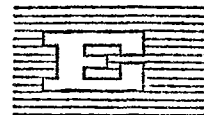


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COMMISSION ON HUMAN RIGHTS

Fortieth session

SUMMARY RECORD (PARTIAL)* OF THE 63rd MEETING

held at the Palais des Nations, Geneva,
on Friday, 16 March 1984, at 4 p.m.

Chairman: Mr. KOIJMANS (Netherlands)

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* No summary record was prepared for the rest of the meeting.

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GE.84-16149

The meeting was called to order at 4.35 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 (agenda item 12) (continued)

1. The CHAIRMAN recalled that, at its 40th meeting, he had informed the Commission of the action taken at its closed meetings held under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII). He had announced at that time that action on Afghanistan under that confidential procedure was pending and was to be reviewed at a later date. At a closed meeting the previous evening, the Commission had decided to take no action with respect to the situation in Afghanistan under that procedure in view of its earlier decision to consider the question at public meetings.

2. Mr. KHERAD (Observer for Afghanistan) said that his Government had demonstrated its full co-operation with the Commission and provided the necessary explanations and details concerning the promotion and protection of human rights in Afghanistan and the specific and effective humanitarian and economic and social measures it had consistently taken following the victory of the revolution. Fully respecting the rights, democratic freedoms, dignity and honour of Afghan citizens, it was guiding Afghan society towards peace, freedom, democracy, equality, progress and justice. In the light of those explanations and of the long-standing fact that no argument or evidence could be adduced against Afghanistan, the only reasonable decision the Commission could take would be to cease immediately any unjustified consideration of the so-called "situation of human rights in Afghanistan", where all rights and democratic freedoms were fully guaranteed, and to put an end to all injurious and tendentious manoeuvres to misuse the situation in Afghanistan for political ends. Any other decision would run counter to established procedure and the generally recognized norms of international law.

3. His delegation was entitled to hope that the Governments of countries that had chosen to pursue a policy of hostility and pressure against Afghanistan would finally abandon their attitude and show greater realism and respect, and that the Commission would end all attempts to question his country's faithful protection and promotion of human rights and fundamental freedoms, and support his Government's humanitarian measures to build a flourishing and just society, free from exploitation. His delegation was firmly opposed to Commission resolution 1984/55, the relevant decision of the Commission and any misuse of the situation for political ends. Such a resolution and decision failed to take account of the true situation in Afghanistan and were prejudicial to established procedures; they were in no way binding on his Government, which considered them unlawful, null and void, politically injurious and morally hypocritical.

4. His delegation wished its statement to be recorded in the summary record both of the current meeting and of the relevant closed meeting of the Commission.

DRAFT PROVISIONAL AGENDA FOR THE FORTY-FIRST SESSION OF THE COMMISSION
(agenda item 25) (E/CN.4/1984/L.4)

5. The CHAIRMAN pointed out that the Commission was merely required to take note of the draft provisional agenda (E/CN.4/1984/L.4), and not to approve it, since that would be done at its forty-first session. The purpose of the document was simply to give an approximate idea of the documentation the Commission would have before it at that session and to show the legislative authority for the various agenda items. The absence of a reference to the documentation under some of the items was explained by the fact that the Commission had not taken a decision on those items by the time document L.4 had been prepared.

6. Mr. BEAULNE (Canada), supported by Mr. SENE (Senegal), proposed that the Commission should take the following decision in pursuance of resolution 1983/31 adopted at its thirty-ninth session:

"The Commission on Human Rights,

"Recalling its resolution 1983/31 in which it decided to undertake, at its forty-first session, work on a draft declaration on the rights and responsibilities of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

"Decides to establish an open-ended working group to draft such a declaration, which would be allocated appropriate time for meeting during the forty-first session of the Commission on Human Rights".

7. The CHAIRMAN said that the proposed body would be a sessional working group. At its forty-first session, the Commission would be master of its own agenda and organization of work. The draft decision could therefore be seen as a declaration of intent. If there was no objection, he would take it that the Commission wished to have it recorded as such.

8. It was so decided

9. Mr. MACCOTTA (Italy), supported by Mr. SENE (Senegal), reiterated the proposal made by his delegation the previous evening that a sub-item should be included under agenda item 11, entitled: "Question of the establishment of a post of High Commissioner for Human Rights". When the Yugoslav delegation had proposed that discussion of that question at the current session should be postponed for lack of time, his delegation had not objected since it was difficult to give it adequate consideration right at the end of the session. It was important, however, to avoid a similar situation at the next session, and he hoped that the proposed sub-item would be given priority so that it could be discussed earlier in the session.

10. The CHAIRMAN drew attention to rule 5 (2) of the Commission's rules of procedure, which stated: "The provisional agenda shall include all items required by these rules as well as items proposed by: ... (c) A Member of the United Nations".

Every Member of the United Nations was thus entitled to request the inclusion of a particular item in the provisional agenda. The provisional agenda for the forty-first session would take note of all such requests, and the Commission would decide on the agenda at that session. A request for the inclusion of the sub-item proposed by the Italian delegation should be made to the Secretariat.

11. Mr. TOSEVSKI (Yugoslavia) pointed out that the wording of agenda item 8 (c) should be brought into line with the wording used in resolution 1984/15.

12. The CHAIRMAN said that the necessary correction would be made. If there was no objection, he would take it that the Commission wished to take note of the draft provisional agenda for the forty-first session.

13. It was so decided.

ORGANIZATION OF WORK

14. The CHAIRMAN said that it appeared to be the wish of the Commission to continue the practice of adopting a decision similar to the one embodied in paragraph 7 of resolution 1983/22. Following consultations with the members of the Bureau, he therefore proposed that the Commission should adopt the following decision: "The Commission invites the Sub-Commission to be present, through its Chairman or another member it may designate, at the consideration of its report during the forty-first session of the Commission". The decision would have financial implications of the order of \$1,200.

15. If there was no objection, he would take it that the Commission wished to adopt the decision.

16. It was so agreed.

17. The CHAIRMAN reminded the Commission of the decision, taken under its confidential procedure, to establish a working group on situations to be dealt with under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII). Following consultation with the various regional groups, he was able to announce that the working group, which would meet during the week preceding the forty-first session, would be composed of: Mr. Bianchi (Argentina), Mr. Dichev (Bulgaria), Mr. Hayes (Ireland), Mr. Mtango (United Republic of Tanzania) and the representative of an Asian country who was yet to be designated.

18. Mr. BEAULNE (Canada) proposed that the Commission should take the following decision:

"The Commission, taking into account its heavy schedule of work and that of its sessional working groups, as well as the need to give adequate consideration to all the items on the agenda, and recalling that in previous years the Economic and Social Council approved the Commission's request for additional meetings for its thirty-seventh, thirty-eighth, thirty-ninth and fortieth sessions, decides (a) to recommend to the Economic and Social Council that it authorize 20 fully serviced additional meetings, including summary records, for the Commission's forty-first session, and (b) to request the Chairman of the Commission at

its forty-first session to make every effort to organize the work of the session within the normal allotted time, the additional meetings that the Economic and Social Council may authorize to be utilized only if such meetings prove to be absolutely necessary."

19. Mr. CALERO RODRIGUES (Brazil) asked, firstly, whether the effect of the Canadian representative's proposal would be to ensure that the Commission had the same number of hours available at its forty-first session as it had had at the current session and, secondly, whether it had used all the time available to it at its current session. In order to avoid an accumulation of work at the end of the session, the Commission might decide to hold night meetings earlier in the session, whenever it appeared to be lagging behind schedule.

20. The CHAIRMAN said that the Canadian proposal would mean that the number of meetings and services available would be the same as at the current session. All the additional meetings available at the current session had been needed. There had been no lagging behind schedule until the middle of the fifth week of the session. Because of the extensive debate on agenda item 12, it had then become necessary to have additional meetings, most of which had been held during the very last stages of the session.

21. Mr. BYKOV (Union of Soviet Socialist Republics) said it was unfortunate that the Canadian proposal had come at the end of the session, when the Commission was about to consider its report. The Commission had certainly been under extreme pressure during the last week of its session. If it had proceeded from the outset on the basis that no extra time was available, it might not have required so many additional meetings at the end.

22. It would be helpful to see the somewhat lengthy Canadian proposal in writing, as provided for in the rules of procedure. In addition, an estimate of the financial implications should be provided in accordance with rule 28 of the rules of procedure. It would be difficult to give the proposal proper consideration in the short time available.

23. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that the travel expenses of the members of the working group on situations to be dealt with under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII) would be covered by the normal provision for attendance of members of the Commission. Conference servicing costs to be financed under section 29 B, Conference Services Division, Geneva, on a full cost basis, were estimated at \$38,800 for 1985.

24. With respect to the Canadian proposal, the conference servicing costs to be financed under section 29 B, Conference Services Division, Geneva, calculated on a full cost basis for the 20 additional fully serviced meetings, were estimated at approximately \$236,000 for 1985.

25. Mr. BYKOV (Union of Soviet Socialist Republics) said that his delegation would find it difficult to take a decision on the Canadian proposal without seeing the text in writing.

26. The CHAIRMAN pointed out that the text was identical with that of Commission decision 1983/109.

27. Mr. BYKOV (Union of Soviet Socialist Republics) said he understood that the heavy burden on the Commission might make it seem that the Commission required additional meeting time but, as many delegations had pointed out, in view of the current severe budget difficulties the strictest economy measures were required in order to conserve resources. If the sum required for the additional meetings was provided for in the regular budget already, there was no problem. If, however, the sum required would necessitate additional or extra-budgetary funds, then his delegation would have difficulty in agreeing. He therefore proposed that the Canadian proposal should be amended to include the words "within existing financial resources" after the word "authorize" in section (a) of the operative part.
28. Mr. CALERO RODRIGUES (Brazil) expressed concern about the possible effect of the Soviet amendment. If that amendment meant that the Commission might have less meeting time available in 1985, that would severely jeopardize the Commission's ability to conduct its business in an orderly fashion.
29. Mr. HERNDL (Assistant Secretary-General for Human Rights) said that for a full answer to the question whether the Commission would have less meeting time he would have to consult the Department of Conference Services. It was his view, however, that additional meeting time would indeed be required if the Commission wished to discuss all agenda items fully and adopt appropriate resolutions. The Commission could, of course, request the provision of additional meeting time now, as it had done previously, or at the beginning of the next session. He pointed out that the figures given by the Deputy Director of the Centre for Human Rights on the financial implications of the Canadian proposal were hypothetical figures calculated on a full cost basis and it was not necessarily true that the full amount quoted needed to be added to the budget.
30. Sir Anthony WILLIAMS (United Kingdom) said that a balanced approach should be adopted. While his delegation agreed with the Soviet delegation that financial stringency and realism were necessary, there was also the question of proper form. He questioned the propriety of a Commission decision giving the Economic and Social Council instructions as to how it should allocate its funds. The Soviet amendment might perhaps exceed the mandate of the Commission. He therefore proposed a sub-amendment to the Soviet amendment adding the words "if possible" immediately after that amendment.
31. Mr. CALERO RODRIGUES (Brazil) welcomed the United Kingdom sub-amendment as it was essential that the Commission should have the possibility of making use of additional meeting time if necessary.
32. Mr. BYKOV (Union of Soviet Socialist Republics) said he appreciated the explanation given by the Assistant Secretary-General for Human Rights but the matter was still not clear. What needed to be determined was whether resources for the additional meeting time had already been allocated in the budget, which was quite possible if the request was submitted regularly. With regard to the United Kingdom sub-amendment, he disagreed that his amendment would seem to instruct the Economic and Social Council how to allocate its funds. The point was that the Commission was not requesting extra-budgetary funds, but was only asking whether funds for additional meeting time had already been provided. In a spirit of compromise he was ready to accept the United Kingdom's sub-amendment on the understanding that the funds would be sought within the regular budget. The General Assembly had made it clear that funding for additional items must be obtained from savings gained from the elimination of obsolete programmes.

33. Mr. BEAULNE (Canada) said that, in his view, the Soviet amendment and the United Kingdom sub-amendment would solve the problem. The Commission either had to accept a proposal for additional meeting time in 1985 or, in order to fit all the agenda items into the regularly scheduled meeting time, the length of all statements at the next session would have to be limited to 10 minutes.

34. The CHAIRMAN said that, if there was no objection, he would take it that the Commission wished to adopt the Canadian proposal, as amended by the Soviet Union and the United Kingdom.

35. It was so decided.

36. The CHAIRMAN announced that, in accordance with the usual practice, the consideration of agenda item 26, entitled "Report to the Economic and Social Council on the fortieth session of the Commission", would not receive summary record coverage.

The discussion covered in the summary record was suspended at 5.30 p.m. and resumed at 6.40 p.m.

CLOSING STATEMENT BY THE ASSISTANT SECRETARY-GENERAL FOR HUMAN RIGHTS

37. Mr. HERNDL (Assistant Secretary-General for Human Rights) recalled that at the beginning of the current session he had said that the fortieth session would perhaps be a suitable time to reflect on the Commission's achievements and its future. The session certainly seemed to have been a very important one. The Commission had dealt with a broad range of issues, taking stock of previous experience and laying the foundations for the next phase of its work and the United Nations human rights programme.

38. The truly universal participation of members, observers, non-governmental and regional organizations, and specialized agencies made the Commission a world-wide forum on human rights. Scarcely a single current humanitarian concern was not being addressed in some way by the Commission or the Sub-Commission. On many occasions during the session, humanitarian considerations had prevailed over political concerns. That was an encouraging recent sign that Governments were willing to bring their humanitarian concerns, through the Commission, to the attention of other Governments and that the latter were willing to co-operate, again with the Commission's help.

39. Many issues relating to the development of a more humane world order had been dealt with at the current session. Underlining the fact that the International Covenants on Human Rights, together with the Universal Declaration, formed the basis of a new humanitarian order, the Commission had encouraged further ratifications and measures designed to help States parties to fulfil their obligations under those instruments. Issues such as peace, disarmament and development, which were also closely linked to a more humane world order, had received attention in the Commission, which had decided that work on the drafting of a declaration on the right to development should be continued on a priority basis.

40. The Commission had also dealt with significant future-oriented issues. The debate on human rights and scientific developments had shown that a new phase might be emerging in the Commission's deliberations. The Commission had requested the Sub-Commission to bring to its attention areas and issues which could be examined in

the future from a human rights standpoint, and to consider how scientific and technological developments could help to give effect to specific human rights. Moreover, the Commission's working group on the further promotion of human rights had analysed its previous work with a view to identifying areas in which future progress might be possible.

41. In the area of standard-setting, the Commission had forwarded to the Council, for transmission to the Assembly, the draft of a future convention against torture and other cruel, inhuman or degrading treatment or punishment. That must surely be considered one of the current session's prime achievements. He paid tribute to the Working Group on that question and its Chairman/Rapporteur, and expressed the hope that the convention would be speedily adopted by the General Assembly.

42. Significant progress had also been made in drafting a convention on the rights of the child; it seemed most important to complete the text as soon as possible. Likewise, work had continued on drafting a declaration on the rights of minorities; in that area, however, new impetus might be needed to overcome certain delays.

43. On humanitarian problems, the Commission had dealt with a wide range of country situations under public and confidential procedures, using new as well as existing fact-finding methods. Over two dozen situations not previously under scrutiny had been added to the public debate, and many Governments had responded in the Commission to concerns raised. That was surely a remarkable feature which should not be overlooked, since it showed that the Commission was indeed a forum where the world's conscience could be demonstrated. The Commission had focused attention not only on specific country situations, but on a growing range of thematic issues, such as arbitrary and summary executions, torture, enforced or involuntary disappearances, prisoners of conscience, states of emergency, the rights of indigenous peoples, minorities and migrant workers, the rights of the child and the disabled, and mass unemployment. On many issues the Commission had adopted constructive, action-oriented resolutions - for example, the one calling for the release of prisoners of conscience or the one approving the compilation, by the Sub-Commission, of a list of situations in which states of emergency existed or had been declared. Thus the thematic approach had again been adopted and even expanded.

44. The Commission had looked into means of helping Governments in human rights matters. Resolutions on three countries had been adopted. In its resolution on the International Covenants, the Commission had requested the Secretary-General to examine how States parties could be helped in preparing their reports. And in a more general resolution on advisory services the Secretary-General had been asked to provide suggestions for a long-term programme of activities. Thus the Commission was clearly discharging its role as a medium for constructive assistance to States, as part of over-all international co-operation in the promotion and protection of human rights. The Commission had also discussed the need, strongly felt by many, for the development of a long-term information and education programme in the field of human rights, and had decided to consider the matter further at its next session.

45. The Commission had adopted a new and streamlined format for its report which, as could already be seen, would not only facilitate the Commission's work but also lead to savings. The Commission had further examined and clarified some aspects of its relationship with the Sub-Commission, whose work had generally been praised.

46. The Commission, after 40 sessions of important discussions, had before it a multiplicity of issues and was applying a practical range of tested models to promote human rights. It was perhaps not too much to say that the essential requirements seemed to be in place and that what was needed was, as he had said at the opening of the session, application, consolidation, refinement and further development in the light of experience and practice.

47. There were certain other issues to which the Commission might wish to give attention in the future. One was a topic deemed fundamental ever since the establishment of the League of Nations, namely, the rights of minorities. A study had been prepared, and for a number of years a Commission working group had been discussing a draft declaration. Since the issues were humanitarian, affecting not only the situation of millions of human beings but also, in some instances, the question of world peace and security, renewed efforts and impetus might be appropriate.

48. Another topic was the phenomenon of torture. Of the three fundamental phenomena, hitherto identified within the Commission, affecting the right to life - namely, summary executions, disappearances and torture, torture would seem to be in need of a fact-finding mechanism of its own, particularly since the Commission's work on a draft convention against torture had been completed. Lastly, it seemed time to come to grips, in practical terms, with some of the issues raised by scientific and technological developments, such as genetic engineering, improved data protection and nuclear issues, in so far as they affected human rights. The future was full of challenges which the Commission should explore before certain behaviour patterns became entrenched.

49. He expressed gratitude for the tributes paid to the Centre for Human Rights, whose staff remained committed to the task of serving the world community through the Commission.

CLOSURE OF THE SESSION

50. After an exchange of courtesies, the CHAIRMAN declared the fortieth session of the Commission closed.

The meeting rose at 8 p.m.