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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 16th MEETING

held at the Palais des Nations, Geneva,
on Thursday, 11 February 1982, at 10 a.m.

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 10.20 a.m.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION; 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.4/1496; E/CN.4/1982/1, E/CN.4/1982/2; E/CN.4/1982/HCO/4; A/36/440)

1. Miss CAO PINNA (Italy) said that her delegation had always attached very special importance to the question before the Commission. One of the international community's tasks was to find means which would enable it to protect human rights more effectively and, when necessary, as a matter of urgency. The achievement of that objective on a unanimous basis - which called for political will and a firm commitment on the part of all Member States - was still far off. Meanwhile the Division of Human Rights continued to be the real driving force within the United Nations system which constantly and relentlessly encouraged the international protection of human rights. For that reason, her delegation had been surprised and deeply concerned by the announcement of the imminent departure of the Director of the Division of Human Rights, Mr. van Boven, since it admired his courage and competence, as well as his efforts to stay away from political pressures, which seemed to be the underlying cause of his departure.
2. The question under consideration, in its two parts, reflected the concern shown by both the Commission and the General Assembly during the 1970s at the violations of human rights in various parts of the world, as well as the need for more effective and prompt action. That concern had created considerable expectations among a number of Member States, as well as in world public opinion. However, the United Nations had not made (and had not been able to make) any tangible response to the expectations of the victims of violations of human rights and fundamental freedoms. The only speedy action that could be taken by the intergovernmental bodies of the United Nations system entrusted with the promotion and protection of human rights was the drafting and sending of a telegram to the government of the country where, according to reliable sources, violations had been committed. All other types of action developed slowly and in most cases there was no possibility of establishing direct contact with the government concerned or of carrying out an inquiry in the country in question.
3. Consequently, only a high official; such as, for example, a United Nations High Commissioner for Human Rights, could take such speedy action or, what was even better, preventive action in cases of violation. Her delegation regretted that the Commission had been unable to take a decision on that important question at its last session. It therefore welcomed the favourable views expressed on that subject by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as reflected in its resolution 12 (XXXIV), and its decision to consider, at its next session, the positive role a high commissioner should play in bringing about the full and complete enjoyment of human rights. She hoped that the Commission would firmly support that initiative.
4. The sessional working group which the Commission had established for the purpose of continuing its work on the over-all analysis of alternative approaches and ways and means within the United Nations system for improving the effective

enjoyment of human rights and fundamental freedoms had also been unable to take a decision on two proposals made at a preceding session aimed at enabling the Commission to take action between sessions in case of a violation of human rights. Those were the proposal to give the Bureau of the Commission an inter-sessional role and the proposal to convene the Commission in emergency special session when necessary. Those proposals, however, were not an alternative to the proposal to establish a post of United Nations High Commissioner for Human Rights, since there was, in any case, an undeniable need to enable the Commission itself to act more speedily in the event of a violation. The working group entrusted with the over-all analysis could undoubtedly benefit from any suggestions made in plenary meetings of the Commission. It was necessary to enable the Commission to free itself from an immobility which had become dangerous, as it was affecting its credibility.

5. Mr. DIEYE (Senegal) said that his delegation, like many others, attached special importance to the question under consideration. In the interest of the protection and promotion of human rights, it was necessary to improve the Commission's methods of work and to strengthen the existing machinery within the United Nations system for defending the cause of human rights. In that connection, whatever judgement might be passed on it, the work done by the Director of the Division of Human Rights, Mr. van Boven, had been exemplary.

6. It was normal that all régimes should not have the same conception of human rights, but it was not normal that there should be failure unequivocally to denounce flagrant violations of human rights, wherever they occurred, without consideration of politics or ideology. It was the Commission's overriding duty to do that, while allowing itself to be guided by the principles enunciated in the international instruments relating to human rights, respect for which, according to the authors of those instruments, took priority over the sacrosanct principle of non-interference. At the same time, it was true that the Commission had to act with discretion and in co-operation with the governments concerned, and without showing any partiality.

7. The Commission's resources had, admittedly, been strengthened, since its membership had increased from 32 to 43 and the length of its annual session from five to six weeks. That had been necessary but was still not enough. It was inadmissible that the Commission, after its session, should "declare a holiday" for human rights, that it should remain unmoved before violations of human rights on the pretext that there was no body in a position to take action.

8. A joint effort should be made to set up permanent structures and bodies. Should a post of United Nations High Commissioner for Human Rights be established? It was claimed by some, for various reasons, that such a mechanism would be a means of propaganda in the hands of one group of countries against another. The obvious reply to that, however, was that the high commissioner would not be completely independent, since he would also have to act within the framework of the United Nations system and his functions would consequently be governed by the Charter.

9. Even if, paradoxically, the Commission had not participated in the settlement of certain situations characterized by massive violations of human rights - as had been the case in Equatorial Guinea, in the Central African Republic, in Uganda and elsewhere in the world - it had considerable achievements to its credit, especially in the area of establishment of norms, the establishment of such bodies as the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the appointment of special rapporteurs or groups assigned to investigate special situations. It should resolutely pursue its work in that direction.

10. Mr. BIKOV (Union of Soviet Socialist Republics) said he first wished to emphasize that the question under consideration could not be considered in isolation without taking into account a number of factors which could help to increase the Commission's effectiveness.

11. His delegation had always been willing to study that question in a constructive and serious way, with strict regard for the United Nations Charter. It was necessary to bear in mind the fact that the United Nations was an international organization based on the sovereign equality of all the Member States and on international co-operation. As far as human rights and fundamental freedoms were concerned, that co-operation had to be achieved by developing and encouraging respect for those rights and freedoms and above all by safeguarding the foremost right of peoples and individuals: the right to life. That was also the essence of the maintenance of international peace and security.

12. In the field of human rights, one of the main tasks of the United Nations - confirmed by General Assembly resolution 32/130 - was the preparation of international agreements enunciating rules that were binding on all States parties. Participation in such instruments was, moreover, one of the criteria for evaluating the willingness of a State to contribute to respect for human rights in actual practice. There was also another essential activity of the United Nations in that area: the campaign against brutal and massive violations of human rights, against colonialism, racism, apartheid, aggression, fascism, and the repression of the national liberation movements of the colonial peoples of South Africa, in the occupied Arab territories and elsewhere in the world. However, the Commission was not alone in considering those problems, which were also being studied by the General Assembly and the Economic and Social Council.

13. The efficiency of the existing organs should obviously be strengthened and perfected, but it should not be forgotten that the immediate, direct observance of human rights fell within the prerogative of States themselves and their internal competence. The creation of a supranational organ such as a United Nations High Commissioner for Human Rights was therefore unacceptable and unlawful, since the West would make use of it, as a propaganda instrument of the United Nations, to intervene in the internal affairs of States under the pretext of protecting human rights. That would poison the international climate.

14. He drew attention to the fact that the idea of creating a post of High Commissioner for Human Rights had been advanced for the first time in 1947 by the World Jewish Congress; many States had opposed it at that time. The idea had been taken up again in the late 1940s, with the declared intention of creating a mechanism for the implementation of the human rights Covenants, which had not yet been drafted. Today, those Covenants existed, and there was a mechanism for their implementation. The idea of a High Commissioner's Office, which was already old, could in fact prove harmful to international co-operation, and it failed to take account of the positive experience which the United Nations had gained. Remarkable results had indeed been achieved since the establishment of the United Nations, especially in the field of human rights. The Organization had brought about the liquidation of colonies and had then tackled racism and apartheid. It so happened that those who had proposed the creation of a post of High Commissioner were the very ones who criticized the United Nations and took no account of its achievements.

The Organization obviously had its faults, and efforts should be made to remedy them, but those faults were not due to the lack of a High Commissioner but rather to the lack of political will on the part of States. The consideration of the situation in the occupied Arab territories had shown that once again; it was obvious which were the States which wished to prevent the mechanism from working. If all States had the necessary political will, the problems could be solved.

15. The Commission had already accomplished substantial work: its mandate had been carried out, its membership had been increased and the length of its sessions had been extended. The methods adopted had successfully stood the test of time. Before any change was made, it was necessary to be sure that it would help to increase the effectiveness of the work of the Commission. The latter should make appropriate use of the means at its disposal rather than try to create something new, regardless of cost. After referring to Article 4, paragraph 1, of the Charter, he pointed out that the Commission could find in General Assembly resolution 32/130 useful guidelines for carrying out its mandate. Unfortunately, scarcely any progress had been made in implementing that resolution. That delay was unjustifiable, and the Commission should tackle that important task; as a starting-point it already had the working paper E/CN.4/1981/WG.3/WP.1, submitted by the delegations of Bulgaria, Mongolia and Poland. It would be possible to achieve positive results at the present session on the basis of that document. Discussions in the Working Group would make it possible to define positions, to find generally acceptable solutions and in that way to make progress.

16. Referring to the observations which had been made concerning activities of the Commission's Bureau between sessions, he drew attention to the need to take account of the practice of other United Nations bodies. In that connection, it would be necessary to find a solution which could be applied gradually on the basis of a general agreement. Several delegations had also referred to the observations contained in the statement of the Director of the Division of Human Rights. In that regard, he emphasized that precedence could not be given to individual points of view. The Director had stated that the Division did not have enough staff; however, the Division should first organize its work more efficiently. It would seem that the Division of Human Rights had lacked efficiency because of the excessive role played in it for decades by the Western Powers. It was possible at present to envisage measures for improving its efficiency, but any decision should obviously be taken by the Secretary-General. It was regrettable that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, a subsidiary body of the Commission, had failed to take account of a decision by the latter concerning the preparation of a study. The Sub-Commission's experts should carry out the studies which the Commission requested of them and submit work of high quality. The Commission should consider that question at greater length. Generally speaking, he thought that in seeking to improve the Commission's procedures, the best approach was a gradual one, as the representative of Senegal had observed. At its next session the Commission should focus its attention on questions on which there was a broad measure of agreement.

17. Mrs. ODIO BENITO (Costa Rica) said that the Commission should take effective action to provide the international community with really efficient means of improving the effective enjoyment of human rights and fundamental freedoms. At its most recent session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had considered that, in order to undertake the urgent and effective action called for by the numerous violations of human rights occurring

throughout the world, it would be desirable to establish a post of United Nations High Commissioner for Human Rights. The Sub-Commission should prepare a working paper on the subject to enable the Commission to adopt a specific resolution at its next session. For its part, the Costa Rican Government believed that the appointment of a High Commissioner would make it possible to help the victims of human rights violations throughout the world in an effective and direct manner, in the same way as the United Nations High Commissioner for Refugees assisted millions of human beings who had had to leave their countries.

18. Urgent action was needed to ensure the protection of human rights, massive violations of which continued with impunity. The General Assembly, the Commission, the Sub-Commission and other bodies had already done valuable work, but the effectiveness of that action should be increased further. Costa Rica was a small country, without an army, which was striving under very difficult conditions to ensure the survival of its democratic institutions, but it was a peace-loving country which respected the rights of all people whatever their language, religion or economic and political system. Costa Rica's peaceful vocation had led it to suggest the establishment of a peace university devoted to research and teaching in all the disciplines which could contribute to peace in the world.

19. Her delegation had been sorry to hear the news concerning the Director of the Division of Human Rights. Without wishing to analyse his differences with the Organization's hierarchy in New York, it believed that, through the Director's departure, the Organization was losing a courageous man who had carried the campaign for human rights into the only area where it was meaningful, namely the area of protection of the human person, over and above all ideology and political considerations.

20. Mrs. ILIĆ (Yugoslavia) said it was regrettable that the Commission, at the preceding session, had not made any appreciable progress on the questions to which agenda item 11 referred. That was the result of the methodology it had used: it had concentrated on matters such as the inter-sessional role of the Bureau, on which, as was well known, basic positions differed substantially. A different method should therefore be adopted at the present session, a step-by-step method under which what appeared to be the less controversial items on the existing list would be taken up. In her view, agreement or consensus was possible on qualitative improvement of the functioning of the Commission with regard to its basic responsibilities. A question which might be considered first was whether the same items should be kept on the agenda every year, even in the absence of any new developments, at the risk of merely proliferating repetitious resolutions. A solution which made it possible to avoid that would help to reduce the Commission's workload and thus allow it to devote more time to new topics. The Commission should also consider, in the light of experience gained, whether the established procedures for dealing with alleged violations of human rights should be improved; if any procedures appeared to be redundant or unnecessary or duplicated each other, they should be integrated, abolished or improved.

21. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had taken the very pertinent decision to include in the agenda for its next session an item on its role and its relationship with the Commission. Her delegation also considered that the Commission and its Working Group should carefully examine proposals and ideas that had been considered by the Commission at earlier stages. She associated herself with the regret already expressed at the departure of the Director of the Division of Human Rights; her delegation had established close co-operative relations with him and had been in a position to appreciate his personal dedication. She hoped that his experience would still serve the same cause in the future.

22. Mr. GONZÁLEZ DE LEÓN (Mexico) said that his delegation regretted the departure of the Director of the Division of Human Rights. Mr. van Boven was an exemplary civil servant possessing the highest standards of efficiency, competence and integrity expected of Secretariat staff in accordance with the Charter; in the Mexican Government's view, he had, during his five years in office, marked the Division of Human Rights with the proper character.

23. In that connection, it was regrettable that the United Kingdom newspaper The Guardian, in reporting Mr. van Boven's departure in that morning's edition, had referred to rumours at Geneva concerning the reasons for his leaving and had concluded that it represented a great victory for the Latin American Governments. The Mexican Government saw it not only as a regrettable loss but also as a matter for concern, because it would be difficult to replace a man of such integrity and loyalty to the principles which had led to the establishment of the Commission on Human Rights. The Guardian's conclusion also appeared to cast doubt on the impartiality of the Secretary-General himself, since the latter was Latin American. The newspaper also suggested that the departure of the Director of the Division of Human Rights appeared to foreshadow a change in the human rights policy of the United Nations Secretariat. He drew attention to the fact that policies in that area were decided by the General Assembly, the Economic and Social Council and the Commission.

24. Mr. HEREDIA PÉREZ (Cuba) said that the questions arising under agenda item 11 concerned the general subject of the Commission's future work. Some considerations on the subject could be found in General Assembly resolution 32/130, but that resolution had unfortunately become a myth, as it were, and in practice the activities envisaged in the resolution had not been undertaken. Referring to paragraphs 1 (a) and 1 (f) of the resolution, he commented on the subjects mentioned and their relative priority.

25. It remained to be seen how those subjects should be examined. In the first place, under the Charter, it was governments which decided the policies to be followed, and not other entities. The role of governments was clear from articles 1, 56 and 57. In the future, therefore, in the Commission, governments should establish the guidelines in urgent and serious cases of human rights violations which required consideration. Among the urgent problems, he stressed the importance of those involving hunger, sickness and despair; those cases were of just as great concern as the others and the Commission should devote more time to their solution. In conclusion, he stressed the need to strengthen the Sub-Commission as a subsidiary body.

26. Mr. CALERO RODRIGUES (Brazil) said that the wording of agenda item 11 was very long and should be simplified; the object of the item was to see how the United Nations human rights machinery could be made to function properly: that was bound to be a long-term study. It had been said that the international community was not properly equipped to deal with violations of human rights; that was true, but it was also true of other fields, including that of peace and security. Action undertaken to remedy human rights violations could not achieve results unless a realistic attitude was adopted; obviously, the aims must be idealistic, but they must be achieved step by step. The Commission could act effectively, because it had many years of experience, broad membership and well-tried methods. However, it was faced with problems: in particular, its agenda was too heavy and it might perhaps be better to consider certain items only every two years.

27. The representative of Cuba had said that the Commission's work programme should be based on General Assembly resolution 32/130; that did in fact provide a useful basis. However, for the immediate future, more practical problems had to be faced. The most serious was that posed by delegations themselves: their approach was too political. Sometimes the discussions were concerned, not with human rights, but with political matters such as those dealt with by the General Assembly. Obviously, human rights questions had a political background, but it must remain a background.

28. His delegation was not opposed to inter-sessional meetings of the Bureau or special sessions, to enhance the efficiency of the Commission's work. However, it must be decided what the Bureau could do between sessions; the chairmen of recent sessions had sent telegrams concerning certain situations between sessions, but without any major results. Members should have no illusions as to the improvement which might result from the creation of a post of High Commissioner. The incumbent would be liable to encounter so many political difficulties that his work would be ineffective. To begin with, the Commission must have a clear idea of the High Commissioner's mandate. It was not sufficient to say that he should act in accordance with the Charter, because that could be interpreted in several ways. The Sub-Commission had expressed itself in favour of the creation of such a post; the Director of the Division of Human Rights had done likewise. However, since the Sub-Commission favoured the idea, it could scarcely consider it objectively: it would only be following its own ideas. In any case, a decision to create a post of High Commissioner could be effective only if it was adopted by consensus.

29. Many proposals had been submitted concerning the Working Group; some were of long-term value and should be implemented gradually. With regard to the matters to be entrusted to the Working Group, he pointed out that, for example, it would not be sufficient for the Commission to refer the question of the creation of a post of High Commissioner to the Working Group, because, according to General Assembly resolution 36/135, the matter had to be considered by the Commission which should then simply adopt a resolution on the subject.

30. The Director of the Division of Human Rights had asked for an increase in the Division's resources. An increase had already been approved by the Commission in the past; the Secretary-General should be reminded of that fact so that the Division had enough staff to meet the Commission's requirements. The departure of the Director of the Division of Human Rights had come as a surprise to his delegation. Under the Charter, it was the Secretary-General who was responsible for organizing his staff; his delegation would abstain from commenting on the subject or on the differences of principle within the Secretariat. It wished, however, to pay tribute to Mr. van Boven, because, after working with him for several years, it was in a position to appreciate his work and it wished him well in his future activities.

31. Mr. de SOUZA (France) said that his delegation deeply regretted the departure of Mr. van Boven, who had assumed one of the heaviest and most difficult responsibilities of the Secretariat at a time when human rights were increasingly important because the world conscience was gradually awakening and also because procedures for protecting those rights were gradually being adopted. The Director of the Division of Human Rights had assumed his responsibilities with impartiality, conviction and intelligence. The French delegation wished to pay him a tribute for the work which he had accomplished.

32. The search for other ways and means for improving the effective enjoyment of human rights was an important and permanent task of the Commission. Some results had already been achieved, especially in 1981 with the increase in the membership of the Commission and the extension of the duration of its sessions. Since then, the over-all analysis of "alternative ways and means" had continued, although no specific decisions had been reached. It should, however, be possible to make progress in certain areas.

33. One delegation had suggested that the work of the Working Group on item 11 would be facilitated by an initial exchange of views, on both general principles and practical issues. That would enable the Chairman and delegations to identify the main topics of concern to the Group. The Chairman might submit to the Group a document indicating the major topics which should be examined in detail. After that, the Working Group should establish an order of priority among the topics. It would not be necessary to prepare a catalogue, but rather to list methodically the sectors in which other ways and means should be investigated: the Secretariat, the Commission's terms of reference and method of operating and, lastly, its work (promotion, protection and co-ordination). The Group could confine its attention, at its next session, to one or two of those sectors.

34. His delegation pointed out, however, that after having remained unchanged for 30 years, the Commission's terms of reference had been supplemented only two years previously. With regard to the Secretariat, it hoped that the Secretary-General would change the name of the Division of Human Rights in order to give it the status which it deserved. The Secretary-General should also provide information, in the study he had been asked some time previously to prepare, concerning the measures he intended to take in order to provide the Secretariat units responsible for human rights with all the resources needed for the accomplishment of their task. He drew attention to the fact that the main lines of the Commission's programme had already been discussed in 1981 and approved during the debate on that subject. The Working Group might therefore devote most of its time to improving the Commission's working methods.

35. The concept of the permanence of the Commission's work was a more operational concept than was the concept of emergency action, since it would be difficult, outside the Commission's regular sessions, to identify those situations which involved human rights but did not fall primarily within the jurisdiction of some political body, such as the Security Council. As several delegations had already pointed out, it was regrettable that, for more than 10 months every year, the Commission was not in a position to act. The simplest solution might be to divide the regular session into two annual regular sessions. That would also lighten and simplify the task of the Bureau.

36. His delegation wondered whether the Working Group should seek in 1982 to improve the means available to the Commission for the performance of its task of protecting human rights. In that regard, selectivity was a major fault; the Commission's strength lay in its moral authority, in other words, in its objectivity and its impartiality. Those qualities would certainly be better guaranteed if the Commission's work was conducted according to rules which were known to all, applicable to all and accepted by all. International action for the protection of human rights needed to be strengthened in order to make it more consistent. What was needed was not an effort to prepare a meticulous and detailed code of procedure but rather a formulation of the fundamental rules applicable to the very general questions which the present procedures left unanswered, especially with regard to the choice between public and confidential discussion and with regard to the allocation of roles among the various United Nations bodies. That immense task would perhaps justify the establishment of a special working group. It should not be a pretext for failing to make full use of the means at present available, particularly under Economic and Social Council resolution 1503 (XLVIII). In any case, controversial questions should not prevent the Working Group from achieving results on other matters. It was with that in mind that his delegation supported the idea of considering under another agenda item the question of creating a post of United Nations High Commissioner for Human Rights, to which it attached particular importance. His delegation would be reverting to that question in due course.

37. Mrs. AKAMATSU (Japan) observed that, under the United Nations Charter, one of the major purposes of the Organization was to encourage respect for human rights and fundamental freedoms. No one could deny that the United Nations had achieved impressive results in that field, through the Commission on Human Rights. At the normative level, there had been the adoption of the Universal Declaration of Human Rights, the International Covenants on human rights and, in 1981, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief. Procedures had also been adopted for examining communications concerning violations of human rights, especially in Economic and Social Council resolution 1503 (XLVIII).

38. With regard to the work of the Commission itself, that body might hold meetings between sessions for the purpose of reacting more speedily and more effectively in the event of massive violations of human rights. The supporting services should also be strengthened in view of the increase in their workload. The Economic and Social Council had already allowed the Commission to hold longer meetings in 1982. At its thirty-fifth session, the General Assembly had requested the Secretary-General to consider redesignating the Division of Human Rights (which would become the Centre for Human Rights) in order better to reflect the importance of that body. Her delegation fully supported that idea and hoped that the Working Group would consider all aspects of the question. If practical results were to be achieved, generally acceptable solutions must be found.

39. As several delegations had already pointed out, it would also be desirable to improve the public information services and advisory services in the field of human rights.

40. Her delegation regretted the departure of the Director of the Division of Human Rights, to whose dedication it wished to pay a tribute.

41. Mr. ALVAREZ VITA (Peru) drew the attention of the representative of the Netherlands to the fact that when the Secretary-General of the United Nations, Mr. Javier Pérez de Cuellar, had taken office, he had told the press that during his term of office he would stop being a Peruvian and become a servant of the international community. Was there any better way of serving the international community than by ensuring the effective enjoyment of human rights? His delegation regretted the statements made by the Director of the Division of Human Rights at the beginning of the consideration of agenda item 11. It did not pass any judgement on Mr. van Boven's work as head of the Division, but it could not remain silent when it saw the Commission's rostrum being used to explain differences of opinion which did not deserve the Commission's attention.

42. His delegation would wish to revert to item 11 at a later stage.

43. The CHAIRMAN announced that the Commission had thus completed its discussion under agenda item 11.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1982/L.3 and L.6)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 9) (continued) (E/CN.4/1982/L.4)

44. The CHAIRMAN announced that Ethiopia, the Gambia, Madagascar, Nigeria, Qatar, Senegal, Yemen and Zambia had become co-sponsors of draft resolution E/CN.4/1982/L.3. The Libyan Arab Jamahiriya, Madagascar, Nigeria, Qatar and Yemen had become co-sponsors of draft resolution E/CN.4/1982/L.4. Lastly, the United Arab Emirates, the Gambia, Iran, Nigeria, Qatar and Tunisia had become co-sponsors of draft resolution E/CN.4/1982/L.6.

45. He drew the attention of members of the Commission to the fact that, under rule 57 of the rules of procedure, a proposal or motion before the Commission for decision should be voted upon if any member so requested. When no member requested a vote, the commission could adopt proposals or motions without a vote.

46. Mr. HEREDIA PÉREZ (Cuba) proposed that the words "at Geneva" should be inserted after the words "at the headquarters of the United Nations" in the second line of operative paragraph 15 of part A of draft resolution E/CN.4/1982/L.3, so that the seminar referred to in that paragraph might be organized more easily and at less expense.

47. It would also be preferable to replace the word "patria" in the Spanish text of operative paragraph 2 of the same resolution by the word "hogar".

48. Mr. DAOUDY (Syrian Arab Republic) reminded the Commission that when the Cuban delegation had submitted draft resolution E/CN.4/1982/L.6 on behalf of the sponsors, it had suggested that operative paragraph 3 should be revised to read as follows:

"3. Determines that the persistent defiance by Israel of the resolutions and authority of the United Nations and its systematic violation of human rights in the occupied Arab territories constitute a continuing threat to international peace and security".

His country, which was a co-sponsor of draft resolution E/CN.4/1982/L.6, supported that amendment.

49. The Commission had been studying for several years the question of the violation of human rights in the occupied Arab territories, including Palestine. The question of the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation was equally familiar. It concerned in particular the Palestinian people oppressed by Israel, which continued to occupy the territories seized in 1967.

50. Mr. BEAULNE (Canada), speaking on a point of order, expressed surprise at the reopening of the debate on those questions by the delegation of the Syrian Arab Republic.

51. The CHAIRMAN explained that although the debate on agenda item 4 was actually closed, members of the Commission and observers could make statements before the draft resolutions under consideration were put to the vote.

52. Mr. DAOUDY (Syrian Arab Republic) said that the Commission on Human Rights was not alone in having adopted resolutions condemning Israel for its refusal to allow the Palestinian people to exercise its right of self-determination and for its violations of human rights in the occupied Arab territories. Almost all international bodies had condemned Israel for the same reasons.

53. Draft resolution E/CN.4/1982/L.6, which dealt with the occupied Syrian territory of the Golan Heights, was particularly important in view of the development of the situation in that area. Since its occupation by Israel in 1967, the problem of that territory had been considered in the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories. The new factor was the annexation of that territory by Israel on 14 December 1981. In view of the escalation of Israeli expansionism, his Government had turned to the Security Council, which, in its resolution 497/1981, unanimously adopted, had considered Israel's decision

to be null and void. The Secretary-General had then submitted to the Security Council two reports confirming Israel's refusal to implement that resolution. In January 1982, the United States of America had, by its veto, prevented the Security Council from adopting sanctions against Israel. His Government had then appealed to the General Assembly, which, meeting in special session, had adopted resolution ES-9/1. In that highly important resolution, the General Assembly had recalled Security Council resolution 497/1981 and had reaffirmed that the annexation of the Syrian territory of the Golan Heights by Israel was inadmissible under the Charter. The General Assembly had added that the measures taken by Israel constituted an act of aggression within the meaning of Article 39 of the Charter and General Assembly resolution 3314 (XXIX) on the definition of aggression. Lastly, the General Assembly had noted that the measures taken by Israel proved that the latter had not fulfilled the obligations incumbent on it as a Member of the United Nations and under the Charter. It had deplored the United States veto in the Security Council, which had prevented the latter from adopting the sanctions provided for in Chapter VII of the Charter.

54. Draft resolution E/CN.4/1982/L.6 was based on General Assembly resolution ES-9/1, which had been adopted by 86 votes to 21, with 34 abstentions. By that resolution, the international community had eliminated the obstacles raised by the United States veto. Many Member States had called for the imposition on Israel of the sanctions provided for in the Charter. The French delegation, in particular, had emphasized at the Security Council's meeting on 16 December 1981 that it was necessary to condemn Israel's action, which infringed the sovereignty of the Syrian Arab Republic over a territory belonging to it. Unfortunately, the draft resolution to that effect submitted to the Security Council by Jordan had been nullified by the United States veto.

55. His Government hoped that the Commission would adopt the three draft resolutions under consideration in order to put an end to the challenge to the Charter and to international law represented by the policy of Israel.

The meeting rose at 1 p.m.