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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1517th MEETING

held at the Palais des Nations, Geneva,  
on Monday, 12 March 1979, at 8.30 p.m.

Chairman:

Mr. BEAULNE

(Canada)

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The meeting was called to order at 8.45 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (agenda item 12) (continued) (E/CN.4/1317, 1323 and 1335; E/CN.4/L.1446, L.1447/Rev.2, L.1448, L.1452, L.1453, L.1455, L.1456, L.1457/Rev.1 and L.1461; E/CN.4/NGO/240)

1. Mr. GNONLONFOUN (Benin) said that he wished to introduce two amendments to draft decision E/CN.4/L.1455 on behalf of the sponsors. The seventh preambular paragraph should be amended to read:

"Deeply concerned by the situation of human rights and fundamental freedoms as a result of denial of the right to self-determination and independence".

In the operative paragraph, the words "of the violation" should be deleted.

2. Mr. SKALLI (Morocco) said that draft resolution E/CN.4/L.1461 reflected its sponsors' deep concern about the fate of the thousands of persons held in the camps at Tindouf and the neighbouring area. In introducing the draft resolution, he would avoid any controversial comments and would remain objective.

3. He reminded the Commission of the tragic fate of the Saharans who had been deported to the camps at Tindouf and the neighbouring area, and were kept in a state of dire poverty in a particularly inhospitable region where they were deprived of the most basic rights enunciated, inter alia, in the Universal Declaration of Human Rights. They were deprived of the right to return to their country and to live there in dignity and freedom like their Moroccan compatriots, and pressure was brought to bear upon them to participate in acts of aggression against Morocco, members of their families being held as hostages to ensure their co-operation. They were described as refugees but their rights under international agreements concerning refugees were denied. Although several texts adopted by the Organization of African Unity called upon member States to refrain from using refugees to create tension between States, hundreds of communiqués published in the capital of a neighbouring country made reference to military operations against Moroccan territory. He assured members that the killings and kidnappings were not his country's fault. It was well known that the so-called refugee camps were in fact used for military training and political indoctrination, to which even children under the age of 10 were subjected.

4. Officials of international humanitarian organizations could inform members of the Commission that requests for the reunification of families had received no response. They could vouch for the fact that there had been no reply to basic questions concerning the identity and numbers of the persons held in the camps at Tindouf and the neighbouring area, and the repatriation of Saharans who wished to return to their homes. They could also vouch for his Government's full co-operation with their organizations and would describe the insurmountable difficulties which they encountered in their attempts to hold talks with the other party.

5. The situation of the Moroccan nationals detained in the camps at Tindouf and the neighbouring area was so serious that the sponsors considered that a thorough study should be carried out by the Commission. The aim of draft resolution E/CN.4/L.1461 was to bring the truth concerning those camps out into the open, to put an end to the violation of human rights and the suffering of the persons concerned, and to ensure that the Commission included an item on the violation of human rights in the camps at Tindouf and the neighbouring area in the agenda for its thirty-sixth session.

6. Mr. DANELIUS (Sweden) said it was true that the Commission was selective in the sense that it could not in practice discuss all the countries which had serious human rights problems. However, it must never accept the argument that it should refrain from considering the situation in a particular country on the grounds that there were other countries where the situation was comparable or worse. Such a course of action would seriously hamper its work. The general human rights situation in the world was not improving and there were various areas which caused his delegation particular concern.

7. Although the General Assembly had adopted a resolution calling for the total abolition of capital punishment, in many countries death sentences were imposed as frequently as before, or even more frequently, on political opponents and common law criminals, and many of those sentences were carried out. His delegation noted with regret and repugnance that various forms of corporal punishment which ought to belong to the past were still practised in many countries. In some countries such punishments had been reintroduced or their use had increased. It was frightening to read national laws which described in precise legal terms the infliction of pain or the maiming of the human body.

8. His Government attached great importance to the right to freedom of thought and opinion, and freedom of expression. However, in many areas of the world, those rights were restricted to the expression of an opinion which coincided with that of the Government or the party in power. It was to be hoped that real freedom of opinion and expression would become more widely recognized and that dissident and minority groups would be treated with greater tolerance. His delegation considered that the large numbers of political prisoners in many countries constituted a particularly serious human rights problem. Moreover, political oppression often created serious refugee problems. There were countries in which several thousands of persons had disappeared without trace. One of those countries was Argentina. His delegation had expressed its concern over the human rights situation in Argentina at the thirty-fourth session and the statement he had made then concerning political detainees, missing persons and torture still applied today. He sincerely hoped that the Government of Argentina would do its utmost to create a society based on full respect for human rights, that political detainees would be released and that effective investigations would be undertaken to clarify the fate of the missing persons.

9. Abuse of power was a common phenomenon at all levels of society: it was as easy for a Government to abuse its power over citizens as for a prison officer or policeman to abuse his power over detainees or arrested persons. In both cases, supervision was needed to reduce the risk of abuse, but the principle of State sovereignty made fully effective supervision of Governments almost impossible. However, State sovereignty must never be an obstacle to

open discussion and criticism by other States, interested organizations or private individuals; such discussion and criticism should never be considered as interference in the internal affairs of another State.

10. His delegation had intended to comment on the situation in Democratic Kampuchea. However, the regrettable decision taken at the 1516th meeting had precluded further discussion of that question, even though it was evident from the material available that the particularly grave violations of human rights which had taken place in that country would not be disregarded in any objective account of the human rights situation in the world.

11. Mr. ERMACORA (Austria) said that his country had always been willing to contribute to the work of the Commission and the General Assembly. However, although the General Assembly, in resolution 2144 (XXXI) A, paragraph 12, had invited the Commission to give urgent consideration to ways of improving the capacity of the United Nations to put a stop to violations of human rights, and despite the various procedures adopted in international texts such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, and Economic and Social Council resolution 1503 (XLVIII), together with the relevant UNESCO and ILO procedures, the development of United Nations activities in the field of human rights showed that the application of those texts was dependent on the sovereign decision of States. Such dependence led to a certain arbitrariness in the treatment of violations of human rights.

12. There should be objective criteria for deciding when a situation should be considered in private and when it should be considered in public, when a telegram should be sent to a particular Government, when it was advisable to send a fact-finding body to a specific area and when duplication of such work could be deemed justified. The Commission should devise objective criteria on how to deal with violations of human rights on the basis of international law and United Nations practice. In that process, the following main points should be taken into account: the gravity of the situation and the number of people involved; the terms of article 4, paragraph 2, of the International Covenant on Civil and Political Rights; the effectiveness of internal procedures and administrative practices in remedying a given situation; the time element involved, in other words, the prolongation of suffering through postponement of consideration of a situation; the existence of applicable and effective regional procedures; the question of duplication of procedures; and the degree of co-operation afforded by the States concerned. Since the Commission was not a court of law, certain political considerations should be taken into account. A situation of human rights violations should be considered on its own merits in the light of the Universal Declaration and past United Nations practice in similar situations. Only a very careful approach to such questions could prevent the politicization of the collective application of United Nations standards concerning human rights violations.

13. Although his delegation did not always agree with the purpose underlying certain resolutions, with their wording or with the selection of specific situations, it agreed that it was essential to take action in situations where human rights were being violated. As a result of the decision taken at the 1516th meeting, no vote had been taken on draft resolution E/CN.4/L.1446

concerning Democratic Kampuchea. However, he wished to draw attention to paragraph 23 of document E/CN.4/L.1335 which described a situation that clearly involved genocide. His delegation supported the draft resolution concerning Nicaragua in document E/CN.4/L.1447/Rev.2. A fuller discussion of the Saharan situation was needed before a vote could be taken on draft resolutions E/CN.4/L.1455 and L.1461. Although his delegation was not opposed to the sending of a draft telegram to the Government of Guatemala, as proposed in document E/CN.4/L.1456, it felt that the situation in Guatemala was no worse than that in many other countries, including Iran. With regard to draft resolution E/CN.4/L.1453 concerning missing persons, he observed that the situation in Argentina was particularly distressing. It was reported that there were some 13,000 victims of repression: 650 people had been killed, 3,250 had been imprisoned and 9,000 had disappeared. A mere refutation of those figures by the Argentine Government was not sufficient. In view of the situations in Chile and Argentina, his delegation felt that the problem of missing persons should be given higher priority. His delegation would support all the draft resolutions because it felt that they expressed concern regarding situations on which further clarification and action were needed.

14. Mr. RIOS (Panama) expressed regret that the Commission had so little time to devote to the item under discussion. His delegation had co-sponsored draft resolution E/CN.4/L.1455 because it traditionally supported the principle of self-determination and had voted in favour of General Assembly resolution 1514 (XV). In his delegation's view, however, the question of the Western Sahara was of a basically political nature, and there were other far more urgent human rights questions which the Commission had been unable to deal with. Indeed, the question of the Western Sahara was primarily the responsibility of the General Assembly and the Security Council. However, the situation in that region was causing grave concern to the international community because it involved two Member States, and draft resolution E/CN.4/L.1455 drew attention to the human rights situation in a universal rather than a one-sided manner. It was his delegation's hope that the Saharans would achieve self-determination without any kind of outside interference.

15. His delegation had decided to vote in favour of the draft telegram contained in document E/CN.4/L.1456, although it wished to stress that the situation in many countries to which the Commission had made no reference was far worse than in Guatemala. His delegation had received indications from the Government of Guatemala that it wished to clarify the situation surrounding the assassination of Dr. Alberto Fuentes Mohr and a telegram would further encourage that Government to act on its intentions.

16. His delegation had reached the conclusion that, since the members of the Commission represented their Governments, the Commission might perhaps not be the best organization to deal with the question of human rights violations. All too frequently the Commission remained silent about cases of gross violations of human rights or postponed discussion of such cases for political reasons. That was why his delegation supported the creation of a post of high commissioner for the protection of human rights. Such an official could deal with human rights violations on a year-round basis and in a responsible manner. Lastly, the Commission had too little time at its disposal to discharge its heavy agenda.

17. Mr. DAVIS (Australia) said that the Commission had a major problem in deciding how to handle its work correctly and avoid selectivity. It should follow the guidelines established in General Assembly resolution 32/130 and assess each situation impartially in its historical, economic, social or cultural context. While the Commission was not a judicial body, it should remain as apolitical as possible. As his Minister for Foreign Affairs had stated at the thirty-third session of the General Assembly, the fundamental objective of the Commission was not to strike attitudes but to improve the conditions of individual men and women, to consult and not simply to condemn.

18. The powers of the Commission were very limited. Some Governments against which allegations of gross violations had been made were dictatorships that lacked exposure to their own and world public opinion. Some were so involved in internal crises that they regarded as thoroughly justified what the world saw as excesses. Others were entrenched in policies of racial, religious or other discrimination. In such cases, the Government concerned was likely to reject the jurisdiction of the Commission, to deny the allegations or to justify its actions by invoking an emergency situation.

19. In such circumstances, it was necessary to rely on the limited influence of a discussion in the Commission or, if the State concerned agreed to participate, on contact and fact-finding under the confidential procedures which had so far proved slow and of marginal effect. If those procedures were of no avail, the final resort was a public debate. However, despite the limitations, there had been some positive signs. The visit of the Ad Hoc Working Group to Chile had established an important precedent which should be repeated and refined in other cases. For that reason his Government firmly supported General Assembly resolution 33/176.

20. Some but not all appropriate situations had come before the Commission under its confidential procedures, which were slowly, and not entirely effectively, being adapted in order to bring about contact, persuasion and improvement. In certain cases, the result had been encouraging.

21. Again, although it was too early to determine the methodology that precedents would eventually create, it was clear that public procedures, aside from mere debate, were a necessary part of the Commission's machinery.

22. Action by the Commission should also be possible in respect of "missing" persons. Many members had received pleas from relatives of such persons from countries other than Chile and from continents other than Latin America. Surely there must be a role for the Commission to play in persuading and perhaps assisting Governments, with the aim of putting an end to the cruel uncertainty experienced by the relatives of missing persons. Yet another problem was that of the large-scale exodus of persons or groups, allegedly as a result of violations of human rights. The Commission should seek to make contacts, ascertain the facts and secure the co-operation of Governments in remedying the cause of the exodus and minimizing the human suffering involved.

23. His delegation had always taken the view that the procedures established in Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) were in no way mutually exclusive or contradictory. They both provided avenues that could lead to the promotion of international co-operation in resolving human rights problems. Certain aspects of the procedures established in the latter resolution must remain confidential, but confidentiality was required either for the purpose of protecting persons who had reported violations to the Secretary-General or for the purpose of advancing international co-operation. In the case of Equatorial Guinea, where neither of those reasons was applicable, public debate might serve to alleviate the sufferings of the people of that country. It was therefore imperative that the international community should assume its obligation towards them and look for a way to help them overcome their present difficulties.

24. His country was greatly concerned about the situation in Nicaragua and agreed that the question should be considered under the item at present under discussion. However, because of the decision taken at the previous meeting, it was regrettable that the Commission was no longer in a position to discuss the report of the Sub-Commission regarding Democratic Kampuchea. In a statement to the Security Council on 16 January 1979, Australia had expressed disquiet over the policies pursued by the Government of Democratic Kampuchea in flagrant violation of human rights. On the other hand, Australia had given full support to Democratic Kampuchea's right to independence, sovereignty and territorial integrity. The people of Democratic Kampuchea had suffered appallingly in recent years, but they were now the victims of foreign occupation and of a new range of human rights violations as a result of the Vietnamese invasion of their country. General Assembly resolution 32/130 required the international community to accord priority precisely to situations of that kind. His delegation did not agree that the internal policies of any Government could justify military attack by another Government. It also believed that the weight of evidence suggested a situation which called for close scrutiny by the Security Council.

25. It would be futile for the Commission to attempt to take direct action with regard to past and current violations of human rights in Democratic Kampuchea while ignoring the situation on the spot. Accordingly, the Commission should keep the question of violations of human rights in Democratic Kampuchea under review and take it up again at the following session in the light of future developments. In the meantime, his own country, like others which had pleaded for the cessation of hostilities in the region, wished to reiterate its conviction that every country in the region, including Democratic Kampuchea, should be free to choose its own Government and form of government, unimpeded by foreign pressure and alien subjugation.

26. Mr. FISCHER (Federal Republic of Germany) said it was common knowledge that gross violations of human rights occurred in many parts of the world and that the Commission was called upon to deal with all of them, without exception. Consequently, the Commission must work out uniform criteria or standards on the question when action should be taken and what kind of action should be taken. The procedure established under Economic and Social Council resolution 1503 (XLVIII) could not be analysed in public. Admittedly, an important step had been taken at the present session, when the situation in a certain country had been measured against the terms of the Universal Declaration of Human Rights. However, despite the conclusion reached, which had been very clear to all members, a vote of the majority had none the less meant that the situation in question could not be discussed in public either. Such a state of affairs was very regrettable indeed.

27. General Assembly resolution 33/176 drew the attention of the Commission to the importance of the experience of the Ad hoc Working Group on the Situation of Human Rights in Chile in view of the Commission's future action in dealing with consistent patterns of gross violations of human rights. His delegation favoured similar action by the Commission in connexion with any serious allegations of violations of human rights in which, for example, human beings were the object of discrimination, were not given a fair trial, were systematically deprived of food, were denied the right to earn their livelihood by freely chosen or accepted work, were tortured, were deprived of the right to freedom of religion or belief or were denied freedom of movement. Hundreds or thousands of deaths, thousands of refugees and hundreds or thousands of political prisoners or missing persons pointed to where the most serious violations occurred. So far, however, the Commission had been unable to establish the requisite uniform criteria for action.

28. The prime aim of the United Nations in the sphere of human rights was the achievement by each individual of full freedom and dignity. To that end, the first requirement was that every individual - irrespective of race, language, religion or political opinion - should, under the laws of each country, be granted freedom of expression, information, conscience and religion, and the right to participate in the political, economic, cultural and social life of his country. The second requirement was that the Commission should assist in implementing those standards in every part of the world. If the Commission failed to act, the credibility of both the Commission and the United Nations would be jeopardized. Much remained to be done, and so far the Commission had been able to discharge only a very small proportion of its responsibilities. Obviously, it was not enough and the Commission should tackle its tasks with greater honesty.

29. Mr. CHARRY SAMPER (Colombia) said that his delegation was fully aware of the practical difficulties faced by the Commission in dealing with all the complex issues concerning human rights and that, in effect, the Commission's work was confined to debate and to establishing contacts which largely depended for their success on the goodwill of Governments in seeking to improve the human rights situation. He agreed with the Swedish representative that the Commission should not refrain from considering the situation in a particular country simply because an equally bad or even worse situation existed in another country. Nevertheless, it was essential to establish general criteria and to avoid making use of scapegoats so that delegations would feel reassured about the view taken of the over-all situation with regard to violations of human rights. The Commission must combine pragmatism and idealism and remain ever vigilant.

30. His delegation would vote in favour of draft resolution E/CN.4/L.1447/Rev.2. Unfortunately, it had proved necessary to resort to a request for United Nations intervention in order to ensure observance of human rights in Nicaragua and, because of its solidarity with the Nicaraguan people, his country fervently hoped that a peaceful and democratic solution to the situation in Nicaragua would be possible. Similarly, his delegation would have no hesitation in voting in favour of the proposal concerning a draft telegram to the Government of Guatemala (E/CN.4/L.1456). A great service would be rendered to the cause of human rights if the telegram was sent. At the same time, he had been pleased to hear the views of the representative of Austria. Certain kinds of differential treatment undoubtedly existed and his delegation was equally concerned about other situations in other countries. The Commission could not establish a kind of Richter scale in order to measure which violations of human rights were the most serious. However, public opinion realized that some situations were more serious than others and, to a far greater extent than delegations realized, the public judged the consistency of the positions adopted with regard to violations of human rights.

31. Mr. BARROMI (Observer for Israel) said that the genuine promotion of human rights was not possible if the same criteria were not applied to all States, whether they were small nations or super-Powers. One of the problems that had claimed world-wide attention was the situation of the Jewish minority in the USSR.

32. In a resolution adopted on 14 November 1978, the European Parliament had deplored the constant violation of the human rights and basic freedoms of the Jewish community in the Soviet Union, particularly with regard to the right to emigrate, the exercise of national, religious, cultural and educational rights and freedoms, and the parody of justice which served as a pretext for repression and anti-semitic propaganda. It was not his intention to minimize the improvement that had occurred with regard to emigration from the USSR. In 1978, 30,000 Jews had been allowed to leave, but that was not the whole picture. The larger quota of exit visas was now outnumbered by the growing figure of affidavit requests, for 280,000 Jews in the Soviet Union had requested and received an affidavit from their relatives in Israel. The would-be emigrant had to submit an official application, thus exposing himself to harassment. Rejection of an application to emigrate led to a strange and distressing situation - a preposterous by-product of the Soviet emigration apparatus - in which the person in question became jobless and could be convicted of being a "parasite". If he had the courage to protest publicly, he could be charged with "malicious hooliganism". By a stroke of the pen, law-abiding citizens who defended rights that were guaranteed by the Soviet Constitution were transformed into dangerous hoodlums. For example, Ida Nudel, a sick and frail woman, had been condemned to four years of exile for the "crime" of wanting to emigrate. Again Anatoly Shcharansky, the brilliant young mathematician, had been sentenced to 13 years of imprisonment on a trumped-up charge of treason that had shocked the world. The courageous stand of men and women now languishing in prisons and labour camps in the USSR was a shining example of the indomitable strength of the human spirit in its quest for freedom.

33. Jews living in the USSR could not enjoy the national and religious rights that were extended to other minorities under Soviet law. It was a well-known fact that the study of Hebrew and Judaism was virtually impossible. Even worse was the dissemination of anti-semitism, thinly veiled as anti-zionism. The campaign was fuelled by so-called intellectuals, ominously described as specialists in Jewish affairs. Millions of copies of their books and articles were circulated, and they were reinforced by radio and television programmes. According to a report in Le Monde on 2 January 1979, a publication entitled Invasion without weapons by Vladimir Begun claimed that the ideological sources of zionist gangsterism originated in the scrolls of the Torah, a textbook unsurpassed for bloodthirstiness, hypocrisy, betrayal, perfidy and dissoluteness. Mark Mitine, a former member of the Central Committee of the Communist Party and an academician, was reported to be teaching his students that the "Judeo-Zionists" were characterized by greed, the cult of force and of the superhuman, decadence, cosmopolitanism and the basest instincts. Apparently, the Soviet Government was still not conscious of the moral commitment to all those, Jews and non-Jews alike, who had lost their lives at the hands of the Nazis. An article in Le Figaro of 19 January 1979 had pointed out that no socialist country and no Arab country had agreed to broadcast the television programme "Holocaust". It was high time the Soviet Government abandoned a policy that was morally reprehensible, politically ill-advised and fraught with appalling dangers.

34. A consistent pattern of gross violations of human rights was also to be found in Syria. The ancient Jewish community in that country, now reduced to nearly 5,000 frightened souls, was being kept hostage. Jewish emigration was forbidden and those Jews who were allowed in exceptional cases to travel abroad for brief visits were required to leave other members of their families behind. After a period of relative relaxation, Jews were again subject to restrictions on travel, even inside Syria, and were under the constant threat of the dreaded secret police. On a flimsy pretext, they could be detained and brutally mistreated, as described in a report in the New York Times of 24 February 1979 in connexion with a Syrian Jew who had succeeded in escaping from Syria. The plight of the Jews in Syria had aroused widespread protest and, on humanitarian grounds, Alain Poher, President of the French Senate, had requested help in a letter to the Secretary-General dated 12 December 1978, the thirtieth anniversary of the Universal Declaration of Human Rights. A similar urgent call had been issued on 31 January 1979 by members of the Council of Europe. By its callous denial of human rights, Syria was infringing basic international obligations and ignoring the voice of humanity. Such a course could not be left unchallenged by the Commission on Human Rights.

35. Mr. NUCETE (Observer for Venezuela) said that his country had maintained and would continue to maintain an attitude of militancy in protecting human rights and therefore condemned any action which sought to infringe those rights. The strengthening of regional and world-wide international machinery to safeguard human rights was essential. It was a matter of profound concern that, to date, it had not been possible to resolve the problems, and end the sufferings, of the Nicaraguan people, to whom his country was closely linked by indestructible ties of solidarity. Venezuela had denounced the grave violations of the right to life, the arbitrary arrests and the other infringements of human rights in Nicaragua, including the right to security of person, the deprivation of individual freedom and the severe restrictions on freedom of expression, thought and religion.

36. At the thirty-third session of the General Assembly, the Venezuelan Minister for Foreign Affairs had stated that Latin America had been faced with the serious dilemma of whether or not to remain indifferent to an unprecedented tragedy, for repression, torture and death had filled the history of Nicaragua for 45 years, during which one Somoza had succeeded another Somoza. Nicaragua was a republic, governed in bloody fashion by a kind of monarchy which stripped the people of their fundamental freedoms. The soil of Nicaragua was spattered with the blood of the innocent, the workers and the leaders of a people clamouring for liberty. Through the mass media, the whole world had witnessed the massacre and destruction unleashed by the dictatorship in Nicaragua.

37. His country regarded the full protection of human rights as a corner-stone of its international policy, because it was profoundly convinced of the need to safeguard those rights and to ensure that they were not implemented in a

discriminatory manner or used in order to achieve other ends. For that reason, his delegation once more denounced the rule of terror in Nicaragua and expressed the hope that the international community would help effectively to guarantee the enjoyment of human rights not only in Nicaragua but among all peoples.

38. Mr. AREBI (Observer for the Libyan Arab Jamahiriya) said that the item under discussion called not only for serious examination by the Commission, but also for energetic measures by the entire international community, and particularly by all countries with the means available to them, for the duty of a free man was to come to the assistance of all peoples struggling to gain their freedom and their rights. Needless to say, the causes of the most serious aspects of violations of human rights lay in colonialism and foreign occupation, and in the systematic denial of the right of peoples to self-determination and independence.

39. In order to bring effective aid to such peoples, the prime aim should be to halt all political, military, economic and other assistance to racist and colonialist régimes. To that end, the peoples concerned and their liberation movements should be afforded every kind of assistance.

40. At previous sessions, the Commission had affirmed that the right to self-determination - the sine qua non for the enjoyment of other human rights - had become a basic principle of international law. The Proclamation of Teheran had drawn attention to the fact that the maintenance of colonialism exerted a pernicious influence on the observance and enjoyment of human rights. It was easy to condemn violations of human rights, particularly in southern Africa - in Namibia, Zimbabwe and Azania - and in Palestine and Western Sahara, but it was high time that greater support was given to the peoples concerned. In particular, emphasis should be placed on the problem in Western Sahara.

41. On many occasions the General Assembly had clearly affirmed the right of the Saharan people to self-determination. At its thirty-third session, the General Assembly had reaffirmed its commitment to the right to self-determination and expressed the hope that a just and lasting solution to the question of the Western Sahara would be achieved rapidly, in conformity with the Charter. Accordingly, his delegation was wholly in favour of including the question of Western Sahara on the agenda for the following session as a matter of high priority. On the other hand, his delegation categorically rejected the draft decision proposed in document E/CN.4/L.1461.

42. Mrs. QUIROS (Observer for Costa Rica) said that her country could not remain indifferent to the flagrant and systematic violation of human rights in various parts of the world. Unfortunately, the terms of the Universal Declaration of Human Rights were infringed more frequently than those of any other international instrument, and constant vigilance was essential in order to secure effective compliance with the Declaration and to condemn failures to observe it.

43. Her country, dedicated to the principles of democracy, was not a mighty economic Power and, as a matter of conviction, had no military arsenals, for military forces had been abolished in 1948, only a police force having been retained to preserve law and order. Despite that situation and as a result of aggression by the Government of Nicaragua, Costa Rican civilians had been bombed and machine-gunned in Costa Rican territory and, on one occasion, even a group of schoolchildren had been attacked. Because of the seriousness of those incidents, her country had repeatedly brought them to the attention of the Organization of American States (OAS) and had subsequently notified the Security Council. The OAS Council had adopted a number of resolutions on the question including one on 16 October 1978, in which it had condemned the deliberate violation of Costa Rican air space by the Nicaraguan Air Force, which had bombed and machine-gunned Costa Rican civilians on Costa Rican territory on 12 and 13 September 1978. The resolution in question had been adopted by 19 votes to none, with 2 abstentions.

44. In 1978 the Inter-American Commission on Human Rights had agreed to prepare a report and had appointed a six-member ad hoc committee which had visited Nicaragua from 3 to 12 October 1978. The committee had reached the conclusion that the Government of Nicaragua had engaged in serious, consistent and widespread violations of human rights. Those violations included the following: attacks on the right to life; repression of civil insurrections by indiscriminate bombing, without prior evacuation of civilians, in flagrant violation of international humanitarian law; hindering of the work of the Red Cross, including the killing of first-aid workers, and improper use of Red Cross vehicles and emblems; killings, arbitrary arrests and other violations of the human rights of peasant groups; systematic use of torture and widespread repression against any male between 14 and 21 years of age, and imprisonment of young people with common criminals; violation of the right to protection against arbitrary arrest and of the right to a proper trial, and, particularly, the right to a proper defence; violation of freedom of expression; and restrictions on the practical exercise of freedom of thought, conscience and religion, and on the right of association for political and trade-union purposes.

45. In view of that situation, her Government urged the Commission to take steps to help restore the observance of human rights throughout the world and, in particular, to examine in detail the situation regarding the violation of human rights by the Government of Nicaragua.

46. Mr. RAOELINA (Observer for Madagascar) said that, 19 years after the adoption of General Assembly resolution 1514 (XV) concerning self-determination, it must be recognized that hundreds of thousands, if not millions, of human beings were still victims of repression, when their sole crime was to claim their rights to human dignity, freedom and independence. Regrettably, such a situation could only confirm the truth of the Latin saying: Homo homini lupus. It was unthinkable that, in the twentieth century, such barbaric acts still defiled the dignity and pride of human beings, even though the United Nations had waged a ceaseless struggle to safeguard their rights.

47. His country wished unequivocally to assure the Commission of its help in liberating oppressed peoples and condemned the odious and intolerable acts of the oppressors. Africa, the Middle East and certain countries in Latin America and other regions in the world were a major concern for the international community,

as were the grave problems posed by racism, apartheid, racial discrimination, violations of human rights and crimes which threatened peace and security. The Commission now had before it reports which furnished irrefutable evidence of arbitrary measures, displacement of populations, arrests and detentions, ill-treatment and torture inflicted on prisoners - acts which every day swelled the numbers of orphans, widows and homeless.

48. Regardless of the initiatives taken by the Organization of African Unity, his delegation held the view that the United Nations had special responsibilities towards the Saharan people and that the Commission must consider the problem in Western Sahara. The President of his country had stated that no African country could have an easy conscience until a just solution had been found for the cause of the Saharan people, whose territory had been illegally annexed by neighbours who had earlier been champions of independence for Western Sahara. In its advisory opinion of 16 October 1975, the International Court of Justice had denied the existence of any tie of territorial sovereignty, or of any uninterrupted exercise of political authority by Morocco, over the Sahara prior to Spanish colonization. Moreover, that Court had stated that there was no tie of sovereignty or tribal allegiance between the territory of the Sahara and the Mauritanian entity.

49. Hence it was evident that the annexation of Western Sahara by Morocco and Mauritania constituted a very grave violation of the political rights of the individual. The report of the International Federation for the Rights of Man contained overwhelming evidence of the slaughter and intimidation of Saharans by the forces of aggression in that occupied territory. The savage aggression by the occupying forces included torture of children before the eyes of their parents, the deportation of Saharans, the dispersal of families, the disappearance of numerous persons, imprisonment without trial, imprisonment of persons suspected of sympathizing with the Polisario Front, attacks by tanks and the destruction of the cattle of the civilian population. Young Saharans had even had their hands cut off to prevent them from fighting against the occupying forces. Hospitals had been requisitioned and diseases had become chronic for lack of medical care. A report in Le Matin de Paris of 16 December 1978 had stated that dozens of Saharans were being held without trial in the central prison at El Ayun and that many of the detainees, the majority of whom were women, had been tortured. However, the Moroccan authorities either remained silent or made contradictory statements regarding political detainees in the former Spanish Sahara.

50. His own country had been the first to recognize the Democratic Saharan Arab Republic and was convinced that it was the duty of the Commission to discuss the problems of the Saharan population. Consequently, his delegation formally requested that the question of the violations of human rights in Western Sahara should be placed on the agenda for the thirty-sixth session of the Commission as a matter of high priority. Lastly, it rejected the draft resolution proposed in document E/CN.4/L.1461.

51. Mr. MACINNES (Observer for the United Kingdom) said that his delegation welcomed draft resolution E/CN.4/L.1452. Hundreds of thousands of refugees had fled from the Indo-China region since the events of 1975. Those receiving the refugees were having to shoulder immense burdens and his delegation fully supported the action being taken by the United Nations High Commissioner for Refugees to alleviate the situation.

52. The risks to life which many thousands of boat refugees were prepared to run showed clearly that it was not poverty alone from which they were fleeing. Moreover, there were disturbing credible reports that Vietnamese agencies had been organizing and profiting from the departure of the refugees. His Government was particularly concerned at the reports of an organized scheme under which large ships were chartered with the connivance of Vietnamese officials to pick up thousands of refugees directly from Viet Nam and then sail, unbidden, to neighbouring countries and territories, including Hong Kong. In the opinion of his Government, only an end to the policies responsible for the refugee exodus could provide a solution to that major international problem, which not only caused untold misery to those directly concerned but imposed enormous burdens on countries of first asylum and ultimate resettlement.

53. His delegation strongly supported the Commission's decision to hold a public discussion of human rights violations in Equatorial Guinea. It welcomed draft resolution E/CN.4/L.1457, which urged that a special rapporteur be appointed to make a thorough study of the human rights situation in Equatorial Guinea.

54. His delegation had co-sponsored draft resolution E/CN.4/L.1446 because human rights violations in Democratic Kampuchea constituted a matter about which the United Kingdom Government and people felt strongly. His delegation therefore greatly regretted the Commission's decision to postpone consideration of the report contained in document E/CN.4/L.1335. The Commission should draw the attention of the international community to what the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities had described as genocide which had not been seen on such a scale since the Second World War.

55. The CHAIRMAN suggested that, as the Commission had decided not to discuss the report in document E/CN.4/L.1335, the observer for the United Kingdom should not dwell on the matter.

56. Mr. MACINNES (Observer for the United Kingdom) said he merely wished to remind the Commission that draft resolution E/CN.4/L.1446 had not been withdrawn. He hoped that it would be adopted, even without the third preambular paragraph.

57. Mr. HEINEMANN (Observer for the Netherlands) said that his delegation was greatly concerned about the fact that, according to the reports of United Nations agencies and respectable non-governmental organizations, serious violations of human rights continued to take place. The latest annual report of Amnesty International bore testimony to the extent and seriousness of such violations. It was satisfying to note that United Nations made use of the information supplied by Amnesty International and other organizations. The United Nations should not, however, act merely as a repository of information gathered by other bodies; it should verify, supplement and complete that information through its own fact-finding machinery.

58. The work of the Ad Hoc Working Group on the Situation of Human Rights in Chile constituted an excellent example of a successful fact-finding operation. His delegation

was convinced that the improvement in the Chilean situation was largely attributable to the existence and activities of the Group. With the achievements of the Group in mind, his delegation had supported a draft resolution sponsored by Italy at the thirty-third session of the General Assembly urging that the experience gained by the Group should be used in other cases of gross violations of human rights. It was most regrettable that that draft resolution had become a subject of dispute and that some of the delegations with which the Netherlands delegation had worked closely in drafting resolutions on Chile had opposed more general use of the procedure in similar cases.

59. Chile was not the only country in the region which warranted the attention of the Commission. The excellent fact-finding work carried out by regional organizations, such as OAS, deserved mention and could be usefully supplemented by the United Nations. For instance, even though OAS was dealing with the human rights situation in Nicaragua, the Commission might soon be enabled by draft resolution E/CN.4/L.1447 to pursue its own investigation of the situation. It was unfortunate that the draft resolution did not refer explicitly to the OAS report. Generally speaking, it should be standard United Nations practice, when dealing with human rights violations in a particular region, to take note of the reports of regional organizations.

60. Clearly, the need for fact-finding by the United Nations became even more pressing in those parts of the world where no regional organizations with a mandate for human rights activities existed. His delegation hoped that the Canadian draft resolution on the situation of human rights in Equatorial Guinea (E/CN.4/L.1457/Rev.1) would be adopted by the Commission. It should be borne in mind that a fact-finding mission to an innocent country would not harm that country if the fact-finding team was selected in a responsible manner.

61. His delegation had listened with great interest to the moving introduction to a fine example of fact-finding, namely, the report on the human rights situation in Democratic Kampuchea (E/CN.4/L.1335). It understood why certain delegations did not want to discuss the report at the present time, but it wished to express dissatisfaction with the decision taken by the Commission at the previous meeting (E/CN.4/SR.1516). That was not the first time a United Nations body had passed over a report because the preparation of the report had been followed by a dramatic political change.

62. Mr. BOUDJAKOJE (Observer for Algeria) said that, in dealing with draft resolution E/CN.4/L.1455, the Commission should take account of its global context and the causes of the violations of fundamental rights suffered by the inhabitants of the former Spanish colony. The problem was one of decolonization, which had been interrupted in 1975 following violation of the territory, then under Spanish domination, by Morocco and Mauritania, which wished to occupy and annex the Western Sahara.

63. In its latest resolution on the subject (resolution 33/31), the General Assembly had reaffirmed the inalienable right of the people of Western Sahara to self-determination and independence, and the responsibility of the United Nations with regard to decolonization of the Western Sahara in accordance with the principles of the Charter. As one of the major organs of the United Nations, the Commission was aware of the implications of the situation. The brutality with which the people of the Western Sahara had been attacked had aroused horror and indignation throughout the world. That attempt at genocide - or, more precisely, in the case of the people of the Western Sahara, ethnocide - was continuing relentlessly.

64. The Commission could not evade the facts when examining item 12 of its agenda. In conformity with its specific mandate, and its responsibilities and obligations under the Universal Declaration of Human Rights and the Charter, the Commission should take account of all the details of the problems confronting it, and particularly the grave violations of human rights in occupied Western Sahara. A vote in favour of draft resolution E/CN.4/L.1455 would help to relieve the sufferings of thousands of persons and save the lives of many of them.

65. Turning to draft resolution E/CN.4/L.1461, he said that members of the Commission were well aware of the events that had led to the flow of refugees from the Western Sahara to Algeria. In describing the situation, the Moroccan representative had distorted the facts. By denying the refugees of the Western Sahara their identity and by calling in question the activities of the United Nations High Commissioner for Refugees in support of those refugees, he seemed to hope that the Commission would make a political contribution to the "Moroccan solution" of the problem of Western Sahara and take decisions on situations that were within the competence of other bodies.

66. Draft resolution E/CN.4/L.1461 tried to introduce several elements which were irrelevant to the real situation. In the first place, it implied that the question of the Western Sahara had been disposed of, that the territory was Moroccan and that the population was also Moroccan. Secondly, it spoke of the tension prevailing in the region. It was manifestly false to claim that the problem of the Western Sahara had been settled and that the Saharan population had exercised its right to self-determination, accepting the division and annexation of its country. Daily events proved that the problem had never weighed as heavily on the situation of the region as a whole.

67. The draft resolution also sought to imply that the Saharan refugees in the Tindouf region were being held against their will and would be happy to return to their homes. The refugees would undoubtedly be happy to return to their homes; they were prevented from doing so not by obstacles established by the Algerian Government but by the situation created by the military occupation of the territory and the consequent threats to their safety and freedom.

The material situation and the frame of mind of the Saharan refugees at Tindouf were no secret, and the many visitors who had seen them, including the United Nations High Commissioner for Refugees and journalists of all nationalities, were well aware of the ordeals they suffered with courage and resignation in order to safeguard their ideal of preserving their personality and regaining their liberty. The Algerian Government provided those uprooted people with all the humanitarian assistance within its means and appealed to the international community to help to improve the miserable conditions in which they were living. The existence of the refugees testified to the persistence, in the Western Sahara, of a problem of decolonization which was far from solved.

68. An attempt was also being made to confuse the issue by distracting attention from the essential fact constituted by the military occupation and annexation of the Sahara. The Heads of State of the Organization of African Unity had analysed the situation perfectly when they had decided to convene a Special Summit to examine not, as had been wrongly stated in the Commission, the tension prevailing in North Africa, but the question of the Western Sahara, in an effort to find a settlement in conjunction with the neighbouring countries and the Saharan people themselves. His Government would not allow itself to be led astray by attempts to distort the problem of the Sahara and talk of a conflict between neighbouring countries. Algeria continued to assert that its position of principle was not based on any territorial ambitions and even less on any feeling of hostility towards its neighbours. Its position was based on the firm conviction that the only guarantee of a real and lasting solution to the question of the Sahara lay in the exercise by the Saharan people of their right to self-determination, on the basis of the territorial integrity of their country, within the framework of a genuine referendum supervised and guaranteed by the United Nations.

69. Draft resolution E/CN.4/L.1461 referred to camps at Tindouf and the neighbouring area. Tindouf was in Algeria, but Tindouf and the neighbouring area also had a history. They were the subject of a permanent claim by Algeria's Moroccan neighbours, whose dream was to establish what they termed greater Morocco by absorbing the Western Sahara, Mauritania and a substantial part of Algeria, including Tindouf and the neighbouring area.

70. Because the refugees from the Western Sahara who had found asylum in Algeria were in the area of Tindouf, the Moroccan authorities constantly invoked the right of pursuit, hoping perhaps to silence the liberation movement of the Saharans under the leadership of the Polisario Front. The draft resolution made no mention of General Assembly resolution 33/31 or of the action taken by the United Nations and the international community on behalf of the Saharan refugees.

71. His delegation rejected the Moroccan delegation's attempt to cast suspicion on the activities of the United Nations High Commissioner for Refugees. The Commission would have noted that the arguments adduced by the representative of Morocco were groundless. Above all, it would have noted that the problem of the Saharan refugees, like all refugee problems throughout the world, came within the exclusive competence of the United Nations High Commissioner for Refugees.

72. Mr. MALDONADO-AGUIRRE (Observer for Guatemala) said that one delegation had submitted a text referring to a regrettable incident which had occurred in Guatemala. On 25 January 1979, his Government had issued an official bulletin on the incident, a copy of which had been transmitted to the Commission.

73. He wished to give a brief account of the main political factors underlying the violence in his country. In the late 1960s, the constitutional and democratic Government of Guatemala had been confronted by an uprising of armed national and foreign groups. Those groups had exercised such arbitrary and oppressive power that the peasants of the region had called for action by the armed forces. In a short time, the armed forces had defeated the rebel forces, which had dispersed. Some rebel groups had subsequently reverted to their strategy of revolutionary war, including urban terrorism as the most effective means of intimidating society and the State. That had marked the beginning of an era of terror such as had never before been known in Guatemala. It had taken the form of a series of assassinations, fires and other acts of sabotage, kidnappings and attacks on life and property. Mr. John Gordon Mein, the Ambassador of the United States of America, had been assassinated in the centre of the capital and Count Von Spretti, the Ambassador of the Federal Republic of Germany, had been cruelly tortured. To those ills had been added the counter terror of the opposing political party which, accusing the Government of ineffectiveness, had resorted to acts of violence in an attempt to achieve power. In the circumstances, the Government had done its best to maintain the state of law and offer Guatemalan citizens constitutional guarantees protecting their dignity and the free exercise of their rights and duties. The existence of two terrorist factions was a constant source of concern to Guatemalans who, through their spokesmen, had unanimously condemned both factions.

74. The country had reacted by maintaining public liberties and a representative democratic system. Guatemala was a State based on law: the Government was elected by direct universal secret suffrage and the President could be changed every four years; members of Congress and the municipal corporations were also elected by popular vote; there was separation of powers and important institutions such as the Central Bank, the universities and the municipal system were autonomous. Currently, there were seven legally registered political parties and other political parties would be registered shortly. Guatemalans enjoyed freedom of the press and freedom of creation and artistic expression. Workers had the right to form trade unions and the right to strike. There were 168 independent broadcasting stations, eight independent newspapers and four private

television stations. There was no official television station and the Government did not even have an official news agency. There was freedom of education and academic freedom. There were five universities which were completely autonomous both academically and administratively. The Government supplied texts for primary education, but they were not obligatory and teachers were free to introduce changes in programmes and use such books as they saw fit.

75. He hoped that that brief outline of the situation in Guatemala would show that Guatemalans were firmly committed to democracy. Although the terrorism of the extremist factions had dealt society a severe blow, it was quite clear that all social sectors of Guatemala had been unanimous in condemning crime and violence, the aim of which was to sow terror and fear and to impede the process of social and economic development. The Government had repeatedly stated that it was prepared to punish all crimes by all the legal means at its disposal.

76. Mr. MARTINEZ (Observer for Argentina) said that comments had been made on the question of missing persons; he would reply to those comments when the Commission took up agenda item 10.

77. Noting that the representatives of Sweden and Austria had referred to Argentina, he said that the representative of Austria had mentioned figures which were totally inaccurate. He would be interested to learn the name of the non-governmental organization to which the representative of Austria had referred. The organization was not a non-governmental organization in consultative status with the Economic and Social Council, and did not appear in any United Nations list. It was made up of terrorists, concerning whom his Government had sent two communications to the United Nations Secretariat.

78. Mr. EL-FATTAL (Syria), speaking in exercise of the right of reply, said that the answers to the accusations levelled against Syria by the observer for Israel were to be found in document E/CN.4/1252. He requested that that document be re-circulated to members of the Commission.

79. Syria's population was made up of Moslems, Christians and Jews, all of whom were Syrian citizens. There were restrictions on travel, but they applied to all citizens and not only to Jews. There was no discrimination against Jews in Syria. He had in his possession a list showing the names of the many Jews, including entire families, who had been able to leave Syria. He would speak further in exercise of his right of reply at the Commission's following meeting, when he would explain Zionist ideology with respect to the question of emigration.

80. Mr. ERMACORA (Austria) said that at the current session of the Commission observers had participated actively in the Commission's work. He asked whether they were entitled to influence the reports of working groups, such as the Working Group on Religious Intolerance, and whether their comments should be reflected in such reports.

81. The CHAIRMAN said that the reports of working groups should, of course, record the work of those groups. He would reflect further on the question raised by the representative of Austria.

The meeting rose at 11.35 p.m.