50. The report of the Secretary-General (A/43/806) and the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/43/694) referred to the lack of opportunity to engage in political activity, the systematic and prolonged imposition of curfews, arbitrary arrests, the unprecedented number of increase in detentions, collective punishment, expulsion, destruction of homes, confiscation of lands, the establishment of new settlements, the imposition of restrictive economic measures and the increasing number of civilians injured or killed following the abusive use of rubber bullets. While recognizing the need to restore public order, his Government considered that the brutality of the methods used could only aggravate the conflict.

51. His delegation appealed once again to the Israeli Government to renounce its interpretation of the Fourth Geneva Convention, to which Israel was a party, and to apply all the provisions in respect of the populations of the occupied territories.

52. According to the International Committee of the Red Cross (ICRC), Israel persisted in expelling Palestinian civilians. His Government congratulated ICRC once again on its activities in the region, which were frequently carried out in very difficult conditions. It was grateful to Israel for its co-operation with ICRC and hoped that such co-operation would be pursued and enlarged. In that connection, it paid tribute to UNRWA which for nearly 40 years, had been working untiringly to improve the situation of the Palestinian refugees.

53. His delegation condemned the perpetuation of the military occupation. In fact, such occupation was to be regarded only as temporary and gave no right of annexation to the occupying Power. It therefore continued firmly to condemn Israel's decision to extend its law, jurisdiction and administration to the Golan Heights, a measure which was illegal under international law.

54. The agitation in the occupied territories reflected the frustration and discouragement of their inhabitants. The violations of human rights taking place there showed that the status quo was no longer tenable. To prevent the situation from deteriorating still further, his delegation favoured a political settlement which could be achieved only through negotiations. An international conference, under the auspices of the United Nations and bringing together all the parties concerned, was the only means of finding a just, comprehensive and lasting solution to the Israeli-Arab conflict. Belgium and its European partners had expressed their support for that position in statements on 23 February 1987 and 21 November 1988.

55. In that connection, he wished to recall that his Government fully supported two principles universally admitted by the international community, namely the right to existence and security of all States in the region, including Israel, and the right of the Palestinians to self-determination.

56. His Government hoped that the Israeli authorities would put an end to the violations of human rights and international law in the Palestinian territories and in the other occupied Arab territories. It also hoped that Israel, as a free and democratic State, would contribute to peace in the region; that was an essential condition for the full respect of human rights and fundamental freedoms proclaimed by the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments.

57. Miss AL-TURIHI (Iraq), referring to the Special Committee's report (A/43/694), said that it also dealt with the special question of the intifadah, the current Palestinian uprising which had begun towards the end of September 1988 and which had involved loss of life and violence on an unprecedented scale.

58. The occupying Power had continued to commit acts of violence and to increase the number of troops in the territories. The Palestinians were living under siege conditions and, in that connection, she referred to the statement in the report (para. 621) that the responsibility of the international community was more manifest than ever and that urgent measures must be taken in order to prevent further deterioration of the situation. She stressed the responsibility of all Member States, which must respect the provisions of the Charter of the United Nations, the relevant resolutions of the General Assembly and the Security Council, the Universal Declaration of Human Rights, the Fourth Geneva Convention and, the International Convention on the Elimination of All Forms of Racial Discrimination.

59. Many resolutions of the General Assembly and the Security Council denounced the acts committed by Israel in the occupied territories, including the use of firearms by the Israeli army and settlers that resulted in the killing and wounding of defenceless Palestinian civilians, the beating and breaking of bones, the deportation of Palestinian civilians, the imposition of restrictive economic measures, the demolition of houses, collective punishment and detentions. Many of the victims were women, children and elderly persons. Special note should also be taken of paragraph 613 of the report, which also described the harassment and physical ill-treatment of civilian Palestinians.

60. The Arab nation had contributed to universal civilization and had preserved, inter alia, the heritage of Aristotle and Plato. However, the Palestinian people were currently fighting bullets with stones. At a time when the United Nations was preparing the draft Convention on the Rights of the Child, hundreds of children had been killed and thousands had been injured in the course of the uprising against the Israeli occupation forces.

61. In conclusion, she stressed the need for the international community to take urgent measures to prevent further deterioration of the situation and to ensure the exercise by the Palestinians of their inalienable right to set up their own independent State.

62. Mr. AHLUWALIA (India) noted that the Commission had been discussing the item under consideration since 1968. During that period, despite the increasing support of the world community for the recognition of the Palestinians inalienable right to self-determination, they had continued to be subjected to progressively higher levels of human-rights violations. The human-rights situation in the occupied territories had deteriorated dramatically since the recent uprising, which reflected the accumulated frustrations of the civilian population as a result of the persistent policy of annexation and colonization pursued in those territories by the Government of Israel.

63. His Government had always considered the struggle of the Palestinians to be part of the international historical fight against colonial rule and foreign domination. In that connection, he referred to the statement by the late Mrs. Indira Gandhi that India's sympathy for the Palestinian Arabs had been part of independent India's foreign policy from its very inception.

64. Under the provisions of the Fourth Geneva Convention of 1949 and the Hague Convention of 1907, Israel was an occupying Power. There could be no doubt that occupation in itself constituted a grave violation of the human rights of the civilian population of the occupied territories. In flagrant violation of its international commitments, the Government of Israel continued to behave as though the occupied territories formed part of the State of Israel. All other specific violations flowed from that essential factor; namely, the illegal annexation of part of the occupied territories, including Jerusalem. That was the reason for the imposition of Israeli law, jurisdiction and administration on the Syrian Golan Heights; the establishment of new settlements and expansion of existing ones; the expulsion, displacement and forced transfer of indigenous Arab inhabitants; the confiscation and expropriation of Arab territory; the physical displacement of historical sites; the ill-treatment and torture of detainees; the mass arrests and administrative detentions; the illegal exploitation of the natural wealth and resources of the territories; and the closure of educational institutions.

65. Israel was attempting to alter the geographical and physical character of the occupied territories and to change their institutional structure and legal status in order to stamp out the identity of the remaining inhabitants of the area. By depriving them of the means of development, Israel was trying to destroy the basis of their physical existence.

66. The Special Committee's report (A/43/694) presented a grim picture of the reality in the territories. Paragraph 620 of the report vividly portrayed the suffering of the entire Palestinian population as a result of the implementation by the Israeli authorities of the policy of "force, power and blows".

67. A just and durable solution to the Middle East problem could not be found without Israel's total and unconditional withdrawal from all Palestinian and Arab territories occupied by it since 1967, including Jerusalem, and without the exercise of the inalienable human rights of the Palestinian people to self-determination without external interference, the right to national independence and sovereignty and the right to establish an independent Palestinian State in Palestine.

68. Among the important developments that had occurred since the Commission's previous session, mention must be made of the proclamation on 15 November 1988 by the Palestine National Council of the independence of the State of Palestine. According to that proclamation, the State of Palestine was committed to the purposes and principles of the United Nations, the Universal Declaration of Human Rights and the policies and principles of non-alignment. Many countries, including his own, had immediately accorded recognition to the State of Palestine.

69. Another important development had been the General Assembly meeting at Geneva, on 13 December 1988, at which Yasser Arafat had made a statement regarded as a major contribution towards the achievement of a just, lasting and comprehensive peace in the Middle East. He had called upon the leaders of Israel to join him in supporting peace. The Indian Government commended the framework of the Palestinian peace initiative.

70. Unfortunately, there had not as yet been any encouraging response from the Israeli Government. On the contrary, flagrant violations of human rights by Israel in the occupied territories continued unabated. The responsibility of the international community was more manifest than ever, and urgent measures must be taken to prevent a further deterioration in the situation and ensure the effective protection of the basic rights of the civilians in the occupied territories. The crux of the issue was that the Palestinians should have a State of their own in their own homeland. Without self-determination for the Palestinians, there could be no peace in the area.

71. With regard to the position of his Government, he referred to the statement by the Prime Minister that India's support for the Palestinian cause was as unstinted as it had been consistent and that the most viable framework for a just, durable and comprehensive peace settlement was a United Nations-sponsored international conference with the participation of all parties concerned, including the PLO, the sole legitimate representative of the Palestinian people.

72. The people of the occupied territories expected a decision by the Commission which reaffirmed their right to establish an independent sovereign State. They expected the Commission to denounce the illegal Israeli practices of settling its nationals in the occupied Arab territories, including Palestine. They expected the Commission to contribute further to the efforts to bring pressure to bear on Israel and others who supported Israel in its actions towards a lasting solution. That was the only way in which the human rights of the Palestinian people could be ensured and that Arab refugees from the occupied territories could return to their homes.

73. The Palestinian people also expected the Commission to call upon Israel as the occupying power to put an immediate end to all repressive measures. The situation prevailing in the occupied territories, including Palestine, was completely contrary to established principles of international law, and more specifically, to the Universal Declaration of Human Rights.

74. On 15 December 1988, the General Assembly had acknowledged the proclamation of the State of Palestine by the Palestine National Council. However, the efforts of the United Nations could not end there and the Organization must bring to bear its authority upon the situation. Otherwise the moral foundations of the United Nations and the structure of the Commission itself would be severely impaired.

75. Mr. VILLARROEL (Philippines) said that his delegation was concerned to note from the various reports submitted to the Commission on the question of the violations of human rights in the occupied Arab territories, including Palestine, that there had been no discernable improvement in the human-rights situation in the territories. In fact, the situation had deteriorated and the acts of violence and aggression had escalated to unprecedented levels.

76. Since 1967, his Government had been advocating international recognition of the right of the Palestinian people to self-determination and independence. It deplored the unabated violence and increasing violations of human rights in the Israeli occupied Arab territories and it concurred with the conclusion reached by the Special Committee that the Israeli occupation constituted a basic violation of human rights.

77. However, his delegation was hopeful that recent positive international developments would help to bring about a comprehensive, just and lasting settlement to the Arab-Israeli conflict. In that connection, he referred to the shift from confrontation to co-operation between the United States and the Soviet Union and to the growing consciousness among Israelis that there in the occupied territories a nation was being formed. The historic meeting of the General Assembly at Geneva in December 1988 had been another constructive development in the long and difficult search for a political solution to the problem of Palestine. In his delegation's opinion, the moment seemed propitious for the convening of an international conference on the Middle East, on the basis of the terms set out in General Assembly resolution 43/176.

78. In conclusion, he said that his delegation would continue to press for the full application by Israel of the relevant provisions of the Fourth Geneva Convention. It would also continue to advocate the withdrawal of Israeli forces from the occupied territories and to defend the right of the Palestinian people to self-determination and independence.

79. Mrs. ILIĆ (Yugoslavia) said that numerous reports from different sources had confirmed that the Government of Israel was continuing to pursue its policy of occupation and annexation and to violate the human rights of the civilian Arab population in the occupied territories, in flagrant violation of the Fourth Geneva Convention and in complete disregard of United Nations resolutions.

80. The information contained in the Special Committee's report (A/43/694) reflected the dramatic deterioration in the human-rights situation in the occupied territories since the beginning of the intifadah. Measures must be taken to halt Israel's gross violations of the human rights of Palestinians.

81. The Commission's deliberations on that subject were marked by a year-long uprising of the Palestinian people against the Israeli occupation and the proclamation of the State of Palestine by the Palestine National Council at Algiers. Yugoslavia had officially recognized that proclamation, which was the expression of the aspirations of the Palestinian people to decide freely and independently on its destiny.

82. The uprising of the Palestinian people had dispelled illusions that, with the passage of time, the situation created by the Israeli occupation would be legitimized. At the same time, the intifadah was a warning sign that postponement of the solution of the Middle-East crisis and the question of Palestine posed a serious threat of an outbreak of a new and wider conflict with unforeseeable consequences for international peace and security.

83. It was clear that there could be no lasting peace and security in the Middle East as long as the recurrent sources of instability in the region were left unresolved. The problem could be solved only through the convening of an international peace conference on the Middle East, under United Nations auspices, with the participation on an equal footing of all parties directly concerned, including Palestine. By accepting Security Council resolutions 242 (1967) and 338 (1973), Palestine had satisfied the last requirement for convening of the conference.

84. Unfortunately, obstacles such as Israel's refusal to accept a dialogue with Palestine prevented the holding of the conference. His Government, which welcomed the decision of the United States Government to initiate a direct dialogue with Palestine, would continue, within the limits of its possibilities, to support all constructive efforts aimed at creating conditions for convening the international peace conference on the Middle East.

85. Ms. RAYNELL ANDREYCHUK (Canada) said that, although Canada considered itself to be a friend of Israel and a faithful and determined supporter of its right to security and recognition, her Government was compelled to state that the human-rights violations which had been documented, including Israeli settlements in the occupied territories, were unacceptable and contrary to international law. As a party to the Fourth Geneva Convention, Israel was bound by it in all the territories which it had occupied since 1967, and her delegation joined in the appeal of the international community that Israel abide by its legal obligations under that Convention.

86. Her Government was particularly concerned at the recent deportations, which had brought the total of such cases to 49. Equally disturbing had been the introduction of plastic-coated metal bullets, which had caused a dramatic increase in the number of deaths and severe wounds and which bore little relation to the degree of force required to keep order. Her Government had vigorously expressed its unhappiness at Israel's unquestionable breaches of commitment to international humanitarian law, and it urged the Commission to send an unequivocal appeal to the Government of Israel to halt its violations of the human rights of Palestinians.

87. The improvement of the human-rights record in the occupied territories was essential in itself. It was also critical to prospects for a political settlement, which alone could put an end to the military occupation which was the source of the violations. Her Government had been pleased to note the release from detention of Faisal al-Husseini and others and the announcement that the Israeli authorities would not proceed with a number of additional deportations which had evidently been intended. Those were positive steps.

88. Her Government wished to express its gratitude for the dedication, competence and courage of the International Committee of the Red Cross (ICRC) and UNRWA in the accomplishment of their mandates. Those organizations and their staffs had played a critical role in asserting the human dignity and rights of Palestinians in the occupied territories over the past 14 months, and fully justified the confidence of the international community.

89. Mr. STEEL (United Kingdom) said that the Government of Israel had both a legal and a moral duty to respect scrupulously the human rights of the inhabitants of the occupied territories. Specifically, it must apply in the territories all the provisions of the relevant human-rights conventions, including the provisions of the Fourth Hague Convention of 1907 and the Fourth Geneva Convention of 1949. Israeli practices in the occupied territories, in particular Israel's policy of financing and encouraging settlements there were in direct contravention of the specific provisions of the Fourth Geneva Convention. His Government viewed with grave concern the recent statement by the Israeli Government of its intended support for eight new settlements. That policy was illegal, and the United Kingdom called upon the Government of Israel to put an immediate end to it.

90. Together with its partners in the European Community, the United Kingdom had repeatedly condemned the practices of expulsion and detention of Palestinians in the occupied territories, as well as the practice of administrative detention, and called upon Israel to abandon them. Such practices still continued however and, as recently as 1 January 1989, 13 more Palestinians had been deported. His Government called upon Israel to comply with the Security Council resolutions on the subject and to desist from further deportations.

91. The practices adopted by the Israeli authorities continued to bear unnecessarily harshly on the population of the occupied territories. For example, measures of collective punishment, such as the demolition of houses occupied by families of arrested suspects, restrictions on freedom of movement, curfews, the closure of universities in the occupied territories and the disruption of schooling, particularly in the West Bank, as well as a host of indefensible general restrictions ranging from press censorship to restriction of access to water resources, constituted flagrant violations of human rights.

92. The Israeli Government's repressive measures adopted as a response to the intifadah had not brought peace and order to the occupied territories, and his Government shared the general belief that they never would. On the contrary, they had led to intensified violent demonstrations and clashes. Serious injuries and deaths had become almost routine. No end to the unrest was in

sight, and the cycle of violence was having a brutalizing effect on both sides. His Government viewed with extreme concern and anxiety the further escalation of such measures, which had been announced by the Israeli Minister of Defence in January 1989, since they would only increase bitterness and lead to further violence and suffering.

93. While the search for a just and lasting solution to the basic problem must be pursued unrelentingly, that task would be best pursued in other forums. The United Kingdom was doing everything in its power to assist that process. In the field of human rights, the international community must continue to urge the Government of Israel to respect, without reserve and without equivocation, the full human rights of the people of the occupied territories and to observe all its international obligations in that regard. It was also possible to take certain positive and practical steps to alleviate the plight of the inhabitants of the territories. The United Kingdom gave nearly 1 million pounds a year in direct aid to the occupied territories and 5.25 million pounds a year in bilateral aid to the general budget of UNRWA. That was in addition to the substantial contributions which were made by the European Community and which helped provide such vital services as health care and education.

94. The basic economic welfare of the inhabitants of the territory should also be protected and enhanced. His Government thus welcomed the assurances which the Israeli Government had given regarding the access of Palestinian exports to European markets, and it would monitor closely the operation of the recent agreement between the Palestinian producers and the Israelis.

95. His delegation had been struck by the generally unpolemical tone of the debate and by the measured language used by the majority of speakers. It earnestly hoped that that atmosphere could be reflected in the draft decisions and resolution which would be put before the Commission for adoption.

96. Mr. ROA KOURI (Cuba) said that, although the question of the violation of human rights in the occupied Arab territories, including Palestine, had been on the Commission's agenda for more than 20 years, there was as yet no end in sight to the dispersal, expulsion, annihilation, dispossession and brutal treatment of the Palestinian people by the Zionist State of Israel. The goal of Israel's policy of exclusivism and colonialism in the occupied Arab territories, particularly in Palestine, was to eliminate Palestinian culture, create a Palestinian diaspora menu militari and alter the demographic composition of the West Bank and Gaza.

97. To that end, Israel made use of physical and psychological terror and the so-called "iron-hand" policy. Paradoxically, the attempt to destroy everything Palestinian in the name of Eretz Yisrael negated the ethos and the great humanistic spirit of Judaism and led to the dehumanization of the oppressors themselves.

98. The Palestinian people had been engaged in a long and bloody struggle to exercise their inalienable right to an independent and free homeland and to take their place in the community of nations. For more than a year, the intifadah had been fighting without any weapons other than courage and the

desire for freedom. The fact that the majority of its protagonists were so young had led Zionist soldiers to complain that they had not been trained to murder children.

99. The decision of the Palestinian people to be free or to die in the undertaking had made possible the historic decision of its National Council, meeting at Algiers in November 1988, to proclaim the Constitution of the Palestinian State. Cuba, which had been the first Latin American country to grant diplomatic status to the Palestine Liberation Organization, was also pleased to have been among the first to recognize the new Palestinian State.

100. In spite of the progress which had taken place in recent months as a result of the important political statement by Yasser Arafat, the recognition by many countries - including several western European countries - of the new Palestinian State, growing support for the convening of an international peace conference on the Middle East, and the apparent readiness of the United States Government to begin a dialogue with Palestine, the situation in the occupied territories was considerably worse than it had been a year ago.

101. In addition to the adoption of a number of measures which flagrantly violated the human rights of the Arab population of the territories, the occupation forces continued to repress unarmed demonstrators savagely, killing and wounding teenagers, men, women, old people and children. The widely televised image of a Zionist soldier breaking the arm of a Palestinian patriot was damning proof of Israel's uncontrolled barbarity.

102. In the view of his delegation, only an international peace conference on the Middle East, under the auspices of the United Nations and with the participation of all the parties concerned, particularly the Palestinian State and Israel, could lead to genuine and lasting peace in the region. The international community should make every effort, therefore, to remove the obstacles which still stood in the way of the convening of such a conference. The Commission must find a way of putting an end to the massive and flagrant violations of the human rights of the Palestinian people by adopting an action-oriented resolution. Nothing less would be worthy of the sacrifices being made by the Palestinian people.

The meeting rose at 6 p.m.