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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 27 February 1985, at 10 a.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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The meeting was called to order at 10.45 a.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR: (agenda item 10) (continued) (E/CN.4/Sub.2/1984/14, 15, 17 and 19; E/CN.4/1985/NGO/26)

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (A/39/662; A/RES/39/46; E/CN.4/1985/55)
- (b) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (E/CN.4/1985/15 and Add.1; E/CN.4/1985/NGO/10 and 23)

1. Mr. WAKE (United States of America) considered it appropriate that sufficient time should be devoted to a reasoned exchange of views on the protection of the human rights of all persons subjected to any form of detention or imprisonment, and that the Commission should discuss those subjects on a world-wide basis, since no country in the world had found it possible to dispense with institutions of detention or imprisonment.

2. One of the most basic international standards relating to treatment of prisoners and detainees was the principle that no one should be subjected to torture or other cruel, inhuman or degrading treatment or punishment. That principle was stated in the Universal Declaration of Human Rights, article 5, and had recently been reinforced by the adoption of the Convention against Torture, which the United States strongly supported. The political will of all Governments should be mobilized to take effective action to end such practices wherever they occurred and information about their extent and occurrence should be brought to the attention of the international community. His delegation would support a proposal for the Commission to authorize the appointment of a special rapporteur to study the question.

3. His delegation commended the humanitarian efforts of the Working Group on Enforced or Involuntary Disappearances. After studying the Working Group's report (E/CN.4/1985/15), it had been distressed at the number of cases in which the relatives concerned had not received any information about the persons who had disappeared. It nevertheless expressed appreciation to Governments which had co-operated with the Working Group in solving cases of disappearances and urged other Governments to do the same. He noted that most of the information about alleged disappearances had been received from non-governmental organizations and that the resources available to such organizations varied greatly from country to country. Extreme caution should therefore be exercised in using the statistical portions of the Working Group's report to make comparisons between different situations since the statistics did not reflect the actual number of disappearances. Similarly, it would be a mistake to assume that the countries mentioned in the report were the only ones in which enforced or involuntary disappearances occurred.

4. The Commission had, at its previous session, adopted a resolution (1984/26) on freedom of opinion and expression. His delegation wished to reiterate the resolution's appeal to Governments to respect the basic right of persons to hold and freely express their own opinions without governmental interference or punishment. It was a sad fact that numerous persons had been detained and subjected to torture and had "disappeared" solely for exercising that right or for their role in speaking out in defence of human rights. Ruthless repressive measures, such as incarceration, cruel treatment in psychiatric hospitals or banishment to internal exile, were sometimes used by Governments to create a climate of fear which stifled free expression in an entire society.

5. The Commission had also decided at its previous session to examine the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on situations known as states of siege or emergency. His delegation urged that that report should be completed since serious human-rights violations had undoubtedly occurred in situations of that kind. Respect for basic human rights and freedoms could never be sacrificed in times of international armed conflict, internal strife or any other emergency. A Government was not absolved of its responsibility to protect human rights merely because it informed its own people or the international community that it had become necessary to suspend certain legal safeguards. It could be meaningless for a Government to lift martial law if the extraordinary restrictions on freedom that had characterized martial law had already been incorporated into a country's permanent legal system.

6. The consideration of problems under agenda item 10 on a world-wide basis did not mean always dealing in vague generalities; the Working Group on Enforced or Involuntary Disappearances provided an active example of United Nations machinery which dealt with specific situations. His delegation trusted that the terms of reference for any new fact-finding mechanism on torture would provide for that problem to be studied on a world-wide basis; similarly, problems relating to states of siege or emergency should be studied as world-wide phenomena. With regard to the broader question of detention and imprisonment, the Commission should avoid adopting selective political statements on certain alleged abuses while simultaneously ignoring similar abuses by other parties in the same region of the world. Such an approach could only damage its credibility. The human rights of prisoners and detainees were too fundamental to the basic work of the Commission to be overridden by political rhetoric.

7. Mr. NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that the adoption of the Convention against Torture had been a historic decision on the part of the General Assembly. It was important that the new instrument should be not a private document for a few jurists and persons who believed in the cause of human rights, but an instrument for all mankind. It was obvious that international documents were rarely well known. The United Nations must find means of disseminating its human rights declarations, covenants and conventions in a large number of languages. Some countries imprisoned and maltreated citizens who attempted to make such documents publicly known or who tried to support the cause of human rights; if the international community made a greater effort to propagate those international instruments, it would be making a contribution towards eradicating the practice of torture.

8. He congratulated the Working Group on Enforced or Involuntary Disappearances on its work and its report (E/CN.4/1985/15), whose conclusions his organization fully supported. The Working Group must continue its work until it had clarified all cases of disappearances in the world, and visit regions where the phenomenon was most frequent.

9. Governments had no excuse for violating human rights. Some put forward the argument that the economic development of a country contradicted the observance of human rights. That was untrue, however, since for development people needed to enjoy good health; torture victims were ill and weak. To end torture, therefore, would contribute to the economic development of nations. The argument that human rights could not be protected because there were not enough officials to do so was equally false. Was technical assistance necessary to eradicate torture or to end disappearances? The Commission must realize that dictators were the true enemies of mankind in that they protected small élites, while those who were not in agreement with their principles were condemned to torture and death.

10. Only 40 years since the Second World War, people were already forgetting the principles that had given rise to the creation of the United Nations. Only if the principle of peace was practised throughout the world could there be a world without torture and disappearances.

11. Mr. ODOCH-JATO (Observer for Uganda) said that his Government had had pleasure in supporting the consensus adoption of the Convention against Torture; the unanimity achieved in the General Assembly was testimony to the collective international resolve to assert human dignity through the elimination of the practice of torture. The Government of Uganda was currently studying the provisions of the Convention with a view to taking appropriate constitutional action.

12. His delegation noted with satisfaction that the Working Group on Enforced or Involuntary Disappearances had continued to exercise its mandate with objectivity and impartiality. It should be commended for the adoption of principles regarding sources and veracity of information, as outlined in paragraphs 78 and 79 of its report.

13. With reference to paragraphs 280 to 283 of the report, relating to three cases of alleged disappearances in Uganda, his delegation sincerely regretted the technical factors that had led to delay in its response to the Working Group. It confirmed that the case of the girl referred to in paragraphs 280 and 283 had been explained to Amnesty International and that she had been charged before a court of law. The cases referred to in paragraphs 281 and 282 and three other cases mentioned in the addendum to the report had been investigated and three persons had been arrested in connection with acts of terrorism. A formal response on all those cases would be submitted to the Working Group.

14. He wished to refer to misleading allegations about Uganda made at the Commission's 28th meeting by the representative of Christian Democratic International (CDI), identified as a member of the Uganda Democratic Party. That Party comprised the main opposition in the Ugandan Parliament and its pronouncements on the situation in Uganda were influenced by certain sectarian objectives. It was instructive to note that a faction of the Democratic Party belonged to the so-called Uganda Liberation Front, which had rejected the results of the 1980 democratic elections and set out to overthrow the constitutional Government. It had been partly responsible for the acts of banditry and violence of which his delegation had continually apprised the Commission.

15. At previous sessions of the Commission, his delegation had described the significant improvement in the human rights situation since the restoration of parliamentary democracy in 1980. The CDI allegations relating to violations of freedom of expression and the press were surprising. His Government did not operate any system of press censorship, nor was it intolerant of political expression. The CDI was well placed to know that the Uganda Democratic Party had retained a vocal presence in Parliament and had actively exercised the right to disseminate its views through its own newspapers. The CDI representative had alluded to mass detentions, torture and maltreatment of political opponents in Uganda, although it was quite clear that the Government of Uganda had not pursued any policy which detracted from the pluralistic basis of a democratic system and that no persons had been detained for their political convictions. A distinction must, however, be made between

genuine political opponents and those who committed criminal acts under the garb of political dissension. His Government was committed to respect for political diversity and to the maintenance of law and order. By the same token, it had actively pursued the course of justice in cases where agents of the State had been implicated in the commission of crimes.

16. The CDI's allegations relating to the decimation of ethnic groups were clearly at variance with the facts since the legislature, executive and civil service of Uganda incorporated all elements of the country's population. The allegations were indicative of the extreme distortion that characterized CDI pronouncements.

17. The acts of indiscriminate violence of those who had rejected the democratic process in Uganda were the only impediments to the efforts of the Government and people to mould a united society, respectful of human rights. The time had come for all men of goodwill to sacrifice sectarian interests in Uganda and to join in urging the protagonists of violence to adhere to the principle of democratic governance.

18. Mr. SHAHABI SIRJANI (Observer for the Islamic Republic of Iran), speaking in exercise of the right of reply, said that his delegation categorically rejected the allegations made by the representative of Iraq concerning the human rights of Iraqi prisoners of war in the Islamic Republic of Iran. Referring to paragraph 273 of the report on prisoners of war in his country and Iraq (S/16962), he said that the Iraqi delegation seemed to assume that the kind of physical violence described as common in Iraqi prisoner-of-war camps was tolerated throughout the world. That attitude was understandable, since physical violence played a large part in the history of the Iraqi Ba'ath party. Indiscriminate bombardment of civilian areas, repeated attacks against nuclear installations used exclusively for peaceful purposes and the extensive use of chemical weapons were but a few examples of Iraqi violence against the Islamic Republic of Iran.

19. The attraction of Islamic ideology was so great that people did not have to be forced to convert to it; such coercion was in fact forbidden. The Iraqi representative could not say the same about his regime's ideology. The Islamic Republic of Iran was firmly committed to protecting the rights of Iraqi prisoners of war and felt a responsibility towards the families of prisoners under Iraqi rule. Any activities other than humanitarian ones were not tolerated in Iranian prisoner-of-war camps. Refuting the Iraqi delegation's comments about the incident of 10 October 1984 in an Iranian prisoner-of-war camp, he said that document S/16962 indicated that the measures taken by the Iranian authorities to suppress the riot had in principle been justified.

20. Throughout the world, and especially in the world of Islam, the Iraqi regime was condemned for initiating a war and despised for its betrayal of the interests of Muslims and suffering third world countries. The Islamic Republic of Iran would welcome any opportunity to end the war through peaceful means, but the Iraqi regime could not be trusted to negotiate for peace in earnest: its use of chemical weapons, indiscriminate bombing of residential areas and attacks on nuclear installations made it clear that it was not interested in peace.

21. In March 1984, his delegation had appealed to the Working Group on Enforced or Involuntary Disappearances to take action on gross violations of the human rights of 10,000 missing Iranians in Iraq, an appeal to which the Working Group had not been able to respond. The missing now numbered 20,000, and the ICRC, which had attempted to take action on the matter, had not been able to fulfil its humanitarian mandate.

22. Paragraph 118 of document S/16962 graphically illustrated the terrible conditions in which Iranian prisoners lived, and the Commission should be prompted by that description to take urgent steps to resolve the problem. Ignoring such violations of human rights would certainly encourage further violations.

23. It was no surprise that the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1985/15) contained totally unfounded allegations against his country, since the Group had derived its information from the Mujahidin-i-Khalq, an organization known for unprecedented acts of terrorism in the Islamic Republic of Iran and Iraq. Unless the Working Group took a more serious approach to investigating the alarming fate of the 20,000 missing Iranians in Iraq, it was unlikely that any progress would be made in respect of individual cases.

24. Mr. EL-MAY (Observer, League of Arab States) said that the arbitrary practices in which the Israeli authorities engaged in the occupied Arab territories flouted United Nations resolutions and the will of the international community, but Israel would not end them until concerted international action forced it to do so.

25. Referring to the abuse of authority by law enforcement officers in the occupied Arab territories, he said that the Israeli Knesset itself had established a commission of inquiry to look into the matter. The commission had met with many difficulties, but had found that 70 complaints submitted by Arab citizens against Israeli settlers, had not been fully investigated by the authorities. In fact, the number of cases of physical injury greatly exceeded the number of complaints brought by Arabs, who were often subjected to intimidation and reprisals. In some parts of the occupied territories, Israeli settlers viewed themselves as fully-fledged soldiers with full powers under military jurisdiction and refused to co-operate with the civilian police. As a result, Arab citizens were wary of reprisals and unconvinced that legal channels would afford them remedies. If that was the situation in the country as a whole, one could only imagine the fate of Arab prisoners, who were entirely in the power of the Israeli authorities. The Commission's report thus clearly described the suffering inflicted on Arabs in the occupied territories and Israeli prisons, but when the observer for Israel next spoke, he would no doubt maintain that Arabs were well treated and that the Israeli regime did not discriminate against any people or religion.

26. Mrs. SISANTE-BATACLAN (Philippines), speaking in exercise of the right of reply, said that her delegation welcomed the presence of the representative of Task Force Detainees in the Philippines, who had spoken on behalf of Pax Christi. It agreed that the country's problems should be solved primarily by its own people, and that the world community, including the Commission, had a significant part to play in safeguarding human rights. That representative should be able to testify to the earnest efforts made by the Government and private human rights groups in that regard, and should work closely with governmental bodies in the Philippines charged with monitoring and investigating complaints of human rights violations.

27. Her Government reiterated its desire to continue co-operating with the Commission and, in particular, the Working Group on Enforced or Involuntary Disappearances. Special investigating teams set up by the Ministry of National Defence were investigating the 139 cases retransmitted to her Government (E/CN.4/1985/15, para. 226), and the Commission would be informed of the findings as soon as possible.

28. Against the many allegations concerning the much-maligned military forces, especially with regard to treatment of priests and nuns, should be set the rescue, reported in the International Herald Tribune of 26 February 1985, of a Roman Catholic bishop and eight other people, including two nuns, from a rebel camp on Mindanao by an army assault team. Moreover, there had been no mention of the many extrajudicial killings and kidnappings perpetrated by terrorists; since 1981, over 3,000 civilians had been the victims of such acts.

29. The Government kept a strict account of arrests and detentions, and had always adopted an open policy, at the national and international levels, in discussing related human rights questions. Of 467 persons detained for violations of public order 438 were facing charges, the remainder either being detained in protective custody or being processed for amnesty. The persons arrested and detained had committed acts such as rebellion, sedition and subversion; there were no political detainees. With regard to the alleged use of chemical weapons, her delegation had made a statement to the Commission on 20 February 1985. An on-the-spot investigation ordered by the National Assembly had disproved the allegations.

30. The representative of the International Commission of Jurists, speaking at the Commission's 28th meeting, had said that a Miss Aguilar, who had been acquitted on charges of subversion in Manila, had been promptly detained under a Presidential Decree. That person had not, in fact, been acquitted of the charges against her. She and two other persons had been apprehended in August 1984 by police armed with a search warrant, and a Presidential Detention Action had been issued against all three for acts against national security. As a result of a petition for mandamus to the Supreme Court, the two other persons had been freed on bail, not having been charged with a capital offence, and on 14 January 1985 President Marcos had ordered their temporary release. Miss Aguilar, however, facing trial for separate capital offences of rebellion and subversion, had not been released, and had later requested the Supreme Court to rule on whether military courts still had jurisdiction in cases involving civilians. In the Government's view, although martial law and military commissions had been abolished in 1981, military courts which had had cases pending could continue to hear them. The issue was still before the courts.

31. As could be seen, the Philippine judicial system continued to play a vital role in guarding human rights. The executive was equally vigilant in that regard. Preventive detention, necessitated at times by the legitimate demands of national security, had a maximum duration of one year, before the end of which a review committee considered the case and made recommendations to the President. Persons acquitted following an order by the President were released immediately. The President also occasionally ordered the release, on purely humanitarian grounds, of persons facing charges. Therefore, the stereotyped allegations about arbitrary arrest and detention in the Philippines were groundless. Her delegation shared the view that the Commission, in appraising any government actions in the context of alleged human rights violations, should bear in mind also the interests and safety of the nation as a whole.

32. Mr. GAGLIARDI (Brazil), speaking in exercise of the right of reply, said that the representative of the World Council of Indigenous Peoples, speaking at the Commission's 31st meeting, had been wrong in stating that the Apinajé tribe in northern Brazil had been granted only 25,000 hectares of land. The Apinajés had received, by a government decree dated 14 February 1985, title to the full and exclusive possession of 143,000 hectares of land. They had, in fact, the right to live on and exploit as they wished 1,430 square kilometres of land, with exclusive rights; their chiefs had recorded their full satisfaction with the area allotted.

33. Mrs. de CONTRERAS (Observer for Guatemala), speaking in exercise of the right of reply, said that, although the situation in Guatemala would be considered separately under agenda item 12 (b), her delegation wished to state that the Special Rapporteur's latest report (E/CN.4/1985/19) on the situation in Guatemala had doubtless once again surprised those who had morbidly expected a horror story. Her delegation rejected the diatribes and arguments stemming from activist bodies of known militancy, as well as the repeated allegations contained in documents being circulated irresponsibly in the Commission in an attempt to discredit the Guatemalan Government's efforts to restore democratic institutions, including a free electoral process, and prevent it from fulfilling its commitment to the people's sovereignty. It was through facts, not words, that Guatemala would show the world community its respect for democracy and the way of peace.

34. Mr. MAHBOUB (Observer for Iraq), speaking in exercise of the right of reply, said that his delegation saw no need to reply at length to the baseless charges levelled by the Iranian delegation in an attempt to justify its senseless continuation of the war with Iraq - a war in which it resorted to the most barbaric practices, such as driving children forward to clear passages through minefields.

35. The two chief features of the situation were Iran's persistence in waging war and its gross violations of the Geneva Convention relative to the Treatment of Prisoners of War, culminating in its disdain for the ICRC. If, as the observer for Iran had claimed, the statement by the delegation of Iraq consisted of lies, it must be assumed that Iran was observing the aforementioned Geneva Convention and had allowed ICRC unhindered access to its prisoner-of-war camps, contrary to what the President of ICRC had said. If Iran could so far disregard world public opinion as to persist in waging war, at least it should heed the international calls for efforts to reduce the sufferings of the conflict's victims, including prisoners of war. Iraq had called for an early meeting of the Security Council with a view to the adoption of a resolution binding on both parties to the conflict, including effective machinery based on the recommendations of the mission appointed by the Secretary-General. That mission, it should be noted, had obtained access to all the prisoner-of-war camps in Iraq but only to half of those in Iran. Iraq sincerely wished to see those recommendations implemented, under international supervision, and found it ironic that Iran, which could disdain Security Council decisions and describe the General Assembly as a tool of imperialism, continued to make use of the Organization's forums when to do so served its own interests.

36. Mr. TOSEVSKI (Chairman, Working Group on Enforced or Involuntary Disappearances) said he would ensure that all the points raised concerning the Working Group's activities, particularly the suggestions about future action, were brought to its members' attention. He agreed on the need for more publicity about those activities. The matter would be given further attention by the Working Group, which was aware that, in some regions, information had hitherto been directed chiefly to non-governmental organizations rather than the public at large. The Working Group would likewise try to provide more details in the statistical tables accompanying the next report; statistics alone, however comprehensive, could not illustrate a situation completely unless studied in conjunction with the related text.

37. The Working Group's method was to transmit cases, through the secretariat, only when it had studied them carefully and determined that the information would assist Governments in carrying out investigations. There was no automatic procedure. Of some 3,000 cases brought to the Working Group's attention in 1984, roughly 2,000 had been transmitted. The Working Group, of course, could transmit no cases on political grounds and could only appraise the general reliability of the information it received, observing the Organization's rules for such appraisal. The question whether the Working Group should be able to deal with cases of disappearance in situations of international military conflict had been raised in the previous report, but the Working Group had received no alteration to its mandate. Likewise, the Working Group would need to be given guidelines before it could consider the issues involved in the question of a draft convention of the sort referred to by the Latin American Federation of Associations of Relatives of Disappeared Detainees.

38. The CHAIRMAN noted that the Commission had concluded its consideration of agenda item 10.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-SEVENTH SESSION (agenda item 19) (E/CN.4/1985/3 and 50; E/CN.4/Sub.2/476 and Add.1-6; E/CN.4/Sub.2/1982/2 and Add.1-7; E/CN.4/Sub.2/1983/21 and Add.1-8; E/CN.4/Sub.2/1984/20 and 23)

39. Mr. HERNDL (Assistant Secretary-General for Human Rights), introducing agenda item 19, said that the Sub-Commission had considered a broad range of issues at its thirty-seventh session. The Sub-Commission's report (E/CN.4/1985/3) contained eight draft resolutions which it recommended for adoption by the Commission (chap. I, sect. A) and 25 Sub-Commission resolutions requiring action or consideration by the Commission (chap. I, sect. B).

40. The Working Group on the review of the work of the Sub-Commission, under the chairmanship of Mr. Khalifa, had proposed a five-year plan of work for the period 1985-1989 which had been endorsed by the Sub-Commission in resolution 1984/37. The five-year plan, which was contained in annex IV to the Sub-Commission's report, was intended to rationalize the programme of studies conducted by the Sub-Commission in order to produce action-oriented studies and to avoid a backlog at any given session. A three-year cycle of studies had been proposed (Sub-Commission resolution 1984/37, para. 6 (c)). The Working Group recommended that until the five-year plan had been fulfilled, the Sub-Commission should not make recommendations for any further studies. The report of the Working Group (E/CN.4/Sub.2/1984/3) and resolution 1984/37 of the Sub-Commission contained further proposals, some of them of a structural and constitutional nature. The Working Group would continue its deliberations at the next session of the Sub-Commission.

41. Two Sub-Commission reports had been submitted to the Commission under item 19: the study on discrimination against indigenous populations, by Mr. Martínez Cobo (submitted pursuant to Sub-Commission resolution 1984/35 A), and the report on the mission to Mauritania by Mr. Bossuyt (submitted pursuant to Sub-Commission resolution 1984/28). At its 2nd meeting, the Commission had decided to request both Special Rapporteurs to submit their findings in writing: Mr. Bossuyt had since submitted his report (E/CN.4/1985/50). The Chairman of the Sub-Commission would doubtless be willing to answer any questions arising from consideration of the Sub-Commission's report.

42. The work of another United Nations body, the Committee on Crime Prevention and Control, with secretariat services provided by the Centre for Social Development and Humanitarian Affairs in Vienna, provided a valuable complement to the Sub-Commission's work. As a result of the Committee's work, the Economic and Social Council had adopted resolution 1984/50 approving the "Safeguards guaranteeing the protection of the rights of those facing the death penalty", which had subsequently been endorsed by the General Assembly. The seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, to be held in Milan, Italy, from 26 August to 6 September 1985, would consider several human-rights issues under topic V of its agenda entitled "Formulation and application of United Nations standards and norms in criminal justice". Among the issues to be discussed was a set of guidelines on the independence of the judiciary and draft provisions for monitoring international standards for the protection of persons facing the death penalty.

43. Mr. GAGLIARDI (Brazil) expressed appreciation for the work done by the Sub-Commission during its thirty-seventh session and described in its report (E/CN.4/1985/3). However, the eight draft resolutions recommended by the Sub-Commission, together with the 25 Sub-Commission resolutions referring to matters which required action or consideration by the Commission, would necessitate a great deal of work by the Commission at the current session. His delegation had pointed out that fact at the beginning of the session and had asked for more time to be allotted to the agenda item under discussion. Care should be taken to ensure that the Sub-Commission remained within its mandate as a subsidiary technical body of the Commission. By taking into account the Commission's report, the Sub-Commission could avoid duplication of work which came within the Commission's competence, although Sub-Commission experts should not refrain from taking the initiative in new fields of work. The submission of resolutions was perhaps not the optimum method of informing the Commission of the Sub-Commission's views, since it sometimes led the secretariat to implement resolutions before they had been considered by the Commission. Resolutions with financial implications required the approval of the Commission or even the Economic and Social Council. The Sub-Commission should be encouraged to rationalize its studies and follow-up procedures without duplicating the Commission's work.

44. Chapter I, section A of the Sub-Commission's report contained eight draft resolutions recommended by the Sub-Commission for adoption. His delegation supported draft resolution I (Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist regime of South Africa), but considered that the Special Rapporteur should make a more thorough analysis of the information received. That point could have been more clearly expressed in paragraph 3 of draft resolution 1984/4, which dealt with the same issue. His delegation also supported draft resolution II. It agreed with the contents of draft resolutions III and IV, but it should be made clear that the resolutions had originated in the Commission rather than the Economic and Social Council. He suggested that the words "on the recommendation of the Commission on Human Rights" should be added in operative paragraph 1 of draft resolution III. Draft resolution V recommended that the Council should authorize the Sub-Commission to appoint a special rapporteur to investigate situations known as states of siege or emergency, although Sub-Commission resolution 1984/27, from which it originated, had merely requested Mr. Despouy to present an "explanatory paper" on the subject. The matter should be carefully weighed, since the consideration of yet another report would place a heavy additional burden on the Sub-Commission. His delegation supported draft resolution VI (Slavery and slavery-like practices: Mission to Mauritania), but had serious misgivings about draft resolution VII (Slavery and slavery-like practices). The ratification of international instruments was an internal matter; it was not within the Secretary-General's competence to urge States to ratify such instruments. He

suggested that the final part of operative paragraph 1, beginning with the words "ought to explain why", should be deleted. His delegation supported section A of draft resolution VIII (Study of the problem of discrimination against indigenous populations), but doubted the value of the voluntary fund for indigenous populations proposed in section B. It was not convinced that such a fund would be the best way of meeting the needs and interests of indigenous communities.

45. Chapter I, section B, of the report contained 25 Sub-Commission resolutions referring to matters which required action or consideration by the Commission. With reference to Sub-Commission resolution 1984/2 (The status of the individual and contemporary international law), he pointed out that the study in question had little practical value for the work of the Commission. The Special Rapporteur should observe the limits on the length of reports established by the Economic and Social Council. With reference to resolution 1984/3, paragraph 2 should also be brought to the attention of the Commission and the Special Rapporteur should likewise observe the limits set for the length of the report. In respect of resolution 1984/4, as with draft resolution I, there should be a more thorough analysis of the information received.

46. His delegation wished to draw attention to the danger of overlapping between the Commission's and the Sub-Commission's work, particularly in respect of Sub-Commission resolutions 1984/6 (Question of the violation of human rights and fundamental freedoms: The situation in Afghanistan), 1984/9 (Paraguay), 1984/14 (Islamic Republic of Iran), 1984/23 (Guatemala), 1984/24 (East Timor), 1984/25 (Uruguay), 1984/26 (El Salvador) and 1984/29 (Chile). In resolution 1984/14, paragraph 4 should read: "Recommends to the Commission on Human Rights to request the Secretary-General to inform the Sub-Commission ...". The wording of paragraph 3 ("Decides to request the Secretary-General to bring to the attention of the Commission ...") implied that the Commission might otherwise ignore the work done by the Sub-Commission. It should be borne in mind that the Sub-Commission should not address Governments or the Secretary-General directly, but should only do so through the Commission.

47. In respect of resolution 1984/27 (The administration of justice and the human rights of detainees), which had given rise to draft resolution V, his delegation considered that the subject required more detailed study: its discussion at the current session seemed premature. As well as paragraph 4, paragraph 3 of resolution 1984/30 (The effects of gross violations of human rights on international peace and security) required approval by the Commission. It was doubtful, however, whether such a resolution came within the Sub-Commission's competence at all, since it held no mandate in matters of peace and security. The fifth preambular paragraph of resolution 1984/32 (Question of violation of human rights and fundamental freedoms: The situation in Sri Lanka) did not require the Commission's approval, since the Sub-Commission was merely expressing the hope that a government would submit information. His delegation supported section A of resolution 1984/35, but considered that paragraph 5 of section B also required approval by the Commission owing to its financial implications. All Sub-Commission resolutions or decisions with financial implications should be approved by the Commission before the secretariat could consider itself authorized to implement them. At a time of financial constraint, it was essential to avoid needless additional costs.

48. His delegation opposed paragraph 7 of resolution 1984/36 (Encouragement of universal acceptance of human rights instruments). Several delegations in the Commission had expressed doubts about the issue. It was not within the Secretary-General's competence to hold informal discussions on the prospects for

ratification of human-rights instruments, since ratification of such instruments was an internal matter. The competence of international organizations lay in commending a treaty for ratification and requesting the secretariat to report on progress in bringing it into force in various countries, but not in applying "post-adoption procedures", such as the provision of rapporteurs or experts to assist in the ratification process or inquiries about non-accession to multilateral treaties. Paragraphs 3, 4, 5 and 6 of resolution 1984/36 should have been approved by the Commission, although the secretariat had already implemented several of them, as indicated in the note by the secretariat (G/SO 234 (17-4)) of 1 November 1984. Other Sub-Commission resolutions had likewise been implemented by the secretariat before the Commission could consider them.

49. His delegation supported the proposed changes in the Sub-Commission's working methods, provided for in resolution 1984/37, paragraph 2. The request in paragraph 3 that the Secretary-General should inform the Commission of the activities of the Working Group on the review of the work of the Sub-Commission was not necessary. His delegation supported the suggestions contained in paragraph 6 (a), (b), (d) and (e), despite the significant increase in costs which would result from 10 additional meetings per session. The suggestion in subparagraph (c) that studies should pass through a three-year cycle without Commission and Council approval at every stage was acceptable, provided that those bodies had the right to comment on the studies. For the rest, his delegation supported resolution 1984/37, but considered that the issue required further detailed study.

The meeting rose at 1.05 p.m.