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COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE 55th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 March 1990, at 10 a.m.

Chairman: Mrs. QUISUMBING (Philippines)

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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:

- (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group on Situations established by the Commission at its forth-fourth session (continued)

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Further promotion and encouragement of human rights and fundamental freedoms,
including the question of the programme and methods of work of the Commission:

- (a) Alternative approaches and ways and means within the United Nations
system for improving the effective enjoyment of human rights and
fundamental freedoms (continued)

The meeting was called to order at 11.30 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, INCLUDING:

- (b) STUDY OF SITUATIONS WHICH APPEAR TO REVEAL A CONSISTENT PATTERN OF GROSS VIOLATIONS OF HUMAN RIGHTS AS PROVIDED IN COMMISSION RESOLUTION 8 (XXIII) AND ECONOMIC AND SOCIAL COUNCIL RESOLUTIONS 1235 (XLII) AND 1503 (XLVIII): REPORT OF THE WORKING GROUP ON SITUATIONS ESTABLISHED BY THE COMMISSION AT ITS FORTY-FOURTH SESSION (agenda item 12) (continued)

1. The CHAIRMAN said that the human rights situation in Haiti was no longer being considered under the procedure governed by Economic and Social Council resolution 1503 (XLVIII).

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 11) (continued)
(E/CN 4/1990/WG.3/WP.2-13)

2. Ms. SINEGIORGIS (Ethiopia), Chairman of the informal open-ended working group, said that, at its forty-sixth session, the Commission had had before it General Assembly resolution 44/167 entitled "Enlargement of the Commission and the further promotion of human rights and fundamental freedoms". In the context of the organization of its work, the Commission had referred the request of the Assembly in operative paragraph 3 of its resolution to an informal open-ended working group.

3. Subsequent to consultations within the Bureau and between the Bureau and the co-ordinators of the various regional groups, it had been agreed that the informal open-ended working group of the Commission would hold a maximum of three meetings to hear views and then convert itself into a drafting group composed of up to five representatives from each regional group.

4. The group, which had held its meetings on 19, 21 and 26 February 1990, had been made up of the following delegations: Algeria, Argentina, Austria, Belgium, Brazil, Bulgaria, Canada, China, Colombia, Cuba, Egypt, Ghana, Hungary, India, Iraq, Ireland, Madagascar, Netherlands, Pakistan, Philippines, Poland, Union of Soviet Socialist Republics, Ukrainian Soviet Socialist Republic and Venezuela.

5. In the course of its deliberations, the drafting group had received a number of views, which had been circulated in the form of working papers and which were contained in documents E/CN.4/1990/WG.3/WP.2, 4, 5, 9 and 11. In addition, draft proposals had been submitted by various participants and were contained in documents E/CN.4/WG.3/WP.3, 6, 7, 8, 10 and 12.

6. Working Paper E/CN.4/1990/WG.3/WP.13 and its annex reflected the stage reached by the drafting group on 8 March 1990. At its last meeting, held on that date, the drafting group had agreed to inform the plenary that it had not yet reached the point of making any recommendations and to transmit its documents to the Commission.

7. The CHAIRMAN invited the Chairman of the African Commission on Human and Peoples' Rights to address the Commission.

8. Mr. UMOZURIKE (Chairman, African Commission on Human and Peoples' Rights) said that the African Charter on Human and Peoples' Rights had entered into force on 21 October 1986, and had currently been ratified or acceded to by 39 African States. The Charter incorporated the usual civil and political rights. Some, such as the rights to human dignity, inviolability of the person, equality before the law and freedom from discrimination and inhuman or degrading treatment, were unqualified. Others, such as the rights to liberty, freedom of conscience, expression, association and assembly, property and participation in government, were subject to the law of the land; unfortunately, there was no requirement that the law must be reasonably justifiable in a democratic society.

9. The Charter also incorporated rights of the type covered by the International Covenant on Economic, Social and Cultural Rights such as the right to work under satisfactory conditions and the right to education, health and medical attention. The African Charter provided for the immediate implementation of such rights, which, while they gave meaning to rights of the first group, required efforts on the part of Governments.

10. The Charter also incorporated a so-called third generation of rights enjoyed by the group as a whole - the rights to self-determination, to national and international peace and security, to a satisfactory environment and to development. A United Nations study considered the last of those rights to be an individual one also. The achievement of such rights required international collaboration.

11. The Charter also spelt out individual duties such as those to the family, society, the State and the international community; in so doing, it combined legal, political and moral duties. Indeed, international morality was essential for a proper conduct of international relations, and the African Charter was unique in stressing that ingredient. In order to satisfy individual rights, moreover, national resources and potential must be put to maximum use.

12. The Charter was to be implemented mainly through the African Commission on Human and Peoples' Rights, which reported to the Assembly of OAU Heads of State and Government. The Commission consisted of 11 members chosen for their integrity and competence. It held two annual meetings, with the possibility of extraordinary sessions, and received communications on breaches by States parties from States members and from other entities or individuals, not necessarily African.

13. The Commission had so far granted observer status to 18 non-governmental organizations. No complaint had been hitherto received from a State member about another member; 90 per cent of communications received had been against non-member States, some of them being non-African States. The Commission studied the situations reported and made recommendations to the parties, seeking traditional methods of settlement rather than the court system; situations which revealed a serious and consistent pattern of human rights denial were drawn to the attention of the OAU Assembly, which might in its

turn call for studies or take other action which, in any case, could not preclude action at the international level. The Commission carried out its protective activities in secrecy until the OAU Assembly authorized publication of its annual report was submitted.

14. The other major Commission activity was promotional, through research, documentation, dissemination of information and the organizing of seminars, symposia and conferences. Such activities covered a very wide field; but protective activity was circumscribed, although greater involvement was possible in the future.

15. What the African Charter had achieved was the clear internationalization, and in some respects the Africanization, of certain rights and duties not set forth in other international instruments or forming part of international customary laws.

16. The Commission, during its two and a half years of existence, had received support from the Centre for Human Rights, the European and American Commissions on Human Rights and elsewhere. It had had some moderate successes: its intervention had been enough to secure the release of certain detained persons, it had established guidelines relating to member States' biennial reports and it had made recommendations about human rights teaching. African States paid for the Commission's operations through their OAU contributions; those which had not yet ratified or acceded to the African Charter had been urged to do so in order to make it truly regional.

17. The Commission had yet to tackle certain issues. The reinforcement procedures were recommendatory and conciliatory; and certain rights, like the right to work, were currently beyond the capacity of African States to implement. Since the African system ruled out the court process, perhaps the incorporation of certain rights in a constitutional framework, fundamental laws and directive principles of State policy would suffice; the Indian and Nigerian Constitutions contained examples of that approach.

18. The Commission, conscious of the high expectations placed in it, appealed for support, and was anxious to contribute to the philosophy and practice of human rights. On the basis of the benefits it had already experienced, a comparable system could be recommended to regions which did not yet have a regional charter.

The meeting rose at 12.05 p.m.