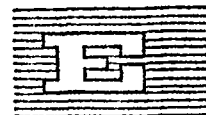


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COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 45th MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 3 March 1983, at 10 a.m.

<u>Chairman:</u>	Mr. OTUNNU	(Uganda)
later:	Mr. BARAKAT	(Jordan)

CONTENTS

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 (continued)

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The meeting was called to order at 10.05 a.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) (E/CN.4/1983/16-20, 22 and Add.1, 33, 43, 47, 51-53, 55; E/CN.4/1983/L.18, L.37, L.38, L.48, L.53; E/CN.4/1983/NGO/2, 4, 8-15, 21, 25, 27-31, 38, 39, 41, 42, 45)

1. Mr. CANKOREL (Observer for Turkey), speaking in exercise of the right of reply, said that his previous statement had been intended solely to redress the imbalance, concerning the situation in Cyprus, stemming from the Greek Cypriot Administration's reply contained in annex I to the report by the Special Rapporteur on human rights and massive exoduses (E/CN.4/1983/33). He had simply pointed out that the 1974 invasion of Cyprus had not been from Turkey; but in view of the hostile reaction by a member of the Commission seemingly anxious to blame Turkey for the tragedy, he wished to provide further evidence in support of his delegation's earlier statement.
2. On 19 July 1974, Archbishop Makarios, the then Greek Cypriot leader, had informed the Security Council that the Greek-engineered coup of 15 July 1974 had been no internal affair but an invasion in flagrant violation of the Cypriot people's independence and sovereignty. He had said that the invasion would continue for as long as Greek officers remained in Cyprus and that its consequences caused suffering to all Cypriots, Greek and Turkish alike. On 29 November 1982, the Greek Cypriot newspaper Haravgi had carried a statement by the Secretary-General of the Greek Cypriot Communist Party (AKEO) that during the armed Greek coup the insurgents had eliminated many Greek Cypriots and had even buried some of them alive. Mass graves of Turkish Cypriots still existed in northern Cyprus.
3. In a book published by the wife of the Greek Cypriot Minister of Education describing the situation prior to the Turkish intervention, the author had said that no one had expected that events would lead to a fratricidal war, and had quoted a doctor's description of how mainland Greek soldiers, using armed force, had ordered doctors of the Nicosia General Hospital to treat certain cases and abandon others. Quotations from diaries dated 16 to 19 July 1974 had included an observation that some people would have preferred Turkey to intervene and had begged that country to do so.
4. Such had been the conditions under which the Turkish armed forces had had to intervene in Cyprus. The Greek Cypriot representative had apparently overlooked the fact that the Zurich and London Agreements of 1959 and 1960 - to which Turkey was a guarantor party pursuant to the Treaty of Guarantee - governed the situation in Cyprus, as well as the plight of tens of thousands of Turkish Cypriots who had been forced to flee their homeland as a result of the Greek Cypriot Administration's repressive acts before 1974 - surely the matter most relevant to the Commission's deliberations on Cyprus. The Cypriot representative's hostile statement was of no value to the intercommunal talks on Cyprus, which constituted the sole means of reaching any solution to the problem.
5. Mr. ADJOYI (Togo) said that the world community seemed to have forgotten its resolution to practise tolerance and live together in peace, pursuant to the aims of the Charter. It was hard to understand the behaviour of some States, which refused to exercise tolerance and good neighbourliness or to uphold respect for the human rights of all persons everywhere, and yet presumed to give lessons on those matters in the

Commission. It was also hard to understand how, despite all the talk of human rights, assistance could still be refused to peoples struggling for the right to life, food, health, education and their own form of social well-being. As the President of Togo had observed, it must be asked whether human rights meant the right to die of hunger and sickness and whether freedom of expression had any meaning for those who had never been taught to read and write. All human beings must be guaranteed a truly human level of existence, but no international solidarity aimed at providing such a guarantee was discernible.

6. As in the past, consideration of the current agenda item provided an opportunity to note the disparity in approach to situations and the by now ritualistic attempts, in the Commission, to denounce human rights violations in some places and ignore them in others, without developing specific solutions. It even appeared that the main purpose was to exalt one's own political group and humiliate the others.

7. The Commission must seize the opportunity presented by the item under consideration to diagnose the root causes of human rights violations and produce remedies which, inter alia, would strengthen the role of the United Nations in fulfilling one of its basic commitments pursuant to the Charter. The Director of the Centre for Human Rights, in his statement to the Commission at the beginning session, had placed that role in its proper perspective. The Togolese delegation welcomed the proposal to appoint regional human rights commissioners and the steps already taken by the Director in implementing General Assembly resolution 37/200. The measures envisaged would be but one link in a chain of provisions aimed at strengthening the Organization's prestige and powers of persuasion - a matter recently raised by the Secretary-General when he had mentioned the need to make the rulers of the world's nations aware that they had much more to lose than to gain by disregarding human rights.

8. United Nations activities concerning human rights violations would be greatly assisted if States could transcend narrowly nationalistic considerations and adopt a truly unbiased approach aimed at lasting solutions. The effectiveness of the work of regional commissioners and special rapporteurs would thus be ensured, and the latter would no longer be subjected to obstruction and hostility. All States, particularly the members of the Commission, must develop an atmosphere of mutual trust and confidence, free from ideological and political considerations, recognizing the truly humanitarian aspects of situations and the fact that human rights violations anywhere were a matter of concern for all. Violations in certain areas should not be over-emphasized at the expense of possibly worse violations elsewhere; all violations must be denounced equally.

9. For example, many delegations had referred to the situation in Poland. If the Commission was to be objective, it must note that in other parts of the world much more serious violations were taking place, for example, in Afghanistan and Kampuchea, where human rights could be fully restored only when all foreign troops had been withdrawn. Likewise, in the occupied territory of the Palestinian people, the restoration of human rights must involve a settlement in which the PLO, the Palestinian people's sole legitimate representative, must participate. In Bolivia, Chile and El Salvador, the situations were so disquieting that special envoys, representatives or rapporteurs had been appointed to report on them, although, in the case of Bolivia, there seemed to be prospects of an improvement under the current Government. The situation in Guatemala was hardly any better, and there was a disturbing situation in Iran, where executions, particularly of the Baha'i community, were continuing. In other parts of the world, human rights violations had led to massive exoduses; the report on that question by the Special Rapporteur (E/CN.4/1983/33) was an important document which deserved to become a basic tool for the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees.

10. Human rights violations took many and varied forms, from denial of trade union rights and freedom of expression and movement to religious persecution and mass murder. It was difficult to concentrate on relatively small-scale violations while massive violations of the sort stemming from policies of colonialism, neo-colonialism and apartheid were ignored. For example, the cause of the Namibian people, struggling for freedom under the guidance of SWAPO, its sole legitimate representative, was most deserving. All States, including those of the contact group, must eschew considerations of immediate political advantage in seeking a solution because, as had been said, all countries had more to lose than to gain by perpetrating or ignoring violations of human rights. The policy of apartheid was itself the most repugnant form of such violations, and those who voluntarily or involuntarily supported it were in effect denying the non-white population the exercise of their legitimate human rights. The situation in South Africa and Namibia should have been condemned with the same vehemence as had situations elsewhere; it was essential that the international community should express its concern by giving effect to the relevant United Nations resolutions.

11. Most obstacles to the exercise of human rights stemmed from the practices of colonialism and neo-colonialism, which found expression in racist attitudes and policies and in disregard of the right of all peoples to freedom, security and development. All such situations violated the principles and purposes of the Charter and relevant human rights instruments. More than ever, the efforts of the Centre for Human Rights were needed in order to heighten the international community's awareness of violations and of the need to respect human rights and the principles of the Charter, so as to ensure that the right to peaceful development was enjoyed by all. States everywhere must pool their efforts in such a way as to ensure the genuine exercise of human rights.

12. Mr. LIGAIRI (Fiji) said that the Commission had a responsibility to seek to understand the causes of human rights violations and the added responsibility of encouraging Governments to co-operate in efforts to improve human rights. It was deplorable that there should still be situations in which people disappeared without trace or were persecuted for defending human rights or on grounds of race or belief. It must be apparent to all Governments that any regime which suppressed its own people's rights would sooner or later feel that people's wrath; recent examples should be borne in mind by Governments which still wilfully violated such rights. The Commission, for its part, must accept that its duty was not merely to identify gross violations but to assist successor Governments in restoring human rights by rectifying the damage such violations had caused. Rehabilitation and reconstruction were never easy; it was therefore important that the United Nations should provide technical assistance in the field of human rights and help afflicted countries to restore their free and democratic traditions.

13. The injustices created by the many forms of human rights violations, particularly the repression of peoples' legitimate aspirations, posed a major threat to international peace and security. Racial and religious communities and political groups were persecuted; even entire nations under colonialism, alien domination or foreign occupation were deprived of their inalienable right of self-determination. In some regions, minority groups were mercilessly suppressed because of prejudice or claims of national unity; in others, people were driven across frontiers or seas, adding to the enormous problems of displaced persons and refugees. And the various reports now before the Commission testified to summary and arbitrary executions, torture, detention without trial, religious intolerance and persecution.

14. The Commission, and the Organization as a whole, had an impressive record in creating for nations a viable code of conduct relating to human rights. However, genuine observance in many parts of the world fell far short of the norms to which Member States had subscribed. Human rights must be respected everywhere unconditionally; for to disregard them was in itself a cause of tension within and among countries. Since the Second World War, human rights violations within countries had resulted in sufferings far greater than those ensuing from inter-State conflicts, as the relevant reports showed. Political expediency had all too often resulted in a failure to respond to flagrant violations of human rights; such failure could seriously undermine the Organization's credibility.

15. If dedication to the cause of human rights could be measured in words, few problems regarding the exercise of those rights would remain. The formidable list of items on the Commission's agenda highlighted the extent to which human rights were tampered with and violated in many parts of the world; and it reflected the number of countries whose citizens, individually and collectively, were being denied their basic rights. It was, in many respects, an indictment of the Commission and the Organization as a whole, since the disparity between words and deeds pointed to a lack of genuine commitment. The really important issues were lost sight of in acrimonious debate.

16. It had become almost a ritual to single out certain States in which gross violations of human rights were alleged. While it was praiseworthy to identify States because of their shortcomings, failure to rebuke those who discreetly but deliberately denied their own citizens the exercise of human rights was an affront and detracted from the Commission's standing as an impartial, consistent and objective body. The world did not lack noble qualities; what seemed lacking was the political will to ensure that human rights were fully exercised everywhere instead of being the subject of lofty but hollow pronouncements.

17. Mr. ZAWALONKA (Poland) said that the Commission's deliberations under the current item had been extensive, covering the situations in the occupied Arab territories and in southern Africa. The item was influenced not only by the colonial past but also by the neo-colonialist present. Neo-colonialism, racism, alien domination, efforts at destabilizing elected Governments, hegemonism or foreign occupation were always accompanied by human rights violations, which usually began within the perpetrators' countries. That was why human rights were being violated in Namibia, the Palestinians' homeland and many countries in the Western hemisphere, especially those which had been influenced by United States domination.

18. The more closely any Government in that region had been associated with the United States, the graver the violations of human rights; a typical situation was that in El Salvador. Since 15 October 1979, when the junta had assumed power, systematic and flagrant violations of human rights had been perpetrated on a large scale in that country, as had been noted by the Special Representative in his report (E/CN.4/1983/20), which had mentioned attempts on human lives, cases of torture and cruel, inhuman and degrading treatment, interference in private lives, and violations of freedom of thought, conscience, religion, expression, peaceful assembly and association. The report also gave details of the brutal treatment of political prisoners of the regime. In 1979, members of the government forces or armed organizations operating with its permission had committed over 1,000 political murders; there had been over 8,000 in 1980, more than 12,000 in 1981 and some 6,000 in 1982. The aim had been to terrorize the people into submission. The Judiciary had shown

amazing inactivity in the face of such events; there was no record of any of the criminal proceedings for human rights violations having resulted in a sentence. Because of the situation there was a steady stream of refugees to other Latin American countries, some 250,000 persons having already fled.

19. The United States Administration sought to justify its military aid to the Government of El Salvador by assertions such as that made by the Assistant Secretary of State for Inter-American Affairs, on 14 December 1981, that violent deaths other than in combat had declined by over one half since the previous year, and the assertion, in January 1983 that failure to maintain support for the Salvadorian Government against leftist insurgents would prevent the United States from attaining its "goal of reform". The United States Administration had again certified, in its report to Congress in 1983, that El Salvador's Government had progressed enough in human rights and political and economic reforms to qualify for military and economic aid. It was clear that the "goal" of the United States meant the latter's imperialist designs; it was clear too that the human rights violations in El Salvador were due to the political and material support of the United States for the regime there.

20. The United States decision to maintain military assistance to El Salvador in a time of civil war demonstrated its contemptuous indifference towards the Salvadorian people's needs. United States intervention in that country flouted General Assembly resolutions 35/192, 36/155 and 37/135, and the corresponding Commission resolutions; it encouraged further violation of the Salvadorian people's right freely to determine their own future, and prevented the restoration of peace and security and the establishment of democracy.

21. No country in the world had so thoroughly used human rights considerations for political purposes as the United States; no other country had so ventured to impose its own human rights standards on the international community - against common humanitarian interests and in opposition to universally recognized values. For the United States Government, human rights were an instrument with which to chastise some countries and uphold others on ostensibly humanitarian grounds. Its attitude to human rights violations in El Salvador conformed to its consistent practice of imposing its views on others. But it was a questionable preacher, and the application of the "American dream" to El Salvador could only mean a nightmare for that country's people.

22. The Polish delegation condemned those responsible for the continued human rights violations in El Salvador and those who abetted them; it deplored the fact that the regime in that country ignored the international community's appeals to end the violence. Poland expressed its solidarity with the people of El Salvador and offered its support in the struggle for emancipation; it upheld that people's right to pursue their own economic, social and cultural development without outside interference. The situation in El Salvador called for continued close international appraisal; no effort should be spared in seeking to end the existing situation, which represented a consistent pattern of gross and mass violations of human rights and a danger to peace in the region.

23. Mr. CHOWDHURY (Bangladesh) expressed appreciation to the Special Envoy on the human rights situation in Bolivia and the Special Rapporteurs for the valuable reports they had prepared for the Commission's consideration under item 12, which had highlighted the principles universally recognized by the Members of the United Nations. The expression "fundamental freedoms in any part of the world" in the title of the agenda item held out the hope that, wherever there was misery or suffering in the world, the Commission would use its influence to bring about the needed improvements. That was the main objective for which members assembled each year and, with the co-operation of all, they should be able to achieve it.

24. The basic principles of human rights had been spelt out in the International Bill of Human Rights, and the fact that Governments had sent representatives to the Commission to explain the situation obtaining in their countries was a clear indication that they took the Commission seriously and had taken note of the resolutions it had adopted.

25. The report on summary or arbitrary executions (E/CN.4/1983/16) highlighted the situation obtaining in a number of countries with respect to violations of the most fundamental human right, namely, the right to life, liberty and security of person. That principle, which was also enshrined in the Charter, had been accepted by all Member States, and the Organization had endeavoured to lay down civilized norms of behaviour in precise terms in order to guide the conduct of States without violating the overriding principle of non-interference in their internal affairs.

26. The right to life implied the right to a fair trial, which included access to the legal assistance of a lawyer of the accused person's choice and an absolutely independent Judiciary. The execution of individuals without a fair trial was a gross violation of human rights. The Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders had adopted a resolution identifying executions without a fair trial as "extralegal" and the General Assembly had condemned such executions in unambiguous terms. In his report, the Special Rapporteur had drawn attention to the situation in South Africa, where the apartheid Government had killed large numbers of Africans over a lengthy period and was continuing to perpetrate enormous crimes against humanity. It was high time the international community took effective action to put an end to that situation.

27. The Special Rapporteur on human rights and massive exoduses had, with objectivity and humanity, painted a bleak picture of a world in which people were forced to leave their homes in large numbers. The United Nations must provide every assistance to such people and, permanent machinery was necessary to deal with situations as they occurred. On that subject the Special Rapporteur had made a number of recommendations which deserved the Commission's attention. There was also a need for an effective system of monitoring situations so that the international community could act speedily to alleviate the plight of refugees.

28. Mrs. OGATA (Japan) said that item 12 encompassed the whole range of mechanisms which the Commission had developed in the preceding 10 years for dealing with violations of human rights. With regard to the human rights situation in individual countries, it was to the Commission's great benefit that it had been able to dispatch emissaries to various countries and, on the basis of their reports, pass its own judgement on the situation obtaining there and devise ways to help improve the enjoyment of human rights.

29. Her delegation was pleased to note that the feeling of mutual trust between the Government of El Salvador and the Special Representative had been preserved. She paid a tribute to the Government for its courage in granting the Special Representative permission to visit the country again, especially since it had not always been satisfied with the action which the United Nations had taken in the past. The Special Representative had noted a clear desire on the part of the Government to improve respect for human rights at all times in that country. The full and open co-operation of the Government with the Special Representative and with the Working Group on Enforced or Involuntary Disappearances, and other positive developments should be encouraged by the Commission, since without the co-operation of the Government it could not expect improvements in the human rights situation in any country. Nevertheless, the Special Representative had stated in his report that during 1982 serious, massive and persistent violations of human rights had continued, and that an improvement in the enjoyment of economic, social and cultural rights could be brought about only through a gradual process of reform, including agrarian reform, which required a genuine climate of social peace. As the Special Representative had recognized civil peace was also a prerequisite for the restoration of respect for civil and political rights and the enhancement of economic, social and cultural rights. It was therefore inappropriate to urge or request the Government of El Salvador alone to take action to ensure respect for human rights, as United Nations resolutions had done in the past. The Government seemed to be making efforts to ensure respect for laws, moral principles and human rights, for example by issuing appropriate instructions to all members of the armed and security forces. The various groups which often resorted to force should also refrain from attacks that could lead to the loss of civilian lives. It was to be hoped that the efforts of the Government, coupled with the co-operation of such groups, would restore active respect for human rights in the near future.

30. The Government of Bolivia had continued its co-operation with the Commission and responded favourably to the Special Envoy's recommendations by acceding in 1982 to the International Covenants on Human Rights and several other United Nations instruments. She noted with satisfaction the Special Envoy's conclusions in paragraph 103 of his report (E/CN.4/1983/22) and expressed confidence that, as long as the Government maintained its current attitude, further protection and promotion of human rights could be achieved in the near future. She agreed with the Special Envoy that the case of Bolivia should now be considered concluded. The United Nations should nevertheless continue, through the provision of advisory services, to assist the Government's efforts to ensure the full observance of human rights and fundamental freedoms.

31. It was regrettable that a Special Rapporteur on the situation of human rights in Guatemala had not been appointed and that, as a result, there was no substantive report on which the Commission could base its discussion. She understood that the Government of Guatemala was prepared to co-operate with the Commission. The information contained in the note by the secretariat suggested that the human rights situation there should be of concern to the Commission and that a thorough study was needed in order to give a clear picture. Accordingly, a Special Rapporteur should be appointed as soon as possible. The Commission should also work with OAS in its efforts to promote and protect human rights in Guatemala.



32. The report on the situation in Poland (E/CN.4/1983/18) was not entirely satisfactory owing to the fact that the Under-Secretary-General had not enjoyed the co-operation of the Government in his efforts to obtain first-hand information. While martial law had been suspended and a number of positive steps had been taken, it seemed to her delegation that the civil rights of the Polish people remained subject to considerable restrictions. It appeared, for example, that only those trade unions which were approved by the Government could engage in trade-union activities. In the circumstances, a further look at the situation was needed. Her delegation would not be fully convinced of the Polish Government's assertions concerning the human rights situation as long as it continued to withhold its co-operation, and urged the Government to afford the Commission the opportunity to obtain on-the-spot information on which to base its assessment.

33. The two thematic studies on summary or arbitrary executions (E/CN.4/1983/16) and human rights and massive exoduses (E/CN.4/1503) had the merit of focusing attention on specific aspects of human rights violations without singling out the countries in which they occurred. As such, they would undoubtedly assist the international community in seeking solutions to those two problems.

34. The latter study had already received wide attention from Governments, specialized agencies and non-governmental organizations. It had brought out clearly for the first time the complex nature of the root causes of population outflows and was unique in that it dealt with broad categories of people who crossed national boundaries, including refugees, displaced persons, migrant workers and asylum-seekers. People who left their country of origin, for whatever reasons, required both humanitarian and legal measures to safeguard their welfare and human rights. The Commission should turn its attention to both the pre-flow phase, in which preventive measures were needed to forestall violations of human rights that might induce massive outflows of people, and the post-flow phase, in which the question of the protection of human rights must be considered. As to prevention, the Commission should explore ways of coping with situations of unrest and consider the possibility of dispatching special rapporteurs or working groups. In any event, the Commission's approach must be completely humanitarian. As to the protection of those who had already crossed national boundaries, new standards and measures should be developed to protect their human rights and well-being. In undertaking such a study, consideration should be given to the proposals made at the 1981 meeting of the UNHCR Executive Committee concerning minimum basic standards with regard to the treatment of asylum-seekers who had been temporarily admitted to a country. However, since massive exoduses imposed enormous strains on the receiving countries, careful consideration must also be given to their special circumstances.

35. In a spirit of international solidarity her country had been providing assistance to refugees in Indo-China, Afghanistan, the Middle East and Africa through various international organizations. It intended to participate fully in the efforts of the Commission to seek the best ways of upholding human rights in situations involving massive exoduses.

36. Her delegation regarded the report on summary or arbitrary executions as a preliminary contribution to a study that inevitably required more time. Although appreciating the Special Rapporteur's point that an arbitrary date had had to be

chosen when selecting information for inclusion in the report, her delegation considered a two-year time-frame to be insufficient, since it might exclude cases that would help to shed light on the question. Her delegation would welcome a more general approach and hoped that the Special Rapporteur would base his findings on actual situations over a longer span, without necessarily naming the countries involved. As to the existing international instruments that might be relevant to the prevention of summary and arbitrary executions, the Special Rapporteur had already enumerated the codes adopted by the United Nations and regional organizations. Of course, the continuing work on a draft convention against torture and other degrading treatment or punishment was of vital importance. Her delegation would be interested in knowing what lacunae existed so that the Commission would know where to concentrate its future efforts.

37. The difficulty in dealing with the question of summary or arbitrary executions stemmed from the great secrecy of government authorities, which made international scrutiny nearly impossible. Although no final answer seemed to be in sight, her delegation was prepared to support an extension of the Special Rapporteur's mandate for another year so that he could complete his study on the basis of more extensive and more reliable information, which would enable the Commission to ascertain the full scope of the measures required.

38. Mr. SCHIFTER (United States of America) said that in the field of advocacy, the greatest praise was often bestowed on those who could present a credible argument when the factual case on which that argument rested was weak. So it had been with the recent statement by the representative of Poland. It was now necessary to recall Poland's recent history, however, and to focus on reality rather than on verbal imagery. The Polish representative's rhetoric had occasionally carried him beyond the line separating fact from fiction, but Poland was not so distant and 1981 was not so long ago that the history of the Solidarity movement had been forgotten.

39. Solidarity, with a total membership of 9.3 million, more than 40 per cent of Poland's adult population, had been a peaceful movement asking for peaceful change. The Polish representative had stated that it had advocated "overthrowing and destroying by force the legal order of the country". What force? Bare hands against bayonets, tanks and artillery? And how could a movement representing so large a portion of the population have been dissolved so quickly and with so few casualties unless it had been totally unarmed? The Polish representative had stated that Solidarity had been striving to dismantle Poland's statehood and that it had brought anarchy, chaos and demoralization. However, the opposite was the truth. Every independent observer of events in the 15 months preceding December 1981 would confirm that the Polish morale and spirit had not for 33 years been as high as during that period. What Solidarity had been asking for and the Polish authorities had been granting were some, and not even all, of the freedoms guaranteed by the Universal Declaration of Human Rights. To taste that new-found freedom had been a truly exhilarating experience for the Polish people.

40. Until 13 December 1981, civil peace had reigned in Poland. There had been life, joy and a new vision of the future, a future of personal freedom. The whole Polish nation had been swept up in that entirely peaceful effort to achieve personal freedom and spiritual renewal. There was not a shred of evidence that there had been any threat to Poland's statehood from within, and least of all from

Solidarity. In explaining the crack-down of 13 December, the Polish representative had spoken of the danger of a national catastrophe, of the nation's instinct for self-preservation and of Poland's inability to afford another repetition of history. In that he had been accurate, for Poland had been at risk on 13 December - at risk of another Russian invasion. There had been ample reason for the Polish leaders to be concerned about threats from abroad, for Poland had had to deal with such threats before.

41. In the late eighteenth century, the Polish people had been deprived of its independence and its territory had been divided among its neighbours, one of them being tsarist Russia. On two occasions, in 1830 and 1863, Poland had revolted against its Russian colonialist oppressors. Both revolts had been put down with a great deal of bloodshed and Poland had remained under foreign occupation throughout the nineteenth century. After the First World War, Polish independence had been followed in 1920 by a war between Poland and the Soviet Union. Nineteen years later, at the outbreak of the Second World War, Poland had again been invaded in the wake of the Stalin-Hitler pact and divided between Nazi Germany and the Soviet Union. After the war, the Polish nation had had a short glimmer of freedom under Prime Minister Stanislaw Mikolajczyk, but that had quickly been extinguished by the imposition, in 1947, of one of the severest forms of Stalinist repression. Once again, Poland had been ruled from Moscow.

42. In the years since Stalin's death, the people of Poland had not been passive. In 1956, 1970 and 1980, they had made themselves heard, and each time, the bonds of totalitarianism had been loosened. But early in 1981, the Polish authorities had loosened those bonds more than the Soviet Union had been prepared to allow: orders had gone out to tighten them again or risk a Soviet invasion. For precisely the historical reason to which the Polish representative had alluded - to avert another Russian occupation of Poland and a return to the status of a Russian colony - General Jaruzelski had declared what had appropriately been called a state of war, a war against the people of Poland.

43. The Soviet Union had not permitted Poland to work out its own destiny. The Brezhnev doctrine of limited sovereignty had been invoked and Poland had been threatened with the fate which had earlier been suffered by Hungary, Czechoslovakia and Afghanistan. The crack-down had not come in response to a sudden emergency: all the placards and announcements used by the Polish martial law authorities in December 1981 had been printed in the Soviet Union two months earlier. What was unique about the events of 13 December 1981 was that martial law had been imposed to comply with the demands of a foreign Power.

44. The measures that had been required to crush the Solidarity movement were different from those now being used to prevent any form of peaceful dissent. In fact, the situation was significantly worse than it had been a year before. Whereas prior to 1982 it had been necessary to proclaim a state of war before certain repressive measures could be put into effect, the ordinary Polish laws had now been amended to authorize the Government to engage in repressive acts without having to resort to that device. Repression was thus solidly anchored in the code of laws.

45. Twenty-five years of gradual liberalization had come to an end and Poland was again suffering under a system of rule which clearly ran counter to the spirit of the Polish people. Almost every day there were reports of further steps by the Polish authorities to tighten the screws and wipe out the last vestige of freedom, in violation of the Universal Declaration of Human Rights. An article in the 12-13 February 1983 issue of the Neue Zürcher Zeitung reported that recent events were understood throughout the Polish general public as a hardening of domestic policies and that representatives of the Government conceded more or less openly that it was a case of tightening the reins.

46. Mr. GASMI (Libyan Arab Jamahiriya), speaking on a point of order, said that when his delegation had been making a statement on the item under discussion, the representative of the United States had interrupted to claim that the subject was the sole concern of the General Assembly and the Security Council. In the present case, it was the United States representative who was touching upon subjects not falling under the item being considered, and he should be called to order.

47. The CHAIRMAN read out rule 43, paragraph 2, of the rules of procedure and reminded delegations that they were discussing item 12.

48. Mr. SCHIFTER (United States of America) said the article had gone on to state that the dependence of the Jaruzelski regime on Soviet hegemonial power ...

49. Mr. SOKALSKI (Poland), speaking on a point of order, said that in addressing sovereign Governments, delegations should use their proper names.

50. Mr. SCHIFTER (United States of America) said that nowhere in any statement by his delegation was the Government of Poland referred to as anything but that. He was, however, quoting from a newspaper article - a practice commonly used in the Commission.

51. Mr. SOKALSKI (Poland), speaking on a point of order, said that he objected to the quotation of newspapers in a forum in which serious matters and the affairs of sovereign States were being dealt with.

52. The CHAIRMAN said that the Commission's practice was to allow quotations from sources, providing they did not depart from the parliamentary language in use in the Commission.

53. Mr. SCHIFTER (United States of America), resuming his summary of the article, said it indicated that the dependence of the Jaruzelski regime on Soviet hegemonial power was greater now under Andropov than in the concluding phase of the Brezhnev era. The situation had changed to Poland's detriment: control was more thorough and demands were more cold-blooded and insistent. The article gave a detailed recital of the recent repression campaign inaugurated by Poland's police authorities and ended by stating that the first phase of the take-over policy had focused on rebellious workers, and that now they were half-paralysed, it was the turn of their allies - artists, scholars and students. As a recent illustration of that point, he referred to another article in the same newspaper which described the pressures on Poland's Association of Authors to compel them to toe the new line as to how to think and write.

54. The Commission had been told that any action by it would constitute interference in the domestic affairs of a State Member of the United Nations. That would be the case if it were to demand that General Jaruzelski change the course of his Government. But no one proposed that the Commission should do so. What delegations did within the Commission was to offer their comments, express their concerns and arrange for the monitoring of events. The resolution on Poland now before the Commission was worded far more mildly than others that had been adopted in the past. Through such efforts, delegations hoped to exercise moral suasion to effect change for the better. Such an effort surely fell within the Commission's area of responsibility.

55. As to whether it would accomplish the desired result, that of improving respect for human rights in Poland, the Commission's expression of interest and concern would, more than anything else, cause the authorities to be cautious in exercising their powers and ultimately move them to ameliorate the conditions that now deprived the Polish people of the human rights guaranteed in international instruments. Contrary to what the representative of Poland had said, the resolution was not anti-Polish; it was the most positive contribution the Commission could make to the cause of human rights in Poland.

56. The Polish representative had charged the "present United States Administration" with making an attack on Poland. If he had wished to call attention to the fact that the present United States Administration had a limited life, he was, of course, correct. The United States people had an opportunity every four years to choose, in a free election, a new Administration, but once it had taken office it spoke for the country for four years, and did so now in the matter before the Commission. If the Polish representative had sought to suggest that there was lack of unity in the United States on the issue of Poland, he was wrong. There was an overwhelming popular consensus in support of United States policy concerning Poland, and, if the people of Poland could express themselves freely on the subject, there is no doubt that they would support it, too. The policy was not directed against Poland or the Polish people. What the United States was concerned about was the present repression directed against the Polish people under a mandate issued in Moscow.

57. The Polish representative had alluded to the motivation of the United States in expressing its concern about present conditions in Poland. The line drawn through Europe after the Second World War had always been respected, but that did not mean his country did not cheer any move in Eastern Europe towards a more open society. What had been so truly tragic about the events in Poland on 13 December 1981 was that with a stroke of the pen, all the advances of 25 years towards greater respect for human rights had suddenly vanished. That development was of concern to the people of Poland and everyone else, for open societies were the best guarantors of peace.

58. Mr. GONZALEZ de LEON (Mexico) said that the Commission could debate ad nauseam whether the situations being discussed under item 12 had been introduced out of legitimate interest, ideological reasons or political motivations. Such a discussion would be fruitless, since once the subjects were on the agenda, the Commission had to examine them, irrespective of how they had been introduced. Every one of them had provoked international concern and disturbed the humanitarian and moral conscience of the international community.

59. His delegation had never opposed the consideration of any subject of concern to a Member State or group of Member States, but that acceptance in no way prejudged

the substance of a given case. Every subject on the agenda must be considered as long as the Commission could make a contribution to the cause of human rights, and consideration must be terminated when the situation had been resolved or analysis of it revealed that it did not deserve to be discussed. For example, his delegation had at one point supported the retention of the case of Bolivia, and now, with great satisfaction, it would support the termination of the discussion of that case in view of the significant progress which had been made there. That progress had not only begun to remedy the damage caused by the country's turbulent history, but had also given reason to presume that steps were to be taken to eradicate the causes of that turbulence and damage, laying the foundation for a democratic life and the full exercise of all civil, political, economic, social and cultural rights by the Bolivian people.

60. With regard to the much-discussed subject of selectivity in the treatment of situations, he said that Member States, in fulfilling the normative function of the United Nations, must establish principles to be observed, inter alia, in the human rights field. That task was already well in hand with the gradual formulation of legally binding instruments, the adoption of important declarations, resolutions and other instruments which helped to define the scope of modern conventional law, and the functioning of the Commission.

61. In other words, the United Nations did not exist in a vacuum or legislate in the abstract; it was an organization of States which legislated for those same States through instruments voluntarily accepted by them, to be applied in them and to them. Members of the Commission could therefore continue to establish generally applicable principles and norms but they could not in any way claim to be performing the Commission's entire mandate if they did not also monitor the observance of such norms and principles in individual cases. That was where the selection, and not the selectivity, of cases came in. Situations were brought before the Commission by various means and for various reasons, and their merits must be considered on a case-by-case basis. If the reasons for bringing them before the Commission were invalid, they could always be removed from the agenda. If, on the other hand, the reasons were valid and cases were removed from the agenda and not considered in depth, members of the Commission would be guilty of a cover-up and would be betraying the trust placed in them.

62. Thus, the only cases or situations that remained on the agenda would have to be those which could be characterized as serious, massive and persistent violations of human rights and fundamental freedoms, for instance, the case of El Salvador where flagrant human rights violations of all kinds had reached truly horrific levels. In that connection, while he would be referring to the situation in El Salvador in a later statement, he wished to pay tribute to the Special Representative for his impartiality, honesty and exemplary report.

63. There were situations which it was not only appropriate but urgent for the Commission to consider, given the magnitude of the suffering that they generated. Such cases could not be dropped until they had been resolved and the procedures for dealing with each of them would clearly depend on their individual features. If it abandoned such cases on the pretext that not all cases of countries in which human rights were violated were included on the agenda, the Commission would be making the aberrant claim that one or more criminals or offenders could not be punished until all criminals and offenders were punished.

64. Mr. BEAULNE (Canada) observed that the Commission had now been considering the relationship between human rights violations and massive exoduses for five sessions. Unfortunately, since 1979, the extent and rate of population movements the world over had grown steadily, making it increasingly urgent that the Commission should help to find the most appropriate means by which the international community might show the necessary solidarity with the millions of victims of such exoduses. The Commission's efforts had progressed to the point where, at its thirty-eighth session, the General Assembly should be able to take a number of decisions on the basis of the report which it had requested of the Secretary-General in resolution 37/186. The General Assembly had also asked the Commission for its views on aspects of the question that related to its mandate.

65. While five years might seem a long time to arrive at a decision on such an urgent question, all the stages leading up to such a decision had clearly been necessary, for practical measures could now be taken with the unanimous support of the international community. A broad consensus had emerged over the years on various aspects of the problem and there was broad agreement on the following points: the duty to show solidarity with the victims of massive exoduses was universal; such exoduses affected mainly the developing countries, thereby threatening national and international economic stability; the traditional approach to the problem, namely, international protection, humanitarian assistance and emergency relief after the event, was no longer sufficient on its own to deal with a problem of such dimensions; the international community must investigate the causes of massive exoduses in order to find ways of preventing them; the causes of contemporary population movements were numerous and complex; the problem of mass exoduses must be approached coherently, taking into account all its causes and consequences; the universally recognized principles which afforded a minimum of protection and assistance to the victims of population movements must be universally respected and even strengthened; the exemplary action of governmental and non-governmental organizations in protecting and assisting victims of mass exoduses must be maintained and expanded; United Nations organs, resources and skills must be mobilized to solve the over-all problem of population movements; and lastly, effective machinery for co-operation and co-ordination might be needed to permit more efficient use of existing organs, resources and skills.

66. There was also unanimous agreement on the excellence of the Special Rapporteur's study. The general view was that it provided not only a lucid analysis of the phenomenon of population movements but also an important contribution to the search for appropriate solutions. But the search stage must soon give way to action. Before submitting a report to the thirty-eighth session of the General Assembly, the Secretary-General would no doubt take into account both the study and the recommendations of the Special Rapporteur and the views of all interested parties, including the Commission. His Government's views on the general concepts underlying the study and the contribution it might make to the search for solutions were contained in document E/CN.4/1983/33. His Government would also be transmitting to the Secretary-General its comments on aspects of the study relating to the mandate of the Commission. For the time being, he would confine himself to the proposals in the study which were aimed at eliminating or minimizing the causes of exoduses connected with human rights violations. In his Government's view, recommendations 7, 8 and 9 were especially important.

67. Experience in the Commission had shown how useful an early-warning system might have been in helping to deal with certain situations and minimize their consequences. His delegation also noted with pleasure that the recommendation on the monitoring and evaluation of situations corresponded in some respects to a proposal already made by the Secretary-General. His Government believed that the preventive role entrusted to the Secretary-General could and should be extended to sectors where human rights violations might lead to massive exoduses. In most cases, prior monitoring and an international presence might prove to be important stabilizing and moderating factors, and help to avert further massive population movements or at least to prevent situations from deteriorating further. The three recommendations also corresponded closely to an analysis made in 1980 by the former Secretary-General of measures which he thought should be taken as a matter of urgency to enable the United Nations to meet the humanitarian challenges of the 1980s.

68. In view of the broad agreement on the need to tackle urgently both the causes and the consequences of massive exoduses, and the unanimous feeling that human rights violations were among the main causes of contemporary population movements, the Commission's mandate was clear. It must encourage the Secretary-General to recommend, in his report to the thirty-eighth session, effective measures to help eliminate the causes of massive population movements connected with human rights violations. Such in fact was the thrust of the draft resolution which his delegation and others had submitted to the Commission. He hoped that that text would be adopted without a vote, thus demonstrating the Commission's common desire to contribute to the search for solutions to one of the most tragic problems facing the world today.

69. Mr. Barakat (Jordan) took the Chair.

70. Mr. HEREDIA PEREZ (Cuba) said that thousands of men, women and children, victims of the regime's ferocious oppression, had been killed in the past year in El Salvador. The Special Representative on El Salvador had referred to the "massive character" of human rights violations in that country and had concluded that "the Salvadorian people still do not enjoy economic, social and cultural rights of any particular significance". He had reported that "serious, massive and persistent violations of human rights have continued in the country and in many cases have ended tragically in attacks on human lives". Disappearances, torture and extrajudicial executions had become institutionalized and the most elementary civil and political rights had been suspended. The regime was trying to cover up its crimes, however, for instance by establishing a "Human Rights Commission" headed by no less than the Director-General of the National Police. Furthermore, when the popular revolutionary forces had recently taken the town of Berlín, the air force had bombed the town indiscriminately, causing countless civilian deaths and injuries and considerable damage.

71. The United States was encouraging and financing the forces of repression and giving them military training, and had now announced its readiness to increase its military aid by a further \$60 million while it continued to oppose negotiations called for by various sectors of the country with the backing of the international community. No one could mask the reality of the bloody repression by the Salvadorian regime or its serious human rights violations. In that connection, Cuba firmly supported draft resolution E/CN.4/1983/L.48, which was appropriate to present circumstances, being based on the actual history of the Salvadorian situation and reflecting the views of the international community.



72. The causes of the tragic situation in El Salvador became clear when one took into account the fact that the United States Government was the main supporter of a fascist, oligarchic regime which served United States interests and brutally opposed the just struggle of the Salvadorian people. The United States Government was also supporting the murderous Guatemalan Government in its genocide against the country's indigenous population and its bloody repression of various sectors of the population. For almost 30 years, Guatemala had been steeped in murder and torture. The country's social situation was appalling: there was 60 per cent illiteracy and 40 per cent unemployment. In order to protect its interests in those countries, however, the United States Government did not hesitate to "certify" an improvement in the human rights situation in El Salvador and to increase its aid to both countries, at the same time increasingly involving Israel in its strategic plans in Central America and using Israel to destabilize the Government of Nicaragua.

73. In that connection, he wished to refer members of the Commission to the communiqué of the Extraordinary Ministerial Meeting of the Co-ordinating Bureau of Non-Aligned Countries held at Managua in January 1983, at which the Ministers had expressed concern at the deterioration of the situation in El Salvador resulting from continuing imperialist intervention and repression, called for an immediate and unconditional end to such interference, and recognized the need to promote a negotiated solution with the participation of all representative political forces in El Salvador. One such force, the FDR-FMLN, had proposed a dialogue without preconditions.

74. Mr. SOKALSKI (Poland), speaking in exercise of the right of reply, observed that the fraudulent statement made by the United States representative at the current meeting was not the first such statement on Poland by that delegation. In a statement in the Third Committee of the General Assembly on 6 December 1982, the United States representative had referred in a totally distorted manner to confidential reports by ICRC. The Polish Government had immediately approached the Polish Red Cross for clarification and the latter had in turn contacted the President of ICRC. The President of ICRC had responded with a telegram expressing "profound indignation" at the United States statement, which had implicated ICRC without the latter's knowledge. On 23 December 1982, the Polish Government had received a special memorandum from ICRC which had also been sent to the United States Government. That memorandum said that ICRC had noted with surprise and deplored the United States statement in the Third Committee; the statement had been made without its knowledge and misrepresented ICRC activities in Poland, attributing to alleged "ICRC inspectors" statements which could on no account be based on written or oral ICRC sources. According to ICRC, the United States statement had abused for political ends Red Cross humanitarian action in Poland.

75. Since the United States representative was so concerned about Polish law, he wished to remind him that chapter 47, paragraph 1001, of the United States Criminal Code provided that anyone who, in any matter falling within the jurisdiction of any department or agency of the United States Government, made a false, fictitious or fraudulent statement or knowingly used a false or fraudulent document was liable to a fine of not more than \$10,000 or up to five years' imprisonment or both.

76. He would like to know what gave the United States delegation the moral right to lecture Poland on human rights. Perhaps it was the fact that the United States Government had exterminated several million Indians and continued to deprive the few remaining Indians in that country of their fundamental human rights? Perhaps it was the fact that the United States had killed and maimed thousands of innocent people at Hiroshima and Nagasaki? Could a country claim to be a champion of human rights when it had killed thousands of Vietnamese and poisoned them and their land with chemicals in a senseless war of attrition, and when weapons supplied by it were causing innocent victims the world over.

77. The human rights situation in the United States itself was far from satisfactory. There was racial discrimination, mass unemployment, extreme poverty among many population groups and electronic surveillance of all citizens. The United States was not a party to a single binding United Nations human rights instrument and refused to adhere to any procedures established under such instruments. It had acceded to only 7 of the 153 ILO Conventions and then probably only out of a desire to pacify its blue-collar workers and their unions. Perhaps the reason why no delegation unfriendly to Poland had pointed a finger at the United States for its failure to co-operate with the United Nations on human rights questions was that the witch hunt against Poland would have lost its fake momentum as a result.

78. In that connection, it was interesting to recall that, at the thirty-seventh session of the General Assembly, the Foreign Minister of a Western country friendly to the United States had observed that centuries of oppression in Central America had led to the current revolutionary situation and that it was absurd to claim that the forces of opposition in Nicaragua, El Salvador and Guatemala had been manipulated and encouraged from outside. That Foreign Minister had gone on to say that the United States was playing a crucial role in keeping tottering dictatorships on their feet. In a right of reply, the United States delegation had said that it resented such an "obnoxious and false" statement. The Polish delegation, for its part, resented the United States statements on Poland. Those statements were obnoxious and false, and delegations would be able to judge for themselves which right of reply was more credible.

The meeting rose at 1.05 p.m.