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SUMMARY RECORD OF THE 15th MEETING

Held at Headquarters, New York,
on Thursday, 24 April 1980, at 10.30 a.m.

Chairman: Mr. KOSTOV (Bulgaria)

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The meeting was called to order at 11 a.m.

HUMAN RIGHTS QUESTIONS (E/1980/13 and Corr.1, E/1980/25, E/1980/9 and Corr.1, Add.1 and Add.1/Corr.1 and Add.2; E/CN.5/558, chap. VII)

1. Mr. VAN BOVEN (Director of the Division of Human Rights), introducing the report of the Commission on Human Rights on its thirty-sixth session, recalled that, pursuant to Economic and Social Council resolution 1979/36, the membership of the Commission had been increased to 43, the duration of its session extended to six weeks and its mandate enlarged to cover the co-ordination of all United Nations human rights activities. The work of the Commission was reflected in the 38 resolutions and 19 decisions it had adopted at its session and, in particular, in the five draft resolutions and 19 draft decisions which it had recommended to the Economic and Social Council for adoption.
2. Before going into the substance of his statement, he wished to draw the Council's attention to the fact that much of the extra time allocated by the Council to the Commission had been used in attempting to deal with the consequences of the abolition of summary records. In his view, the abolition of summary records rendered the implementation of the Commission's recommendations by the Secretariat more difficult and might result in an increase of the Commission's in-session documentation in the future. Accordingly, the Commission had proposed a draft decision to the Council which would reinstate summary record coverage for the sessions of the Commission and its Sub-Commission.
3. With regard to research and studies, the Commission had continued its consideration of the question of the realization in all countries of economic, social and cultural rights contained in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights and study of the special problems which the developing countries faced in their efforts to achieve those rights. The Commission had also requested that the study on the regional and national dimensions of the right to development as a human right should specify the conditions required for the effective enjoyment by all peoples and individuals of the right to development, paying special attention to the effects of development on a number of specific points.
4. The Commission had adopted by consensus resolution 20 (XXXVI) concerning the question of missing and disappeared persons, by which it had decided to establish for a period of one year a working group consisting of five of its members to serve as experts in their individual capacities to examine questions relevant to enforced or involuntary disappearances of persons. The Commission had also considered, in connexion with the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism. In addition, on the Sub-Commission's

recommendation, the Commission had requested the Council to authorize two members to prepare studies on two topics: first, the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, and second, the exploitation of child labour.

5. The Commission had entered a new area with the adoption of a resolution on the individualization of prosecution and penalties, and repercussions of violations of human rights on families, in which it had called for the strict application of the relevant international human rights provisions so that no one could be prosecuted or persecuted merely because of his connexion, particularly family connexion, with a suspect, an accused person or a person who had been convicted. The Commission had also adopted a resolution on conscientious objection to military service.

6. In its efforts to develop international standards in the field of human rights, the Commission had made progress in the drafting of international conventions of torture and on the rights of the child, decided to refer to the Council for transmission to the General Assembly a draft declaration on the human rights of individuals who were not citizens of the country in which they lived, continued its work on a draft declaration on the elimination of religious intolerance and considered a draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities.

7. In accordance with the request made by the General Assembly at its thirty-fourth session, the Commission had continued during its thirty-sixth session its over-all analysis of the further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. The Commission had also considered the question of the development of public information activities in the field of human rights and had proposed to the Economic and Social Council a draft resolution on that question. The Commission had also considered the question of the good offices role of the Secretary-General in the field of human rights, requesting him to continue and intensify the good offices envisaged in the Charter of the United Nations.

8. With regard to the question of the violation of human rights in the occupied Arab territories, including Palestine, the Commission had declared that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War were war crimes and an affront to humanity, condemned a number of specific Israeli policies and practices and demanded that Israel desist forthwith from them. It had also reaffirmed that that Convention was applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem.

9. The Commission had also dealt with the right of the Palestinian people to self-determination and had declared that the Camp David accords had no validity in so far as they purported to determine the future of the Palestinian people and the Palestinian territories occupied by Israel since 1967.

(Mr. Van Boven)

10. With regard to the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation, the Commission had adopted a resolution on the denial of the right to self-determination and other fundamental human rights of the people of Afghanistan as a consequence of the Soviet military intervention in that country and its ensuing effects. It had also adopted a resolution on self-determination in Western Sahara in which it took note with satisfaction of the recommendations of the Organization of African Unity and the General Assembly concerning the exercise by the people of Western Sahara of the right to self-determination and independence, the sole means of putting an end to the violation of the fundamental rights of the Sahrawi people resulting from the foreign occupation of its territory. The Commission had also expressed its profound indignation over the situation prevailing in southern Africa.

11. The preceding year, the Council had requested the Ad Hoc Working Group of Experts to continue to study allegations regarding infringements of trade union rights in the Republic of South Africa and to report thereon to the Council. The report of the Ad Hoc Working Group on that question was contained in document E/1980/25.

12. The Commission had also had before it at its thirty-sixth session a revised report containing a general provisional list of banks, transnational corporations and other organizations which gave assistance to the racist and colonial régimes of southern Africa, and had requested all States to take effective measures to end the supply of funds and other forms of assistance to the racist régimes which used such assistance to repress the peoples of southern Africa and their national liberation movements.

13. The Commission had also renewed its appeal to those countries which had not yet done so to accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid without delay.

14. In view of the attention which the Commission had for many years devoted to the situation in Zimbabwe, it had sent a telegram to the Prime Minister designate expressing its best wishes following the legislative elections.

15. In connexion with its consideration of the question of human rights in Chile, the Commission had had before it the reports of the Special Rapporteur and the Expert on the Question of the Fate of Missing and Disappeared Persons, and it had reiterated its indignation at the fact that violations of human rights were still taking place in Chile and had expressed its grave concern that there had been a deterioration in a number of areas.

16. The Commission had also had before it information on the human rights situation in Democratic Kampuchea and had condemned the invasion and occupation of parts of Kampuchea by foreign forces and the violations of human rights which had ensued.

17. With regard to the situation of human rights in Equatorial Guinea, the Commission had decided to authorize the appointment of an expert with wide

experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms.

18. The Commission had also expressed its profound concern at the situation of human rights and fundamental freedoms in Guatemala.

19. The Commission had dealt with the relationship between human rights and massive exoduses and had expressed its concern at indications that large-scale exoduses of persons and groups were frequently the result of violations of human rights.

20. The Commission had also expressed its concern at reports of infringements of the human rights of United Nations staff members and the abrogation of rights conveyed under the Convention on the Privileges and Immunities of the United Nations.

21. In conformity with the confidential procedure established to consider violations of human rights, the Commission had continued in closed meetings its study of situations which appeared to reveal a consistent pattern of gross violations of human rights and had recommended to the Council a draft resolution in which the Council would express its regret at the failure of the Government of Malawi to co-operate with the Commission in the examination of the situation relating to the alleged persecution of Jehovah's Witnesses in that country.

22. In conclusion, he said that the Commission on Human Rights had at its thirty-sixth session made some progress in a number of areas and had set itself an ambitious programme of work for its coming session. It had also made a number of new requests to the Secretariat and in that regard he wished to draw attention to the Commission's resolution and the draft decision before the Council regarding the allocation of adequate resources to the Division of Human Rights to enable it to discharge its functions.

23. Mrs. SĪPILĀ (Assistant Secretary-General for Social Development and Humanitarian Affairs) introduced the Secretary-General's report on capital punishment (E/1980/9 and Corr.1, Add.1 and Add.1/Corr.1 and Add.2). She noted that the Council had in 1973 expressed the view that the main objective to be pursued in the field of capital punishment was that of progressively restricting the number of offences for which the death penalty might be imposed, with a view to its eventual abolition. In its resolution 1745 (LIV), the Council had invited the Secretary-General to submit periodic updated and analytical reports on the application of and trends in capital punishment. The document now before the Council was the second such five-year report on capital punishment and covered the period 1974-1978. In conformity with General Assembly resolution 2857 (XXVI) and Council resolution 1930 (LVIII), the document also contained information on practices and statutory rules which governed the right of a person sentenced to death to petition for pardon, commutation or reprieve.

(Mrs. Sipilä)

24. The fact that a total of 73 States had responded to the Secretary-General's call for information attested to the fact that Governments considered the question of capital punishment to be very important. Unfortunately, capital punishment continued to exist in the majority of countries and frequently affected the poorest and those who had fallen into political disgrace. In many cases the most rudimentary safeguards were lacking. However, the picture was not entirely negative. In the period 1974-1978 the number of countries which had abolished capital punishment had increased and more countries were attempting to provide full legal safeguards to those convicted. In fact, it could be said that no country had come out in favour of the continued and prolonged existence of that irreversible penalty. She thought there was a growing trend to abolish capital punishment, at least in terms of carrying it out. A moratorium on executions could serve as the basis for reconsideration of the issue and as a first step towards total abolition of the penalty. In that connexion Governments which hesitated to take such steps could be guided by the example of those countries which had abolished capital punishment and had experienced no social or political disorder as a consequence.

25. It was her understanding that informal discussions were already taking place to arrive at a consensus under which the report now before the Committee and the Committee's views on it could be transmitted to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held at Caracas from 25 August to 5 September 1980, whose agenda included the question of capital punishment. A clear recognition of safeguards which must be applied in the area and a clear mandate as to how to proceed on the question would assist the Congress in its consideration of the item and in formulating recommendations to the General Assembly at its thirty-fifth session.

26. The CHAIRMAN said that the general debate on item 6 "Human rights questions" would begin at the 17th meeting and suggested that the list of speakers should be closed at 1 p.m. on Friday, 25 April 1980.

27. It was so decided.

ACTIVITIES FOR THE ADVANCEMENT OF WOMEN; UNITED NATIONS DECADE FOR WOMEN: EQUALITY, DEVELOPMENT AND PEACE (continued) (E/1980/15; E/1980/C.2/L.3)

28. Miss ST. CLAIRE (Secretary of the Committee) said that, in document E/1980/C.2/L.3, the Bahamas was erroneously listed among the sponsors of the draft amendments and should therefore be deleted.

29. The CHAIRMAN requested the Committee to consider draft resolution VII in the report of the Commission on the Status of Women (E/1980/15).

30. Ms. WELLS (Australia) said that she had proposed at the 14th meeting of the Committee an amendment to draft resolution VII. Subsequently, and after having received certain clarifications, she had changed her position. In her Government's

(Ms. Wells, Australia)

view, the ideal situation would be for posts in the regional commissions to be financed increasingly from the regular budget. She wished that position to be reflected in the record of the meeting and withdrew her draft amendment in the hope that the ideal situation just referred to could be achieved in the future.

31. The CHAIRMAN said that, if he heard no objections, he would take it that the Committee wished to adopt draft resolution VII in document E/1980/15.

32. It was so decided.

33. The CHAIRMAN requested the Committee to consider draft resolution X in document E/1980/15 and the draft amendments in document E/1980/C.2/L.3.

34. Ms. NUÑEZ (Venezuela), speaking on behalf of the sponsors of the draft amendments, said that paragraph 2 of document E/1980/C.2/L.3 had been revised to read "Delete the fifth and seventh preambular paragraphs".

35. Ms. HORBAL (United States of America) said that her delegation could not support the amendments contained in document E/1980/C.2/L.3 because they would radically alter the draft resolution adopted by the Commission on the Status of Women and would deprive the Commission of a function that properly belonged to it.

36. Draft resolution X represented a request by the Commission on the Status of Women for expert assistance in evaluating and developing procedures for handling communications on the status of women. Such procedures might include methods of screening out communications that should more properly be dealt with by another body of the United Nations because of the nature of the complaint.

37. The Commission on the Status of Women received communications of two types. First, there were letters or petitions from individuals, groups or organizations alleging violations of the women's rights set forth in the various conventions on the subject; second, there were communications concerning violations of the Human Rights Convention which, although they affected both men and women, specifically related to women: for example, sexual harassment or slavery, denial of access to education or employment, denial of the right to nationality, denial of the right to marry and found a family, etc. The machinery of the Commission on Human Rights was inadequate to deal with all those cases; it would involve a new and large burden on which the Commission on Human Rights had not been consulted and which went beyond its existing mandate. Moreover, the amendments contained in document E/1980/C.2/L.3 would require significant additional resources and would have considerable financial implications on which no information had been provided and which, in any case, needed to be known in advance. For all those reasons, she supported draft resolution X and requested the sponsors to withdraw the proposed amendments.

38. Mr. KAZEMBE (Zambia) said that, although he understood the idea underlying the proposed amendments, they would weaken the draft resolution. Moreover, if some of

(Mr. Kazembe, Zambia)

the functions of the Commission on the Status of Women were transferred to the Commission on Human Rights, the Commission on the Status of Women would be deprived of an important part of its work and the Commission on Human Rights would be unduly burdened. He therefore opposed the amendment and supported the draft resolution; he felt that the Commission on the Status of Women should be strengthened so that it could consider the communications it received effectively and expeditiously.

39. Mr. ZLATINOV (Bulgaria) said that the Economic and Social Council had conferred no competence whatsoever on the Commission on the Status of Women in respect of the handling of communications. Moreover, no mandate had been given to the Commission to take any action on the basis of the communications received concerning the status of women. The consideration of communications of that type by the Commission would have little or no practical value, would not promote the political, economic, social and cultural rights of women, and would divert the Commission's attention from its principal tasks.

40. The Commission already had sufficient information about the situation of women in the modern world and, furthermore, it could obtain additional information from the Secretary-General at any time. Many reports of States were regularly submitted to the Economic and Social Council, the Commission on Human Rights and the Committee on the Elimination of Racial Discrimination; the reports of the specialized agencies, such as UNESCO and the WHO and of many bodies which had prepared a great many studies on the subject were also available.

41. The activities of the United Nations in the field of human rights revealed that within the Organization countries with different socio-economic and political systems and different approaches to human rights problems worked together. That situation imposed certain limits on international co-operation since it had to be based on the strict observance of the principles of respect for sovereignty and non-interference in the internal affairs of other States. The goals and limits of that co-operation were explicitly stipulated in Article 55 of the United Nations Charter.

42. Proceeding from those premises, his delegation took the view that international co-operation in the field of human rights should take place in two major spheres: first, through the elaboration of universally recognized international norms which would be applied by the respective Governments of Member States within their existing social systems; and, second, through the adoption of concrete measures for the protection of human rights in cases of mass and flagrant violations.

43. The procedure envisaged in Economic and Social Council resolution 1503 (XLVIII), and in draft resolution X proposed by the Commission on the Status of Women, did not meet those requirements for a number of reasons. First, Economic and Social Council resolution 1503 (XLVIII) and draft resolution X provided that the communications in question and the possible reactions by the respective Governments should be considered, but it was unclear to which cases those provisions referred. That question was usually left to the judgement of a group of experts. It was

(Mr. Zlatinov, Bulgaria)

therefore justifiable to raise the question of the formulation of universal criteria for the interpretation of the concept of "mass and flagrant violations of human rights" which appeared in General Assembly resolution 32/130.

44. Second, the proposed procedure represented a control mechanism similar to that elaborated in a number of international treaties. However, it could violate the principle of sovereignty since, in contrast to treaties, it could be applied without the prior consent of the States concerned.

45. Third, the individuals whose communications served as a basis for the application of the procedure were, in fact, defying their own countries, which would eventually be held responsible. Thus the individuals were accorded international legal status. That situation, which had the support of certain Western countries, had not yet been accepted under international law.

46. For the reasons he had explained, Bulgaria was not in a position to adopt draft resolution X, contained in document E/1980/15, and it fully supported the amendments proposed by the delegation of Venezuela, contained in document E/1980/C.2/L.3.

47. Mrs. DEVAUD (France) said that her delegation objected to the form and substance of the amendments proposed in document E/1980/C.2/L.3, which it found unacceptable. First, the so-called amendments were, in fact, a new resolution which not only modified draft resolution X of the Commission on the Status of Women but also modified provisions adopted by the Economic and Social Council at an earlier stage and provided a special mandate to the Commission on Human Rights which would enable it to deal with the communications received in relation to the status of women.

48. Second, as the United States representative had pointed out, communications concerning women had specific characteristics which fell within the competence of the Commission on the Status of Women; if it was deprived of the possibility of considering those communications, it would lose some of its information facilities and it would be denied the right to express opinions about certain special situations relating to women.

49. Mr. NYAMEKYE (Ghana) said that his delegation had been one of the sponsors of draft resolution X of the Commission on the Status of Women, and he therefore suggested that the Commission's recommendations should be considered from two different perspectives. In the first place, far from involving any duplication of work, the proposed procedure would in practice serve the purposes of the Commission more effectively. Other organizations, for example, the International Labour Organisation, followed similar procedures. In the second place, he did not think that the Commission on Human Rights was adequately prepared to assume the functions that would be entrusted to it under the proposed amendment (E/1980/C.2/L.3).

50. Moreover, communications received by any given body should have some relevance to the objectives and policies of that body. Under the provisions of draft resolution X, such relevance would be ensured, in accordance with the mandate assigned by the Council to the Commission on the Status of Women.

/...

51. Mr. VERKERCKE (Belgium) regretted that the sponsors of the amendments were in favour of eliminating the fifth preambular paragraph of draft resolution X, which merely restated an established fact. Moreover, the procedure for dealing with communications on the status of women assumed that both confidential and non-confidential communications would be received, whereas the procedure established in resolution 1503 (XLVIII) made no such assumption. In conclusion, his delegation supported draft resolution X and, if necessary, would vote against the amendments contained in document E/1980/C.2/L.3.

52. Mr. DJIGO (Senegal) observed that the proposed amendments began by eliminating the essential part of draft resolution X. In his delegation's opinion, the Commission on the Status of Women was competent to deal with communications on the status of women and, accordingly, if a vote was taken on the amendments contained in document E/1980/C.2/L.3, his delegation would vote against them.

53. Ms. OBAFEMI (Nigeria) supported the comments of the representatives of Ghana and Senegal. In her opinion, it was necessary to establish an ad hoc group of experts, in particular, to study procedures for dealing with communications relating to the status of women. Accordingly, the essential part of draft resolution X was contained in the operative paragraph. Therefore, she urged the sponsors of the amendments to reconsider their position and to withdraw them.

54. Miss LUANGHY (Zaire) pointed out, first of all, that the French text of the operative paragraph of draft resolution X did not correspond exactly to the English text. The English text referred to the equitable geographic representation of the Council, but that idea was not reflected in the French text. She agreed with previous speakers, in particular the representatives of Ghana and Senegal, that the amendments (E/1980/C.2/L.3) affected the basic substance of the draft resolution and, accordingly, her delegation was not in a position to support them.

55. Mr. BAUMANN (Federal Republic of Germany) noted that the amendments submitted by the group of Latin American countries (E/1980/C.2/L.3) radically changed the character of the draft resolution submitted by the Commission on the Status of Women. Accordingly, one might ask whether the proposed amendments did not actually constitute a new resolution which bore no relation to the objectives of draft resolution X.

56. He agreed with the opinions expressed by the representatives of the African countries concerning the connexion existing between the objectives and work of the Commission on the Status of Women and draft resolution X. According to the draft resolution, the communications concerned should be formulated precisely with a view to facilitating the work of the Commission on the Status of Women and making it more effective. Accordingly, his delegation did not consider the amendments to be acceptable, and he asked the sponsors to reconsider their proposal.

57. The CHAIRMAN said that the error noted by the representative of Zaire would be corrected by the Secretariat.

58. Mrs. SEMICHI (Algeria) understood that, in recommending draft resolution X for adoption by the Economic and Social Council, the Commission on the Status of Women had been demonstrating its interest in protecting the rights of women. However, the criteria on which the draft resolution was based did not follow a logical sequence. In dealing with violations of human rights, the different cases should not be considered on the basis of sex, but rather on the basis of the gravity of the problem. Therefore, her delegation could not support the contents of the operative paragraph of draft resolution X; on the contrary, it was prepared to support the amendments proposed by the group of Latin American countries. Just when efforts were being made to combat discrimination against women, it was not right to draw a distinction in the different United Nations bodies between violations of the rights of men and violations of the rights of women. Violations of human rights should be examined together.

59. Miss DORSET (Trinidad and Tobago) said that, when the Commission on the Status of Women had voted on draft resolution X, Trinidad and Tobago had abstained, because it could not accept the proposal for the appointment of an ad hoc group of experts to study procedures for dealing with communications relating to the status of women. As a developing country, Trinidad and Tobago thought that it was important to avoid any duplication of effort and any waste of resources. It was therefore difficult for her delegation to agree that, with 30 years of experience and a staff that was highly qualified in several areas, the United Nations should lack the necessary knowledge to decide how to deal with communications. Her delegation was greatly concerned that existing staff were regularly overlooked, while experts were hired, at considerable costs, to study such things as procedures. Her delegation was firmly opposed to the proliferation of groups of experts to carry out tasks that could well be performed by the existing professional and technical staff, with the knowledge already acquired by the Organization.

60. Her delegation did not suggest altering or reducing the jurisdiction or competence of the Commission on the Status of Women in any way. If the Commission was competent to examine communications and wished to do so, it could use the resources available to it within the United Nations system; in any case, it should be possible to assemble the internal resources necessary, without having to hire outside experts.

61. In view of all those observations, her delegation considered that draft resolution X should not be adopted and that, on the contrary, the proposed amendments contained in document E/1980/C.2/L.3 should be approved.

62. Mrs. AKAMATSU (Japan) said that her delegation supported the comments made by the representatives of the United States of America, France and Ghana, inter alia, in favour of the original text of draft resolution X submitted by the Commission. As she had stated on previous occasions, her country considered that the Commission on the Status of Women had the most authority to deal with women's questions, and she therefore supported the procedure whereby the Commission could best carry out its task. Accordingly, in her delegation's opinion, communications on the status of women should continue to come within its jurisdiction.

(Mrs. Akamatsu, Japan)

63. Therefore, in the light of the experience acquired previously on that subject, her delegation was opposed to the amendments contained in document E/1980/C.2/L.3 and supported draft resolution X as submitted by the Commission.

64. Mr. RANGACHARI (India) expressed his complete agreement with the statement made by the representative of Trinidad and Tobago. In his opinion, the reason why new machinery was necessary had not been explained clearly enough. For example, it was difficult to understand the argument that, if the amendments were adopted, all the work would have to be done by the Commission on Human Rights, which was already overburdened. Considering that the Commission on Human Rights met for six weeks each year, whereas the Commission on the Status of Women met for eight days every two years, it was obvious that the former had more time than the latter. Moreover, he doubted that any machinery established in a climate of controversy could pursue the objectives assigned to it. In his opinion, before suggesting any new machinery, the Council should examine the functioning of the existing procedure and identify its possible short-comings.

65. The CHAIRMAN announced that he had been asked to extend the time-limit for the submission of draft resolutions on the subject of the elderly until 6 p.m. on 24 April. If he heard no objections, he would take it that the Committee agreed.

66. It was so decided.

The meeting rose at 1.10 p.m.