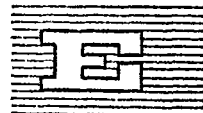
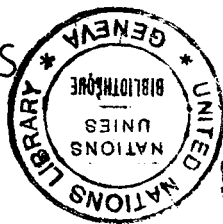


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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD (PARTIAL) **/ OF THE 1477th MEETING

held at the Palais des Nations, Geneva,
on Monday, 12 February 1979, at 11 a.m.

Temporary Chairman: Mr. M'BAYE (Senegal)

Chairman: Mr. BEAULNE (Canada)

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*/ No summary record was issued for the 1476th meeting.

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

This record is subject to correction.

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

OPENING OF THE SESSION

1. The TEMPORARY CHAIRMAN declared open the thirty-fifth session of the Commission on Human Rights and welcomed the delegations of Benin, Burundi, the Federal Republic of Germany, Iraq, Morocco and Portugal as new members of the Commission.

2. He would have liked to be able to state that progress had been made over the past year with regard to protection of and respect for human rights and the enjoyment of economic, social, cultural, civil and political rights. Unfortunately, the facts prevented him from doing so.

3. A little more than two months previously, the United Nations family and the world at large had celebrated the thirtieth anniversary of the Universal Declaration of Human Rights, an instrument which had crystallized the hopes of a world still marked by the atrocities of war and had symbolized the determination of the new Organization to strive for a world free of fear, poverty and torture. However, those scourges continued to plague mankind in various parts of the world. Neither had war disappeared; every day, the weapons of imperialism took human lives and destroyed hard-won material goods, and the populations of the third world countries were sacrificed to the ideological confrontation of the big Powers. Instead of decreasing, poverty was gaining ground. The African, Asian and Latin American countries were victims of the egoism of the rich countries, which had established international economic relations and a world political and financial system based on an utter disregard for justice, in which a fair price was paid for labour in the northern hemisphere alone. The third world countries were without defence against the hegemonistic policy of the big Powers; they were stagnating in underdevelopment and given over to despair and rancour. Man, subjected to fear and poverty, was tortured each day both physically and mentally by anti-democratic political régimes which wielded minority power, squandered public property and used their powers of imagination only to devise more refined methods of exploitation and humiliation. Clearly, the human rights situation was far from encouraging. The lessons of the Second World War had been forgotten. The developing countries were regressing, for the hard-won achievements of their peoples were swallowed up by an international economic and financial system based on unequal exchange and on domination.

4. Little progress had been made on the major issues to which the Commission devoted its attention each year. The right of peoples to self-determination was being violated in the Middle East, Chile and southern Africa. Massacres, punitive expeditions, torture, assassination, disappearance of persons, deprivation and the malpractices of apartheid continued to affect innocent men and women. Victimized peoples looked to the international community for the assistance and relief which the established system was not always able to provide.

5. The year 1979 had been proclaimed International Year of the Child. Attention and care should be lavished on children, for they were the link that would ensure continuity of endeavours to create a world of solidarity and mutual understanding. But that objective would clearly not be achieved overnight. Malnutrition and disease were killing thousands of African and Asian children every day.
6. National or foreign minorities continued to be persecuted in a world which claimed to aspire to a civilization of the universal. The achievement of full understanding between people of all races and nationalities was not an imminent prospect. In some countries, mass deportations affected foreign minorities serving as scapegoats for despotic and unpopular régimes.
7. Meanwhile, the members of the Commission on Human Rights had arrived at Geneva with set recommendations and arguments. Each representative had received instructions which he was in most cases unable to modify and which reflected his Government's position and policy on each issue. What of the common ideal of universal human rights and the humanitarian principles which justified members' presence at the session? He had to admit that he had not yet become accustomed to the systematic defence of rigid policy positions, dictated by ideological differences and economic interests, in an organ which aspired to the universal and whose aim was to uphold human dignity. Clearly, representatives were not responsible for that situation, for they were the servants of their Government. Equally clearly, there was little prospect that matters would change for the better in the near future. The Commission did the best it could within the narrow limits imposed on it. Thanks to the spirit of co-operation which had prevailed at the thirty-fourth session, the Commission had been able to organize its work rationally and achieve progress in the promotion of human rights. But promotion alone did not suffice, and a major effort was needed in the field of protection.
8. It was his hope that future generations would benefit from a Commission of which each member received the single instruction to defend the economic, social and cultural requirements and civil and political freedoms and rights of man. That day would mark the victory of the Universal Declaration of Human Rights, which would no longer be used as a pretext to ease consciences or to disseminate propaganda. Neither would it be possible to plead non-interference in the domestic affairs of States in order to arrogate the right to persecute and starve others. Finally, underdevelopment would not be able to serve as a pretext for the oppression of an entire people. When that day came, co-operation would be genuine, just, based on the principle of solidarity and equality and sustained by a common determination to combat poverty in order to build a world in which each individual could exercise his right to development and find happiness. All efforts would be aimed at securing genuine international peace and concord in a new economic order in which justice bred prosperity.

9. In the meantime, he expressed the hope that the thirty-fifth session of the Commission on Human Rights would be marked by goodwill, industry and open-mindedness and that its Chairman would be able to declare at the opening of the thirty-sixth session that substantial progress had been achieved in the protection of and respect for human rights.

10. Mr. COTTAFVI (Director-General, United Nations Office at Geneva) welcomed members to the thirty-fifth session of the Commission on Human Rights, which was a central organ of the United Nations for the promotion of social progress and better standards of living in greater freedom.

11. Over the years, the Commission had painstakingly contributed to the elaboration of a wide range of international standards in the field of human rights. More recently, it had given special attention to alternative approaches and ways and means for improving the effective enjoyment of human rights. In particular, positive steps had been taken in co-operation with Member States to deal with alleged gross violations of human rights wherever they might occur.

12. Human rights were becoming increasingly important in contemporary international relations. There was a definite call for the elaboration of new and more precise international standards, for example to ensure the dignity and well-being of migrant workers, to protect persons from torture and to safeguard the rights of children. There were also urgent appeals to take effective action against apartheid and racial discrimination, to promote self-determination and full development of individuals, peoples and nations, and to deal concretely with the unfortunately continuing reports of situations of serious violations of human rights. All those concerns were reflected in the agenda of the current session of the Commission, together with basic questions concerning the scope and orientation of the future activities of the United Nations in the field of human rights.

13. The United Nations, which derived its strength from the support of peoples and persons throughout the world, must always pay scrupulous attention to its relationships with them. The Commission's role in that respect was crucial, for it could be considered as the conscience of the international community. Both he and the Geneva staff and services would make every effort to ensure that the current session was a successful one.

14. Mr. van BOVEN (Director, Division of Human Rights) said that the formal status of an institution such as the Commission on Human Rights could sometimes belie its true importance and value. The United Nations would become devoid of meaning without the human rights ethic, for growth, peace and human effort would be empty indeed if they were not founded on justice and respect for human rights.

15. While the United Nations' commitment to human rights had been proclaimed in principle in the Charter, the details of its practical expression had been far from clear. The Commission's first task had been to elaborate international standards of universal applicability, such as those embodied in the Universal Declaration of Human Rights and other human rights instruments. Human rights had not yet been fully codified despite the considerable efforts of the Commission, and the question could be asked whether the Commission was following the most rational approach in

selecting subjects and modalities for standard-setting. That was a matter to which some attention might be devoted during the current session. The second phase of the Commission's work had been to promote the standards which it had drafted, by seeking to encourage training, education and information in the human rights field. During the 1960s, the Commission had embarked on the third phase of its work, that of seeking to bring about implementation of the international standards and to tackle violations of human rights. A great deal remained to be done in that area in order to face the challenges posed by continuing reports of human rights violations in all parts of the world. Responding to the needs of the times, the Commission had also sought to relate human rights to the development effort and to give practical significance to the interdependence and indivisibility of all rights by promoting the realization of economic, social and cultural rights while continuing to stress the need to implement civil and political rights.

16. The Commission should be the repository of the conscience and moral authority of the United Nations. It had a responsibility to work for justice in international and national society, to provide guidance concerning respect for human rights and human dignity, and to strive to bring back into line recalcitrant members of the international community who might depart from the international standards of conduct laid down in the human rights code. In facing up to its responsibilities, the Commission benefited greatly from the support of its subsidiary organs and from the work of complementary organs established under specific international instruments.

17. One example of the Commission's efforts to respond to the evolving needs of the international community was its decision to invite the Secretary-General to undertake a study on "The international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and fundamental human needs", which would be available for consideration at the current session. The link between development and human rights was fundamental, and the study defined the concept of development as encompassing the realization of the potentialities of the human person in harmony with the community. The human person was seen as the subject and not a mere object of the development process, and development was interpreted as requiring the satisfaction of both material and non-material needs. It was submitted that there was a very substantial body of principles, reinforced by a range of conventions, declarations and resolutions, which demonstrated the existence in international law of a human right to development which was interdependent with and indivisible from other human rights. The study further emphasized that a development strategy based on political repression and the denial of human rights might contribute to the realization of some economic objectives but could never lead to full and genuine development. It was recognized that there was much international interest in forging closer links between the promotion of human rights and international development co-operation, and attention was drawn to the need to include human rights concerns in the elaboration and application of a code of conduct for transnational corporations. It was also emphasized that the promotion of respect for human rights should be prominent among the objectives of the new International Development Strategy. The decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to include in its agenda an item on the New International Economic Order and human rights could usefully complement the Commission's activities in that field.

18. The deliberations of the World Conference to Combat Racism and Racial Discrimination, which had recognized that racism and racial discrimination were often founded on economic exploitation of the victims, also provided useful insights into economic factors affecting the enjoyment of human rights. In particular, the Conference had called for appropriate measures to prevent discrimination against minorities, indigenous populations and migrant workers and to protect them from economic exploitation.

19. Turning to the question of the Commission's responsibility to tackle violations of human rights, he said that the peoples and persons of the world expected a great deal of the Commission. Their hopes and support were the Commission's main source of strength. To what extent was the Commission responding to their needs and heeding the voices of the suffering, the oppressed, the exploited, the persecuted and the underprivileged? Those were crucial questions, for if the Commission was not sufficiently responsive it might fail in its endeavours as a whole. In that connexion, the non-governmental organizations in consultative status were important links between the Commission and the world at large, and the Commission might wish to consider ways and means of enhancing the role of those organizations and of establishing closer contact with the peoples and persons for whom its work was intended.

20. A central aspect of that question was the way in which the Commission handled allegations of human rights violations. The Commission itself had reaffirmed in the past that States had a duty to do everything within their power to respect human rights and that a country's level of economic development could not justify human rights violations. While it was true that the realization of human rights was seriously impeded by the unjust international economic order, deliberate or gross violations of human rights could rarely be related to such external causes alone. Structural factors should not be used as excuses for perpetrating violations of human rights, which affected human beings in the same way, whatever the level of development or economic and social system of the society to which they belonged. Therefore, the Commission had an imperative duty to strive for the prevention and eradication of human rights violations, to develop further ways and means of tackling such violations, including those committed under the pretext of national security or quasi-permanent states of emergency, and to develop methods of responding to urgent situations which arose between sessions.

21. The international community had had occasion to note the usefulness of international investigations into alleged violations, as evidenced by the activities of the Ad Hoc Working Group on the Situation of Human Rights in Chile and the Ad Hoc Working Group of Experts on human rights in southern Africa. A United Nations presence on the spot added a dimension which was often lacking in other procedures for tackling human rights violations, and the Commission might wish to enlarge upon the experience acquired in that field and utilize similar models in appropriate cases in the future. It might also wish to consider models of action for establishing more direct contacts with Governments experiencing difficulties in the human rights field. In situations giving rise to international concern, for example, the designation of a member of the Commission or an international expert to establish contact with the Government concerned might prove to be useful.

22. The Commission would have before it the report of the Working Group of the Whole which had met the previous week to consider the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. In that connexion, he drew the Commission's attention to the medium-term plan in the field of human rights for the period 1980-1983 (A/33/6 (Part 2)), which set out the human rights programme for those years. With regard to the question of alternative approaches and ways and means, he was convinced that the existing organs, mandates and procedures in the human rights field remained fully valid and should be retained, and that attention should be focused on developing ways of enhancing their effectiveness.

23. The workload of the human rights programme had increased enormously over the past few years, but the resources of the Division of Human Rights had not grown in the same proportion. It was his hope that action would be taken to redress the situation, for otherwise the Division might not be able to undertake new tasks entrusted to it by human rights organs without requesting those organs to decide on the priority to be given to tasks that had already been assigned to the Division in relation to the new tasks envisaged.

24. The over-all United Nations requirement for a truly international civil service with the highest standards of integrity and performance was particularly relevant to the Organization's work in the field of human rights. In that connexion, the Secretary-General's report on the work of the Organization (A/33/1) contained a number of pertinent references to the need to resist undue pressures from many quarters and to avoid the danger of the Secretariat's becoming a continuation in international form of Member States' foreign services.

25. In conclusion, he wished to appeal for a fair appraisal of prospects under the human rights programme. While new standards must be drafted and new needs and rights considered, violations of human rights must continue to be tackled energetically. Existing organs, mandates and procedures had proved their worth and should be maintained; at the same time, ways and means should be evolved of making them more effective. Work must be planned and phased so as to ease the pressure of a growing agenda. Every effort should be made to strike a balance between the modes of diplomacy and the real needs of the people and persons for whom the Commission's actions were designed. That was the fundamental challenge to which the Commission must respond, in particular by tackling the sad situation of serious human rights violations in many parts of the world.

ELECTION OF OFFICERS (item 1 of the provisional agenda)

26. Mr. Beaulne (Canada) was elected Chairman by acclamation.

27. Mr. Beaulne (Canada) took the Chair.

28. The CHAIRMAN said that at its previous session the Commission had opened new paths, created precedents, enhanced its authority and broadened its scope of action. It had continued to study the rights of migrant workers and to elaborate a draft declaration on the elimination of all forms of religious intolerance, and at the same time it had initiated work on the preparation of a draft declaration on the rights of members of national, ethnic, religious and linguistic minorities. It had also taken up two draft conventions dealing, respectively, with torture and the rights of the child.

29. Among the standing items on the agenda of the current session, that concerning alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, including the appointment of a high commissioner for human rights, seemed to be the most controversial. The question of the realization of economic, social and cultural rights also deserved close attention. The Commission should bear in mind that it was required to propose positive solutions to those very complex problems to the General Assembly at the earliest possible date.

30. The attention of outside observers would no doubt be focused on the item relating to 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 and, especially, on the measures to be taken in cases of gross violations of human rights. It had now been established that States were answerable to the international community for the way in which they fulfilled their freely contracted commitments in the field of human rights. However, it should be borne in mind that the Commission's aim was to secure respect for such rights and not to condemn or humiliate States. The authors of the Universal Declaration of Human Rights, by adopting a pragmatic approach, had managed to agree on a set of rules of conduct which Governments applied in accordance with values and orders of priority which could differ considerably from country to country. The Commission would do well to follow the example of pragmatism set by its predecessors, by adopting a practical approach and attempting to find areas of agreement. If serenity and goodwill prevailed at the session, it might be possible to make some progress in the protection and promotion of human rights.

The discussion covered in the summary record ended at 12.50 p.m.