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COMMISSION ON HUMAN RIGHTS

Fortieth session

SUMMARY RECORD OF THE 61ST MEETING

Held at the Palais des Nations, Geneva, on  
Thursday, 15 March 1984, at 6 p.m.

Chairman: Mr. KOUIJMANS (Netherlands)

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The meeting was called to order at 6.10 p.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.4/1984/22 and Add.1-2, 23, 56; E/CN.4/1984/L.3, L.23, L.89, L.90, L.92, L.102, L.104; E/CN.4/1984/NGO/24, 28, 34, 46; A/37/422)

1. Mr. SOLEY SOLER (Costa Rica) said that the adoption of the Charter of the United Nations and the Universal Declaration of Human Rights had marked a new step in efforts to give a greater dimension to human beings and improve society. The entry into force of those instruments and the International Covenants on Human Rights had given every individual the right to an international identity and had formed the basis which enabled the United Nations to fulfil its clear mandate of protecting and promoting human rights and fundamental freedoms.
2. The existing mechanisms for protecting and promoting human rights were not very effective. The conduct of some Member States with regard to the ratification of the International Covenants and the Optional Protocol reflected a lack of political will to implement those instruments scrupulously. Similarly, the confidential procedures provided for under Economic and Social Council resolution 1503 (XLVIII) for considering communications concerning violations of human rights showed clearly that, while the principles set forth in the Universal Declaration of Human Rights and in the International Covenants were universally recognized, they were being flagrantly ignored in practice. That demonstrated the need to provide procedures with the necessary flexibility for rapid implementation.
3. In that connection, his delegation wished once again to refer to the idea which it had first put forward 19 years previously for the establishment of a United Nations High Commissioner for Human Rights. In making that proposal in 1965, his delegation had said that, through the prestige which he would enjoy, the High Commissioner would be in a position to obtain objective and reliable information on problems concerning the implementation of human rights instruments. He would be able to recommend solutions to such problems with greater flexibility than had been the case so far under other procedures, would enhance the credibility of the United Nations with regard to the promotion and protection of human rights, and would make it possible for that task to be carried out in accordance with the letter and spirit of the Charter.
4. Two considerations were fundamental. Firstly, the protection of essential human rights was, in accordance with the Charter of the United Nations, an ineluctable duty of the international community. Costa Rica believed that States had a collective responsibility to ensure the unrestricted enjoyment of human rights and fundamental freedoms for all human beings, wherever they lived. Secondly, no country could consider itself totally exempt from problems of human rights. His delegation therefore welcomed the fact that the Sub-Commission had submitted a set of proposals concerning possible terms of reference for the mandate of a High Commissioner for Human Rights. In its view, any speeding up and improvement of the procedures followed by the United Nations in carrying out its clear mandate of promoting and protecting human rights, would bring the Organization closer to fulfilling its commitment to mankind. Consequently, his

delegation, together with the delegations of Colombia and Peru, had submitted draft resolution E/CN.4/1984/L.23 on the establishment of a post of United Nations High Commissioner for Human Rights. Costa Rica had for many years expressed concern at the slowness with which the international community reacted to serious violations of human rights, and was firmly convinced that the establishment of a post of High Commissioner for Human Rights would help to solve the serious problems that arose in that regard.

5. It was distressing to hear the same arguments against the establishment of such a post expressed year after year. He pointed out that the question had been discussed for 19 years and appealed to all countries to help establish an institution that would serve to ensure the effective protection of human rights. The work of the High Commissioner would be humanitarian in character and he would be guided solely by an impartial concern for the promotion and protection of human rights and fundamental freedoms.

6. In general, the draft resolution followed resolution 1983/36 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Operative paragraph 4 described the manner in which the High Commissioner could be elected and the annex set out his possible functions and responsibilities.

7. Mr. MACCOTTA (Italy) said that his delegation had already expressed its support for the draft resolution contained in document E/CN.4/1984/L.23. He expressed gratitude to the delegation of Costa Rica for submitting the draft resolution after so many years of discussion and debate. Since the question had been before the Commission since 1965, no one could say that Costa Rica's decision was a hasty one or that the question must be studied in greater detail. Moreover, as requested by the Commission the previous year, the matter had been examined in depth by the Sub-Commission, which had submitted a draft mandate for the High Commissioner for Human Rights. It was therefore surprising that the Brazilian delegation had put forward a proposal (E/CN.4/1984/L.89) requesting that a decision on the matter should be postponed until the next session. In his delegation's opinion the amendments submitted by the German Democratic Republic (E/CN.4/1984/L.90) constituted a new draft resolution which ran counter to that of Costa Rica.

8. A number of arguments had been advanced by those opposed to the establishment of a post of High Commissioner. Some had said that it would be appropriate to wait until the new organizational programme set up the previous year had demonstrated its value before considering the establishment of the post, while others had expressed misgivings about the budgetary implications of establishing the new post. Still others had thought that there might be some duplication or a poorly defined relationship between the High Commissioner and the Assistant Secretary-General for Human Rights. Several members of the Commission feared that the High Commissioner might intervene in the internal affairs of States and take action affecting the principle of sovereignty. They also feared that the media might exploit cases of violations of human rights for political purposes.

9. The fact that the Division of Human Rights had now become a Centre and its Director promoted to Assistant Secretary-General had been welcomed with satisfaction by all member countries, including his own. The Assistant Secretary-General and the Centre were doing valuable work. However, a High Commissioner, elected by the General Assembly on the nomination of the Secretary-General, would be in a position to intervene within 24 hours, if necessary. He would not have to wait for the Commission to meet or for the violations of human rights to worsen before initiation of the lengthy procedures imposed by the current system. For example, if a flagrant violation of human rights occurred in a country in April, it would only be in February the following year that the Commission would examine it. After requesting the Secretary-General to appoint a special rapporteur, the Commission would receive his report only the year after that, two years after the violation. Members were only too well aware of the large number of such cases that had occurred. On the other hand, a High Commissioner could intervene immediately on his own initiative, including an on-the-spot inquiry, if the Government of the country concerned gave its consent. The effectiveness and prestige of the United Nations would be enhanced. That was one of the main advantages of establishing a post of High Commissioner for Human Rights. The additional expenditure involved would be minimal because the High Commissioner could make use of the services of the Centre for Human Rights, working in close co-operation with its Director.

10. He wished to reiterate the views he had expressed the previous year concerning fears of interference in the internal affairs of States and of violations of the principles of non-intervention and sovereignty. The Charter of the United Nations, the international agreements in force and international practice no longer made it possible to adhere to outdated and obsolete concepts, as had been the case when State sovereignty had been a legal and political dogma. Any international co-operation within the United Nations involved the placing of limits on sovereignty. Moreover, the cases in which the Secretary-General had intervened in crisis situations were quite numerous. The proposed High Commissioner would be a ~~kind~~ of permanent special rapporteur; he would be elected by the Assembly on the proposal of the Secretary-General, and the choice would naturally be governed by the necessary geopolitical criteria.

11. Italy wished to be added to the list of sponsors of draft resolution E/CN.4/1984/L.23. He stressed that the draft, if adopted, would have to be considered by the Economic and Social Council and then by the General Assembly before it became operative. What the sponsors were requesting was not the immediate institution of the post of High Commissioner but a decision of principle by the Commission, which had been discussing the question for 19 years. The final decision would be left to the General Assembly, where all member countries were present.

12. Mr. LEBAKINE (Ukrainian Soviet Socialist Republic) said that the Commission had already done a great deal of useful work with regard to the further improvement of the activities of the United Nations bodies concerned with ensuring the effective enjoyment of human rights. That work was described in detail in the document submitted by the Working Group. The relevant **resolutions** had been worked out in the Commission on the basis of general agreement and had been unanimously adopted by the Economic and Social Council in its resolution 36/1979. It had not yet been possible to reach agreement on a number of questions, but work on the over-all

analysis was continuing. In that connection it was important to stress once again the vital need for all basic decisions concerning concepts, organizations and activities of the United Nations system in the human rights field to continue to be formulated and adopted on the basis of consensus, taking into account the different views expressed by Member States. It was only through such an approach that it would be possible to achieve truly effective decisions.

13. His delegation could not fail to be concerned by the continuing attempt of a certain group of countries to impose on other sovereign States its own narrow views and to secure the adoption of decisions that were unacceptable to many States on questions which were still at the discussion stage in the Commission and its Working Group. He was referring primarily to the question of the establishment of a post of High Commissioner for Human Rights, a proposal which ran counter to the Charter of the United Nations, if only because an attempt was being made to have one person, an administrator, replace the principal and subsidiary organs of the United Nations and to place that person above those organs, which comprised representatives of States.

14. The idea of creating a post with powers over State bodies was not new. The question of the establishment of a post of High Commissioner for Human Rights had been on the agenda of the General Assembly from its twentieth to twenty-eighth sessions, and throughout that time it had given rise to sharp disagreement and even confrontation between Member States. At its twenty-eighth session, therefore, the General Assembly had adopted without objection resolution 3136 (XXVIII), in which it had decided to include in its agenda, instead of the question of a High Commissioner, the item on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. It would appear, therefore, that the question of establishing a post of High Commissioner had had insufficient support and had consequently been withdrawn from the agenda. In recent years, however, attempts had been intensified to revive that idea, in defiance of the views of many States and thus without any prospect of achieving the necessary consensus.

15. The establishment of a post of High Commissioner or some similar supranational body would mean in the final analysis that human rights and freedoms would not be guaranteed by States but by a specially created administrator, and States Members of the United Nations would thus have to renounce part of their sovereignty. The aim was to undermine and reduce the role and significance of the international machinery already operating in that sphere of activity of the United Nations. The existing system of United Nations organs concerned with human rights questions, which was based on the Charter of the United Nations and the equal representation of States, had already demonstrated its effectiveness: if it was replaced by a single person, States would be substantially precluded from direct participation in United Nations activities concerned with human rights. In addition, the post of High Commissioner would inevitably be used not to protect human rights but as a screen behind which it would be possible to interfere in the internal affairs of other States. That was the objective of draft resolution E/CN.4/1984/L.23, which his delegation resolutely rejected, since its adoption would have an extremely negative effect on international co-operation in various fields. Efforts to put

forward new arguments to support the old idea of the establishment of a supranational mechanism in the human rights field could only harm the prestige of the Commission, which had already elaborated appropriate measures and intended to continue its work on the over-all analysis of alternative approaches. Such a supranational body or post, if established without the general agreement of all States, would not be recognized by many of them, would inevitably become a means of blackmail and interference in the hands of the proponents of that idea and would be directed primarily against those States which had expressed the view that there was no advantage in creating such a post.

16. A number of delegations had already expressed doubts concerning the need for such a hasty decision on the establishment of a post of High Commissioner for Human Rights and concerning the appropriateness or necessity of such a post in general. Those doubts were strengthened by draft resolution E/CN.4/1984/L.23, and his delegation fully shared the view of those representatives who had warned the Commission against such a **short-sighted** approach. The most that the Commission could now do was to adopt a procedural resolution, such as that submitted by the delegation of the German Democratic Republic (E/CN.4/1984/L.90), and continue its consideration of the entire question at its future sessions.

17. If, despite the doubts and objections expressed in the Commission, the proponents of the establishment of a post of High Commissioner decided to impose their will on the Commission, his delegation wished to state clearly that in so doing members would be determining the limits, both geographical and substantial, of the proposed High Commissioner's field of activity, since States against whose will the post had been created would not recognize the Commissioner and would not co-operate with him.

18. In his delegation's view, the organizational structure and existing capability of the United Nations system were fully adequate for dealing with the question of the promotion and protection of **human rights**. The implementation of the generally recognized norms in that field, enshrined in numerous international instruments, depended on the goodwill of every Member State and also on further efforts aimed at improving the effectiveness of existing bodies, procedures and mechanisms. His delegation was prepared to continue co-operating in constructive work along those lines, and it therefore supported the proposal of the Commission's Working Group regarding the possible continuation of its work the following year.

19. Mr. BIANCHI (Argentina) said that his Government had a special interest in, and a commitment to, the dissemination of information on human rights. Violations of human rights were committed for various reasons, including the implementation of certain policies which sought to ensure "State security", and ignorance. It was the duty of countries and of the United Nations to combat such ignorance until it was eliminated. That should be done in all sectors, from primary school through all levels of education to a point to which his delegation attached great importance, that at which instructions were given to State agents.

20. Noting that the Secretary-General's report (E/CN.4/1983/23) contained a detailed description of the activities carried out with regard to public information in the human rights field, he expressed his delegation's satisfaction at the work of the Department of Public Information, in particular its programme

for 1984-1985. He endorsed the suggestion made by the representative of Bangladesh that the United Nations University should be used as a means of disseminating information on human rights among the various universities in the world, and reaffirmed his Government's readiness to participate actively in that task. His delegation was in favour of the establishment of a post of United Nations High Commissioner for Human Rights and supported draft resolution E/CN.4/1984/L.23. In his delegation's view, that proposal should be approved at the current session, since it was not new and had been approved by the majority of the experts in the Sub-Commission.

21. Mr. ALVAREZ-VITA (Peru) said that his country attached special importance to the promotion of human rights and to all measures to improve the effective enjoyment of human rights and fundamental freedoms, such as the establishment of a post of a High Commissioner for Human Rights. In United Nations bodies and in the Organization of American States, Peru had supported all measures aimed at strengthening international legal institutions in order to improve the enjoyment of human rights. His delegation was discouraged to note the tragic picture of the violations of human rights, comprising a wide range of violations against the most elementary human rights such as the right to life, freedom of expression and freedom of religion. It was equally discouraging to note the differing views expressed with regard to the approach the Commission should take to those violations.

22. Developing countries had to create, maintain and promote the basic political, economic, social, cultural and legal elements necessary for the real existence of and effective respect for, human rights and fundamental freedoms. In Peru, the people played a very active role in the protection of human rights. Human rights were taught in primary and secondary schools and in institutions of higher learning. A national plan was being carried out for the dissemination of the Constitution; it was intended for authorities, judges, members of the teaching profession and the public in general as a means of stimulating interest in and providing information on fundamental human rights in all areas. In addition, a programme was being prepared to disseminate information on constitutional rights by radio to persons in communities which did not speak the Spanish language but Quechua. A text intended for the teaching of human rights to pre-school children had been published so that the Peruvian population would be informed, from the earliest age, about its rights. The press was co-operating in that endeavour and a national daily newspaper published a page devoted to human rights.

23. Such measures in a developing country required a great effort, particularly if account was taken of the current difficult economic situation. Peru, however, was aware that dissemination of information on human rights was of particular importance for their promotion and protection, a fact that had led it to co-sponsor draft resolution E/CN.4/1984/L.92.

24. Peru welcomed the activities of the United Nations intended to encourage national, regional and local arrangements for the protection and promotion of human rights in conformity with the United Nations training programme in the field of human rights, and considered that regional groups could make an important contribution to the cause of human rights. In that connection, it believed that priority should be given to the further development of economic, social and cultural rights and the means for their enjoyment, and to the establishment of the new international economic order, so that more explicit recognition would be given to the vital relationship between human rights and development and to the interrelationship between human rights, peace and disarmament.

25. Peru reaffirmed its gratitude for the positive work done by non-governmental organizations with regard to the protection of human rights. It felt duty-bound to express its concern at the way human rights questions were dealt with at times. In its opinion, the examination of human rights issues should be guided solely by considerations of an ethical nature and they should not be used to achieve political objectives which did not always take account of the primacy of human rights.

26. His country attached particular importance to the establishment of a post of High Commissioner for Human Rights as a means of strengthening the role of the United Nations in the sphere of human rights. The task of the High Commissioner would not be to judge and condemn but to promote respect for human rights and their effective observance. The establishment of the proposed post would meet a very important need in that area. His delegation would therefore be pleased to be a sponsor of draft resolution E/CN.4/1984/L.23.

27. Mr. COE (Four Directions Council) said that the most severe human rights problems facing indigenous peoples could best be resolved in the International Court of Justice. For indigenous peoples, the loss of land had been the root of all other human rights problems, since land meant a place in which to enjoy a degree of security, to move freely, and to raise children without dependence on, or interference, from others. Since the problem was territorial, the solution must be territorial as well. His organization believed that the Court was the body best suited to determine, in particular cases, the boundaries of the lands of indigenous peoples, based on the principles announced by the Court in its 1975 advisory opinion on Western Sahara.

28. The territorial dimension of human rights was very clear among Aboriginal Australians. In a resolution adopted in 1975, the Senate of the Commonwealth of Australia had conceded that indigenous Australians were the original owners of the continent and had been dispossessed without any form of agreement, legal proceedings or compensation. That action, which had resulted in the destruction of four-fifths of the indigenous population, had been taken on the pretext that the entire continent had become the property of the United Kingdom from the moment the first Briton had set foot on it. Of course, that obsolete idea reflected the racism of an earlier age. There had been so little regard for the humanity of Aboriginal Australians in the last century that many had been killed and shipped to Europe as scientific specimens. Many of those bodies were still in Europe and had not yet been returned for burial in their own land, in accordance with their cultural and spiritual traditions.

29. In addition to the continued disregard for their land, Aboriginal Australians had had to suffer racial segregation, formally repudiated by the Government only in 1975 and still a reality in the State of Queensland, infant mortality three times that of Euro-Australians and an average life expectancy 20 years shorter, a disproportionate rate of criminal convictions and imprisonments, and the disruption of families and communities through the removal and institutionalization of Aboriginal children.

30. By far the worst problems had involved the military and commercial use of Aboriginal lands, endangering the lives, health and religious freedom of the people. From 1953 to 1959, for example, the United Kingdom and Australia had conducted nuclear bomb tests at Marralinga, in territory still occupied by Aboriginal people. No serious effort had been made to warn the people and hundreds had been overtaken by clouds of radioactive dust. While a great deal of public concern was now being expressed about the exposure of United Kingdom and Australian military personnel to radioactivity from the tests, there had been no public mention of the Aboriginal communities contaminated by the same blasts.

31. In the 1960s and 1970s, Aboriginal people had been threatened by the effects of mining on their lands, which destroyed not only the people's health but also their sacred sites and religious freedom. At Noonkanbah, the Pea Hill sacred site had been destroyed in 1980 on the pretext of petroleum exploration. Following that blow to the cultural integrity of the people of the Kimberley region, diamond miners had smashed the Barramundi Dreaming the following year.

32. Disregard for the land of Aboriginal Australians was also accompanied by disregard for due legal process. When the Aboriginal people at Nabarlek had tried to use the new National Aboriginal Land Rights Act to protect their sacred land, the Government had simply threatened to remove Nabarlek from the Act's coverage, selectively and retroactively. Following the discovery that land reserved for Aboriginal people in New South Wales had been alienated illegally, the Government of that State had merely passed legislation retroactively validating the alienations.

33. Although efforts were being made by the current Government to return land to the Aboriginal people, they would still not be able to stop mining on their land under the laws currently in force. Furthermore, they could only reacquire land that was unoccupied and, in the opinion of State or local officials, not needed by Europeans for towns, mines or other purposes. His organization noted with particular concern that some of the transnational companies responsible for problems on the lands of Aboriginal Australians were of South African ownership or were also involved in Namibia.

34. The Four Directions Council believed that establishing the legal frontiers of indigenous land ownership would go a long way towards protecting the lives, health and human rights of indigenous peoples generally. It suggested that particular situations affecting the survival of indigenous peoples - essentially of a territorial nature - should be brought to the attention of the Economic Council and the General Assembly with the recommendation that they should be resolved through an advisory opinion from the World Court.

35. Mr. SLESZYNSKI (Christian Democratic World Union) said that, instead of enjoying the achievements of scientific and technological progress, people in many countries were deprived of liberty, were persecuted, disappeared without any trace, became the target of criminal or State terror and were plunged into squalour by abusive economic systems and ideologies.

36. The Commission had examined cases of flagrant violations of human rights on all the continents, but its deliberations should not be confined to listing the violations which had been committed and accusing the guilty Governments. It was essential to discuss adequate remedies to prevent those violations and methods for the genuine implementation of the vast amount of legislation that existed on human rights, taking account of the true aim of the work of the Commission - the effective achievement of respect for those rights.

37. His organization had since 1975 expressed its concern at the failure to implement United Nations human rights instruments. At that time, it had submitted to the Division of Human Rights a proposal for the establishment of the post of High Commissioner for Human Rights. It still maintained that proposal, which should, however, now include any proposal for the establishment of a United Nations body entrusted with the task of verifying the implementation of United Nations human rights instruments and of accepting and assessing complaints by citizens concerning violations of human rights by States or other citizens. In that connection, his organization expressed its satisfaction at the work done by the Sub-Commission at its thirty-eighth session, particularly with regard to the possible functions and responsibilities of the High Commissioner.

38. The improved enjoyment of human rights everywhere depended primarily on the adoption of a number of measures to ensure their implementation. The first was the establishment of a post of High Commissioner for Human Rights, a question on which his organization had already expressed its views on several occasions.

39. Secondly, the duration of the Commission's work should be extended. World public opinion was well aware that an annual session lasting six weeks was entirely inadequate. Together with the Centre for Human Rights, the Commission should find ways and means to hold at least two regular sessions a year, with the possibility of convening a special session when necessary, thus extending United Nations vigilance and enabling the United Nations institutions concerned with human rights to detect any violation of human rights and to react immediately.

40. Thirdly, the binding nature of the missions established by the Commission to verify the validity of accusations made against a Government should be recognized and the Commission's mandate accepted without reservation by every Government. The right of sovereignty could not be invoked to prevent a mission sent by the Commission from fulfilling its duty, and the Commission should formulate a draft resolution for adoption by the General Assembly on the sanctions to be taken against a Government which tried to impede the work of such a mission.

41. Fourthly, Governments should be asked to establish a national post of Ombudsman. The Ombudsman would enjoy the privileges of an independent judge, receiving all complaints concerning violations of human rights and handing down in respect of those cases a judgement which would have the value of a judicial verdict. The Commission should establish a working group to prepare a text setting out the functions, rights and obligations of a national Ombudsman.
42. Fifthly, provisions should be drawn up for the implementation of some articles of the International Covenants on Human Rights that were insufficiently explicit. For example, one of the most important guidelines for the enjoyment of political freedom was set out in article 25 of the International Covenant on Civil and Political Rights. The conditions laid down in paragraph (b) of the article should be recast to ensure that elections were held in accordance with the Covenant. In particular, the paragraph should guarantee that groups of persons were able freely to present candidates for all elections, that candidates could have access to the media to present their views, that every candidate could have a trusted representative at polling stations, particularly during the counting of ballots, that every citizen enjoyed the right to vote for the candidate of his choice or not to vote, that the number of votes should correspond to the number of representatives elected, and that every electoral system which tried to give a minority of seats to the majority of votes should be declared contrary to the letter and spirit of the Covenant.
43. The Christian Democratic World Union proposed that a group of experts should be established to prepare a list of basic provisions for an electoral act, which should be observed simultaneously with article 25 of the International Covenant on Civil and Political Rights.
44. Mr. MacDERMOT (International Commission of Jurists), referring to the procedure provided for under Economic and Social Council resolution 1503 (XLVIII), said that situations that revealed a consistent pattern of gross violations of human rights were by definition extremely serious situations involving multiple victims of injustice whose need for relief was urgent. Unfortunately, under the resolution, relief could never be given quickly.
45. The starting point in the procedure was a communication, which had to be submitted to the Centre for Human Rights by May or, at the latest, June in any year. Since the most detailed submissions came from non-governmental organizations which collected reliably attested information from different sources, a communication reaching the Commission was likely to refer to events which had occurred between one and two years previously, if not earlier. The Centre then sent the communication to the Government concerned and requested it to reply. If and when the Sub-Commission decided to refer the situation to the Commission, the Government was invited to submit its observations. Therefore, the Government concerned would have had notice of the allegations in the communications for at least six or seven months before it was considered by the Commission.
46. The first source of potential delay was at that point. Some Governments might provide a substantive reply responding to the allegations in time for the next

session of the Commission, while others might submit an inadequate reply or not reply at all until requested to do so by the Commission. In that case, a further year would elapse before the Commission had before it both the original communication and the Government's reply. That delay could be avoided by making it clear to the Government concerned that if the Commission did not have before it a substantive reply when it met, it would assume that the truth of the allegations in the communication was admitted. That would be in accordance with the practice adopted by the Inter-American Commission on Human Rights and by the Human Rights Committee in cases considered under the Optional Protocol to the International Covenant on Civil and Political Rights.

47. Another source of delay then arose since, where a situation of systematic and gross violations was continuing, further relevant communications were likely to be submitted to the Centre, so that a further communication filed, for example, in October or November would not reach the Commission the following February, but only one year later. His delegation suggested that any additional information in such communications should be sent to the Government concerned and referred direct to the Commission and its Working Group on Situations.

48. The next stage was when the Commission decided what action to take on a situation, determining, inter alia, whether the situation required a thorough study by the Commission or whether it might be the subject of an investigation by an ad hoc committee. As far as was known, no case had ever been investigated by an ad hoc committee, nor had any thorough study been reported to the Council under that procedure. The Commission might, of course, seek to influence Governments by conducting confidential discussions with them, while retaining the possibility of a thorough study as a means of bringing pressure on the Government, but it was questionable whether the object desired was best served by that approach, since the Government concerned could procrastinate, sometimes over a period of years, thereby avoiding any public exposure or condemnation. The confidential procedure could thus become almost a curtain of protection, shielding the offending Government from the public gaze and postponing any action by the Commission from year to year. A comparison of such cases with the published reports of special rapporteurs appointed under Economic and Social Council resolution 1235 (XLIII) or with the reports of the Inter-American Commission on Human Rights suggested that such reports were more likely to influence the conduct of the Government concerned.

49. His delegation urged the Commission to consider appointing a special rapporteur under the confidential procedure whenever it appeared that a situation merited thorough study. The Government concerned would still have every incentive to co-operate with the special rapporteur so that its account of the situation and its explanation of events received full consideration in the report, it would, however, be subject to continuing pressure throughout the year while he was conducting his fact-finding activities and preparing his report. When the Commission examined the situation the following year, it would have much fuller information before it and could then determine what report and recommendations, if any, should be forwarded to the Council and made public.

50. The fundamental principle of justice, that the other party must be heard, had two applications. The defendant must have an opportunity to refute or comment on allegations made by the prosecutor or complainant, while the complainant must in

turn be able to reply to any counter-allegations or comments made by the defendant. That second possibility did not exist under the current practice followed in accordance with Council resolution 1503 (XLVIII), under which the author of the communication was kept in ignorance of the Government's reply and had no means of refuting or commenting upon it. That was not so under other procedures: the Inter-American Commission on Human Rights sent the full text of the Government's reply to the author of the communication for his observations, and the Human Rights Committee did the same in all cases considered under the Optional Protocol. There was no reason why a similar procedure should not be followed under Council resolution 1503 (XLVIII). Confidentiality could be ensured by asking the author of the communication, before the Government's reply was sent to him, to undertake to treat the reply and his own response as strictly confidential until the Commission had concluded its consideration of the situation referred to in the communication. That change would not require any amendment of the resolution.

51. Mr. AVERY (Amnesty International) said that the United Nations was failing to ensure that citizens and authorities alike were informed of international human rights standards. During the past four decades, the Commission had spent many hours drafting human rights provisions in the form of conventions, declarations and resolutions, but the resources provided by Member States for subsequent translation and dissemination of those texts bore no relationship to the time and energy spent on formulating them. It was of key importance that people should know about rights and duties which transcended national boundaries. Prisoners should know to what treatment they are entitled, law enforcement personnel should know that they had an obligation to refuse orders to commit torture, and doctors should know that direct or indirect participation in torture was a violation of medical ethics. That point had been made on several occasions, and was to be found in the conclusions of the United Nations seminar on the experience of countries in the implementation of international standards on human rights and in General Comment 3/13 of the Human Rights Committee.

52. The problem was not theoretical. More than 17 years after their adoption, the International Covenants on Human Rights were still not available in Arabic as a United Nations pamphlet. The Arabic version of the Universal Declaration of Human Rights was also out of print. Copies of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were available as a leaflet only in French and Spanish. The English version was out of stock and the Department of Public Information had not produced versions in Arabic, Chinese or Russian. The Standard Minimum Rules for the Treatment of Prisoners, in force for 33 years, had never been reproduced by the Department of Public Information.

53. Even when appropriate language versions were available at United Nations Headquarters, local United Nations Information Centres often kept only very limited stocks. Local sections had often found it difficult to obtain large numbers of copies of basic texts such as the Universal Declaration of Human Rights in their local language. When United Nations Information Centres ordered such documents from Headquarters, deliveries could take one or two months.

54. In 1981, in response to a request by the Economic and Social Council, the Secretary-General had submitted to the Commission a world-wide programme for the dissemination of international instruments on human rights in as many languages as possible. The programme was very modest and provided for the translation and

printing of certain texts but did not provide for a strategy to ensure that they reached the people for whom they were intended. However, even those modest objectives had been met only partly and some important publications, such as Human Rights: A Compilation of International Instruments and The International Bill of Human Rights were not available in the six official languages. In recent years, the Commission, the Economic and Social Council and the General Assembly had placed renewed emphasis on the development of public information activities in the human rights field. That had been encouraging, but the results so far had been disappointing. What was needed now was actual implementation of the plans formulated and sufficient resources to achieve the objectives laid down. Member States should give the United Nations the means to carry out a meaningful dissemination programme.

55. Amnesty International's worldwide membership was prepared to offer its assistance and to co-operate closely with local United Nations Information Centres in that regard. But as a first step, the United Nations must supply the basic tools: authorized translations, in sufficient quantities, of the major human rights instruments.

56. Ms. WIRTH (Pax Romana) welcomed the fact that the Commission had moved into a new era of implementation as a positive step forward that should be vigorously pursued. She expressed support for the continuation of the Working Group established in accordance with General Assembly resolution 38/124 and requested that non-governmental organizations as well as Governments should have an opportunity of contributing their comments.

57. Her delegation also gave its full support to the proposal to appoint a High Commissioner for Human Rights, in the hope that issues requiring urgent investigation and action would receive effective attention.

58. With regard to the Secretary-General's report on the development of public information activities in the field of human rights (E/CN.4/1984/23), her delegation appreciated the activities carried out and especially the planned future activities. However, there appeared to be a one-way flow of information from the United Nations, and she would like to request consideration of activities that could also allow non-governmental organizations to contribute information. Consideration should also be given to ways and means of supplying texts translated into local languages to national and regional non-governmental organizations for distribution wherever possible.

59. Consultation with non-governmental organizations could take place at a number of levels. Formal consultations in terms of public information activities could play an important role in a two-way flow of information, and it would also be worthwhile to ascertain the views of non-governmental organizations concerning the Commission's agenda and methods of work. For example, two areas which should receive attention were women and youth. In view of the fact that 1985 was International Youth Year and also marked the end of the decade for women, her delegation would have expected those subjects to have received attention from the Commission.

60. Non-governmental organizations should also be consulted during the investigation of human rights abuses in particular countries and situations, and the results of such consultations should appear clearly in the reports of and to the Commission. To reflect only the views of a particular Government when that Government was known to be violating human rights seriously threatened the defence and promotion of human rights. One example was Guatemala. Her delegation therefore urged the Commission to seek and report on the views and experiences of the victims of human rights abuses through direct consultation with representative non-governmental organizations and/or the people and peoples concerned.

61. With regard to the resolution adopted on the right to popular participation, she expressed surprise that only Governments were being invited to submit their comments. The people and their representative organizations should be consulted, since the right to popular participation was one to be exercised by them and not by Governments.

62. Referring to the functioning of the Commission, she said it appeared that, because many different issues and situations were discussed at the same time in a mixed order, there was no real discussion on any particular situation but rather a series of statements which were often only attempts to defend and justify existing situations and to win political points and prestige. Moreover, there was often a lack of capacity for self-criticism. It would be more helpful if only one issue was studied at a time in some of the items which covered a large number of separate situations. Furthermore, Governments should refrain from attacking one another, since that disrupted the serious efforts and work of the Commission.

63. Her delegation supported the initiative to establish regional arrangements for the promotion and protection of human rights and agreed with the statement in the report of the Secretary-General (E/CN.4/1984/22) that regional groups could make a valuable contribution to the advancement of the cause of human rights. However, it shared the view of the Australian Government that any conceptual framework which undercut the fundamental and universal applicability of human rights principles was unacceptable. It was gratified to note from the report the importance which some Governments attached to the role that non-governmental organizations could play at the regional level.

64. Her organization requested that efforts should be made to ensure that working documents were available well in advance of the Commission's session so as to allow time for proper study and preparation.

65. Mr. DE SILVA (Sri Lanka), referring to Commission resolution 7 (XXIV) and General Assembly resolution 36/154 on the question of establishing regional commissions of human rights where no such arrangements existed, said that his Government had invited the Secretary-General to organize a regional seminar on national, local and regional arrangements for the promotion and protection of human rights in the Asian region. That seminar, the first in the region, had been held at Colombo in mid-1982 and its report (A/37/422) transmitted to the Secretary-General. His delegation was pleased that the report and the comments of Member States on it were currently under consideration by the Commission.

66. Referring to the subject matter discussed at the seminar, he stressed the significance of education and the need to create awareness among all people of human rights issues as an effective means of promoting the enjoyment of human

rights. Conventional legislation, however comprehensive, could not adequately compensate an individual who had suffered deeply as a result of the deprivation of his human rights: the root causes of such deprivation must be identified, analysed and eradicated.

67. The enjoyment of human rights could be ensured not so much through the measures taken by a Government to prevent human rights violations as through the education of all citizens with regard to the equality and dignity of all human beings. In his delegation's view, human rights could really be guaranteed only when the children of one race or creed regarded and treated the children of other races or creeds without distinction as members of the same human race. Young minds must be developed free from prejudice and unsullied by distinctions of caste, creed, race or colour.

68. Awareness of the concepts and principles of human rights must be spread among all sections of the population. National organizations - such as the Sri Lanka Foundation Institute and the Human Rights Institute of Sri Lanka - were best suited for the dissemination of material designed to encourage and sustain an interest in human rights; they required encouragement and support from the various organs of the United Nations system. United Nations materials on human rights should be made available both to selected groups within each community and to the community in general.

69. At the Colombo Seminar, his delegation had suggested the establishment of a body or institution designed to promote respect for human rights in the Asian Pacific region and a regional organization for protective functions. After discussing the proposal at length, the Seminar had considered that it was perhaps too early to envisage the establishment of a protection-oriented machinery but had recommended a regional arrangement for promotion of human rights. As a first step, his delegation endorsed the conclusions contained in Chapter IV of the report of the Seminar and suggested that depository centres for United Nations documents and material relating to human rights should be set up on a regional basis. The United Nations system should also hold periodic meetings of Government representatives and of recognized experts designated by States of the region.

70. The seminar for experts held in June 1983 at Geneva had provided a rich exchange of views and the pooling of experiences by experts on human rights from different parts of the world. A similar seminar with a regional emphasis would enable Government experts from a particular region to share their experiences and discuss different procedures applied by their respective Governments when faced with similar problems.

71. His delegation pledged continued support for any United Nations initiative aimed at the establishment of regional arrangements for the promotion of human rights.

72. Mr. THWAITES (Australia) said that the range of issues covered by the item under consideration was very wide. On some of them, it had been comparatively easy for the members of the Commission to reach a consensus, while on others, views remained divergent. Whatever their differences, members of the Commission must spare no effort to achieve consensus and, where that was not possible, to find appropriate means of action which reflected sufficiently the views of various groups. It had proved possible to advance the consideration of some issues through the establishment of the open-ended Working Group which in his delegation's view, had made a good beginning.

73. As could be seen from the Working Group's report (E/CN.4/1984/L.3), it did not appear possible to achieve agreement on the major issues still outstanding at the current stage. That fact had been reflected in the decline in attendance in the Working Group, particularly by delegations of developing countries, to the point where its discussions seemed largely to constitute an East/West dialogue. That dialogue was important but the issues could not be discussed usefully in that narrow prospective. There should be a revitalization of the debate on the item under consideration in the Commission as a whole, with a view to identifying issues on which any future working group could focus so as to make a tangible contribution to the effective enjoyment of human rights. There was little point in using the Working Group merely as an alternative to debates in the plenary of the Commission.

74. In its resolution 37/171, the General Assembly had requested the Commission to express its views on the outcome of the Colombo Seminar on the question of national, local and regional arrangements for human rights in the Asian Pacific region. The report by the Secretary-General on that subject (E/CN.4/1984/22) contained the comments submitted by the Australian Government. Australia believed that regional action in the field of human rights was an approach which deserved greater attention than it had sometimes received. It welcomed the initiative taken by Sri Lanka and believed that the seminar had served to identify some modest but useful avenues for further consultations in the Asian Pacific region. At the same time, it believed that the scope for subregional activities might be particularly worthy of investigation. Regional, subregional and national activities could translate the broad ideals and approaches identified by bodies such as the Commission into ways of improving the lives of people everywhere in practical day-to-day terms.

75. The provision of public information about human rights and the international activities being undertaken to promote and protect them was an essential part of the mandate entrusted to the Commission. In the longer term, there should be a more vigorous programme of action, both by the Centre and by other relevant parts of the United Nations Secretariat and the agencies concerned, to ensure that everyone was aware of the rights he possessed and of the means available to secure their protection. The report submitted on the question contained a number of interesting and imaginative ideas on ways to enhance public information activities in the human rights field, and his delegation hoped that the Commission would take appropriate steps to ensure that they were given due consideration.

76. Australia supported the idea of establishing a post of United Nations High Commissioner for Human Rights, which could usefully extend the responsiveness of the United Nations to situations of compelling humanitarian need. That proposal did not warrant the apprehension which it seemed to generate in some quarters, although the establishment of such a post would have to reflect a wide measure of confidence regarding its humanitarian mandate and operation. At the same time, the existing United Nations institutional framework in the human rights field could not be said to provide an adequate response to the range of human suffering with which the Commission had to deal. Further extensive discussion was unlikely to throw more light on the question and the Commission should take some positive steps at the current session towards the establishment of the post.

77. The CHAIRMAN invited the Commission to consider draft resolution E/CN.4/1984/L.23.

78. Mr. TOSEVSKI (Yugoslavia), speaking on a point of order, said that in view of the late stage of the Commission's deliberations and the lateness of the hour, it would not be appropriate to take a decision on such an important matter as that dealt with in the draft resolution. He therefore proposed, under rule 49 of the rules of procedure, adjournment of the debate until the forty-first session of the Commission.

79. Mr. SOLEY SOLER (Costa Rica) asked whether the representative of Yugoslavia would be willing to amend his proposal to include the possibility of placing an item concerning the establishment of a post of High Commissioner for Human Rights, as a matter of priority, on the agenda for the next session.

80. Mr. FERRARI-BRAVO (Italy) said that if the representative of Yugoslavia agreed to amend his proposal along the lines suggested by the representative of Costa Rica, the Italian delegation would be willing, in a spirit of compromise, to support it.

81. Mr. TOSEVSKI (Yugoslavia) said that he could not accept the suggestion of the Costa Rican representative. The possible inclusion of a separate item concerning a post of High Commissioner in the agenda for the next session could be discussed under item 25.

82. Mr. FERRARI-BRAVO (Italy) proposed that the meeting should be suspended under rule 48 of the Rules of Procedure.

The meeting was suspended at 8.20 p.m. and resumed at 9.10 p.m.

83. The CHAIRMAN suggested that, since consultations were still going on, the Commission should defer taking any action on draft resolution E/CN.4/1984/L.23.

84. It was so agreed.

85. Ms. PAGE (Canada), speaking on behalf of the sponsors, introduced draft resolution E/CN.4/1984/L.92 on the development of public information activities in the field of human rights. The draft resolution sought to identify items from the report by the Secretary-General (E/CN.4/1984/L.23) on which action could be begun while seeking the views of Governments on the wider range of measures. To make it clear that the request made to the Secretary-General in operative paragraph 3 would entail no additional financial implications, the sponsors had decided to insert, after the word "proceed" in that paragraph, the words "as soon as possible within existing resources".

86. The CHAIRMAN announced that Costa Rica wished to be added to the list of sponsors of the draft resolution.

87. If there was no objection, he would take it that the Commission decided to adopt the draft resolution, as orally amended, without a vote.

88. Draft resolution E/CN.4/1984/L.92, as amended, was adopted without a vote.

89. The CHAIRMAN invited the Commission to take action on draft resolution E/CN.4/1984/L.3.
90. Draft resolution E/CN.4/1984/L.3 was adopted without a vote.
91. The CHAIRMAN invited the Commission to take action on draft resolution XIII submitted by the Sub-Commission.
92. Mr. CHARRY SAMPER (Colombia), introducing his delegation's proposed amendments contained in document E/CN.4/1984/L.104, said that they were based on consultations held with a number of delegations. He hoped that they would be adopted without a vote.
93. In response to a point raised by Mr. CALERO RODRIGUEZ (Brazil), Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) confirmed that the beginning of operative paragraph 2 of draft resolution XIII should read "Requests the Economic and Social Council to authorize ...".
94. Mr. CALERO RODRIGUEZ (Brazil) thought that it would be a good idea for the Working Group of the Sub-Commission to hold an exchange of views with the Commission at the next session. The amendment proposed by Colombia deleted the reference to the Economic and Social Council and proposed an exchange of views with the Chairman of the Sub-Commission or a spokesman of the Working Group. However, the presence of a spokesman of the Working Group would require the approval of the Economic and Social Council and would not be quite the same as that of the Working Group itself.
95. Mr. CHARRY SAMPER (Colombia) said that his delegation's proposal would not require approval by the Economic and Social Council and would not give rise to any additional expenditure, since it involved merely an exchange of views.
96. Mr. CHOWDHURY (Bangladesh) endorsed the views expressed by the representative of Brazil.
97. Mr. HEWITT (United States of America) said that his delegation preferred the Colombian proposal, which simplified matters and had no financial implications.
98. Mr. SY (Senegal) said that his delegation, too, thought that the Colombian proposal was preferable. However, the wording might be improved to make it clearer and he therefore proposed the following text: "2. Invites the Chairman of the Sub-Commission or a spokesman of the Working Group to proceed to an exchange of views with the members of the Commission with a view to completing its work at the thirty-seventh session, taking account of the comments made by the members of the Commission."
99. Mr. CALERO RODRIGUEZ (Brazil) wondered whether it was appropriate to refer to the Chairman of the Sub-Commission since he might not be participating in the deliberations of the Working Group. A spokesman of the Working Group would be in a much better position to provide information on the work being done in the Group. He therefore suggested that the reference to the Chairman of the Sub-Commission should be deleted.

100. Mr. CHARRY SAMPER (Colombia) said that his delegation could accept the Brazilian representative's suggestion.

101. After an exchange of views in which Mr. SY (Senegal), Mr. CHARRY SAMPER (Colombia) and the CHAIRMAN took part, Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that, in document E/CN.4/1984/L.104, the revised draft amendment to operative paragraph 2 would begin with the following words: "2. Invites an exchange of views between a spokesman of the Working Group and the Commission or a working group during the forty-first session of the Commission, ...".

102. With regard to the financial implications of the draft amendment, he said that if someone other than the Chairman was designated by the Sub-Commission, it would be necessary to cover his travel and subsistence expenses. The secretariat would indicate the financial implications accordingly in the report of the Commission.

103. Mr. HEWITT (United States of America) said that his delegation could not support the revised amendment, which omitted the possibility of the desired contact being carried out by the Chairman of the Sub-Commission. He requested a vote on the revised Colombian amendments.

104. The Colombian amendments, as revised, were adopted by 33 votes to none, with 6 abstentions.

105. The CHAIRMAN invited the Commission to take action on Sub-Commission draft resolution XIII, as amended. He announced that the United States delegation had requested a vote on the draft resolution.

106. Sub-Commission draft resolution XIII, as amended, was adopted by 34 votes to 1, with 4 abstentions.

The meeting rose at 9.45 p.m.