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Chairman: Mr. BOSSUYT (Belgium)

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at this session will be consolidated in a single corrigendum, to be issued
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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF THE REPORT OF THE MISSION WHICH TOOK PLACE IN CUBA IN ACCORDANCE WITH COMMISSION DECISION 1988/106 (agenda item 11 bis) (continued) (E/CN.4/1989/46 and Corr.1)

1. The CHAIRMAN invited the Commission to continue its consideration of agenda item 11 bis. He gave the floor first to the representatives of non-governmental organizations, in accordance with rule 76 of the Commission's rules of procedure.
2. Mr. BANDIER (International Association of Educators for World Peace) said that the Association he represented had always endeavoured to promote closer mutual understanding among peoples and to defend human rights, particularly the right to freedom of expression which should not be subject to any political constraint. During the consideration of agenda item 11 bis, he wished to transmit to the Commission a particularly moving testimony which had been brought back by one of the Association's member educators. It consisted of a statement by Luis Zuñiga Rey, a former Cuban political prisoner who had been released on 30 November 1988 after spending more than 18 years in Cuban prisons. He summarized Luis Zuñiga Rey's statement as follows:
3. The Cuban Government had always succeeded in evading its responsibilities, even though the crimes, acts of torture and ill-treatment in which it or its authorities had engaged for 30 years were well known to the international community. However, every guilty régime should be condemned and a sense of justice should prevail in the Commission, so that peoples who had been subjected to acts of cruelty and violations of their rights would not lose their confidence in international justice.
4. It was surprising that, during the consideration of the human rights situation in Cuba, only some forms of torture, of a medieval type, had been mentioned, in spite of the fact that a whole series of "modern" forms of torture, including the most abominable acts of psychological torture, were practised systematically in Cuban prisons, where many detainees had died as a result thereof. Like other detainees, Luis Zuñiga Rey had been subjected to every conceivable form of physical, mental and psychological torture, of which he still bore the indelible marks.
5. The fact that, for more than 28 years, the Cuban Government had not permitted any international organization to visit the country, and certainly not to enter Cuban prisons, was particularly revealing of the treatment inflicted on political prisoners, who thereby also suffered from the international community's indifference to their plight. In December 1987, the Commission itself had been informed of the full extent of the cruelty inflicted on political prisoners in Cuba and no one could be unaware of the acts of physical and psychological torture to which they were being subjected. The group headed by Mr. Alioune Sene, which had recently visited Cuba, had had an opportunity to speak with Luis Zuñiga Rey in the Combinado del Este Prison in September 1988. On that occasion, it had ascertained that the political prisoners were suffering all sorts of assault, mutilation and humiliation and, in June 1988, the International Committee of the Red Cross had also reported the deplorable living conditions in Cuban prison cells. In fact, human rights had been violated in Cuban prisons for almost 30 years.

6. The CHAIRMAN pointed out that the maximum time allowed representatives of non-governmental organizations for their statements was 10 minutes.

7. Mr. BANDIER (International Association of Educators for World Peace) deplored the fact that such a decision had been taken by the Commission and regretted not being able to give more details of the measures which the Cuban authorities had taken to conceal the true state of affairs with a view to deceiving international public opinion.

8. Mr. NARANJO (Christian Democratic International) said that, as a former Cuban political prisoner, he was grateful to the Chairman and the members of the mission for the objective report that they had submitted (E/CN.4/1989/46 and Corr.1), which gave a clear account not only of the position of the Cuban Government but also of that of the Cuban people, which was struggling to ensure respect for its rights and fundamental freedoms in the face of oppression on the part of the régime installed at Havana. The Commission was therefore fully informed of the situation in that country. It now knew that a dominant class had established a totalitarian State which was wholly controlled by the commander-in-chief of the armed forces.

9. Being convinced of the validity of the principle of the dignity of the individual and the primacy of the public interest and of democracy, Christian Democratic International believed that the concepts set forth in the Universal Declaration of Human Rights were being totally misinterpreted and thus distorted in Cuba. Consequently, it was not surprising that many questions raised by the Group had remained unanswered and that the Cuban authorities had opposed the continued consideration of the human rights situation in Cuba and, to that end, had brought pressure to bear, as could be seen, for example, from annex XIV to the mission's report.

10. The importance of the international context should be emphasized in the case of Cuba. In fact, the Cuban people was a victim of the East-West conflict and, as a consequence of the agreement reached between the United States and the USSR in 1962, was suffering all the baleful effects of militarization in a zone of great strategic importance. In view of that situation of potential conflict, Christian Democratic International had proposed that a strategic zone of peace should be established in the Caribbean region and had demanded respect for the principle of non-interference, as well as the enjoyment by the Cuban people of the right to self-determination and its other rights.

11. The testimony that had been received during the Commission's session, as well as the communications submitted, particularly that of Amnesty International, clearly proved that repression was the principal method employed by the Cuban régime and, in that regard, Christian Democratic International would place at the Secretariat's disposal various reports that it had received clandestinely, particularly those concerning the situation of 172 Cuban political prisoners.

12. The trade-union situation in Cuba was also particularly alarming and it was distressing to note that the labour movements, which had formerly made their voices heard in a vigorous manner, were currently reduced to acting as spokesmen for the de facto employers who, as a class, were under the control of a single party. Moreover, the Revolution that had taken place 30 years previously had left the Cuban people in a state of poverty and under-development which made it even more vulnerable.

13. The Commission should take measures devoid of any political connotation, as had been recommended by the President of the Council of Ministers of the European Community, so that the Cuban people, which had expressed its confidence in the Commission, could count on the solidarity and co-operation of the international community in its struggle for freedom and respect for its rights. For its part, Christian Democratic International ardently hoped that the Commission, as it had frequently done in the past, would appoint a special rapporteur to investigate violations of human rights in Cuba, since the mission's report left no doubt that the principles set forth in the Universal Declaration of Human Rights were far respected in that country.

14. Mr. RETUREAU (World Federation of Trade Unions) said that the report before the Commission was particularly interesting because it had been prepared as a result of a mission undertaken at the request of the Cuban Government and contained information from a wide variety of sources, thereby enabling everyone to formulate their own opinion. For its part, the Federation had been interested to note the difference between the social, economic and cultural conditions observed in Cuba and those prevailing in countries in the same region which had different social and political régimes. It had noted the trend towards the mitigation of criminal law in Cuba, as well as the efforts that the authorities were making to improve the economic and social situation in the country - a process which would undoubtedly be accelerated if the régime that the Cuban people had established 30 years ago were no longer subjected to external aggression and possessed the means to overcome the obstacles created by the imbalance in international economic relations.

15. The mission's report showed that illiteracy had been eliminated and that the social and political options adopted had led Cuba to recognize the educational and cultural role of labour. The achievements of the trade-union movement in Cuba had been recognized and highly commended by UNESCO. The social welfare services were also very different from those in neighbouring countries where the possibility of receiving allowances or care depended on personal wealth and where no effort was made to cater for the welfare of the vast majority of the poorer segment of the population. Moreover, Cuba had no unemployment, which was the result of external indebtedness and inequitable international economic relations and widespread in other countries of the region. For example, in the socio-economic sphere, in spite of the difficulties and obstacles due to the blockade, Cuban workers had made noteworthy progress, which suggested a marked improvement in respect for human rights.

16. Trade-union leaders were being assassinated almost every day in the countries of Central America and the Caribbean. The Governments enjoyed the political support of a major regional Power, which also intervened militarily and used two different yardsticks for the assessment of democracy and respect for human rights, depending on the political, economic and social characteristics of the régime concerned. Efforts should be made to establish peaceful relations conducive to the promotion of human rights in all the countries of the region, and also to put an end to the policy of confrontation and aggression. However, contrary to the principle of equality among States, some members of the Commission were in favour of the adoption of special procedures for the consideration of the situation in certain countries, and others would like the mission's report to be considered by the Commission under agenda item 12, which would be in flagrant contradiction with the

findings set forth in that report. The Federation held the view that the Commission, which had been established to promote human rights throughout the world, would be able to discharge its task fully only if it continued to act in an objective and independent manner, without allowing itself to be deterred by blatantly biased arguments.

17. Mrs. BROWN (Service, Justice and Peace in Latin America) said that the Cuban Government was to be congratulated on having invited a United Nations mission to visit the country to observe the human rights situation there. Like the many delegations from all countries of the world which regularly visited Cuba for a wide variety of reasons, the mission had been able to note all the progress that had been made in the sphere of health care, education, science, the arts and culture, in spite of all the obstacles resulting from 30 years of economic blockade and aggression against the Government and people of Cuba. Having personally visited Cuba on several occasions, she could affirm that, contrary to what some people might say, freedom of religion was fully respected in that country, where she herself had participated freely in several religious ceremonies. Within the context of her studies on racism in the American continent, she had also noted that enforced disappearances, torture, assassination and rape formed part of the daily lot of the people of various countries of Latin America and the Caribbean, particularly in El Salvador, Guatemala, Honduras, Haiti, Chile and Paraguay. However, it should not be forgotten that, in the United States as well, the rights of the black minorities and of persons of Latin American origin, particularly those of Mexican, Puerto Rican or West Indian origin, were frequently violated and manifestations of racism could be observed every day, even in the political sphere. She wondered whether the Government of the United States would be willing to show the same spirit of co-operation as the Cuban Government by inviting the members of the Commission to investigate the cases brought to their attention.

18. The right of thousands of Latin Americans to life, to work, to education and to health was still being violated. Moreover, the people of small countries such as Nicaragua and Panama were constantly being subjected to pressure from the Government of the United States. In that regard, the Commission should acknowledge the fact that Cuba was making a unique contribution to the improvement of the situation in the region and should pay tribute to the Cuban people for its resolute determination to establish a society in which the principal promoter and beneficiary of development was the individual. Everyone should be able to enjoy their rights and fundamental freedoms within the framework of the independence, sovereignty and territorial integrity of their country.

19. Mrs. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the Cuban Government's decision to invite members of the Commission to visit Cuba to observe the human rights situation there had helped to put an end to the long debate which, during the last two years, had focused the attention of the international community on that country to the detriment of other situations that merited urgent consideration. On reading the report of the group that had visited Cuba (E/CN.4/1989/46 and Corr.1), the Federation had been astonished to learn of the disappearance of seven persons because, since its establishment, no case of enforced or involuntary disappearance in Cuba had been reported to it. Her organization therefore invited the families concerned to contact it in that connection.

20. During a visit to Havana in 1987, the Federation had been able to ascertain the real state of affairs in Cuba, as well as the progress that had been made in regard to human rights in that country. Although the situation was not yet perfect, it must be admitted that the Cuban Government was endeavouring to solve the problems that had arisen and to guarantee the right of all citizens to health, education, food and work, in spite of the difficulties faced as a result of the world economic crisis and the acts of external aggression to which it was constantly subjected.

21. The Federation appreciated the effort made by the international community, which had led to the dispatch of a mission to Cuba in spite of the financial difficulties besetting the United Nations, and it hoped that a similar effort would be made in regard to other situations and other countries.

22. Mrs. CAER (International League for Human Rights) said that the report submitted by Mr. Sene (E/CN.4/1989/46 and Corr.1) was commendable and had set a precedent in that it listed the names of persons whose human rights had been violated in Cuba, which was far from usual in a United Nations report. The allegations concerning the violation of several human rights contained in the report had been made by credible non-governmental organizations which had examined the human rights situation in Cuba. Although considerable progress had been made, some points were still cause for concern and required clarification.

23. Positive results had indeed been achieved. The Cuban Government had finally entered into a dialogue with the United Nations; some non-governmental organizations had been permitted to visit Cuba to obtain first-hand information on the situation there; the Cuban Penal Code had been amended with a view to mitigating the penalties for certain offences, particularly those relating to freedom of expression, many detainees had been released and 41 of the 49 persons whose names appeared on a special list submitted by the members of the mission to the Cuban Government had been granted permission to emigrate. The conditions of detention in some prisons had also been improved; there were no longer any "captive towns" and detainees were now apparently able to complain in the event of ill-treatment. All those changes for the better were directly attributable to the efforts that the Commission had made to examine the situation in Cuba at the international level, as well as its decision to send a mission there. However, it was important for that very reason that the Commission should continue its examination, since many allegations, particularly those contained in annexes VII and XXVII to the report, had not yet been answered by the Cuban Government. The restrictive laws under which many persons had been imprisoned were still in force, the right to a fair trial and a defence was apparently not yet always respected; former political prisoners, including some members of human rights organizations, had been re-arrested and charged with offences against public order and, what was even more disturbing, 14 persons had apparently been arrested or harassed for having testified before the members of the mission sent by the Commission. Moreover, non-governmental organizations had provided a detailed description of violations of some other rights set forth in the Universal Declaration of Human Rights, such as the right to privacy, the right to freedom of expression, assembly, movement, religion and participation in political life, as well as the various types of ill-treatment to which prisoners were still being subjected.

24. Accordingly, much still remained to be done in Cuba. To ensure the eventual reappearance in Cuba of a "civil society", similar to that which had been re-established in the countries of the region in which democracy had been restored, it was essential that the Commission should continue to examine the human rights situation in Cuba. The International League for Human Rights also urged Cuba to extend another invitation to the Commission.

25. Mrs. PARKER (Disabled Peoples' International) said that the notion of accommodation was one of her organization's fundamental principles. It meant, in particular, the adaptation of places of employment and public buildings to facilitate access by disabled persons. In general, therefore, Disabled Peoples' International had every reason to encourage United Nations bodies when they showed similar flexibility and adaptability in their respective spheres, especially when they adapted their activities to a particular situation or country, as exemplified by the organization of a mission to Cuba. The spirit of co-operation that had characterized relations between the members of the Group and the Cuban authorities during the mission was duly reflected in chapter V of the report, entitled "Final Considerations".

26. Disabled Peoples' International welcomed the great progress that had been achieved in Cuba since 1959, particularly in regard to medical care, and noted the valuable contribution of Cuban medicine to the prevention of disability through its family medicine speciality and the application of a system to ensure basic subsistence for all Cubans, as indicated in paragraphs 130 and 136 of the report. She also noted the efforts that had been made to ensure the rehabilitation of persons suffering from mental, sensory and motor disabilities. Such efforts merited the attention and encouragement of the international community.

27. However, Disabled Peoples' International deplored the fact that the report dealt with questions that were totally unrelated to human rights, such as those that had been raised in the letter from Dr. del Pozo Marrero, a member of the Medical Commission of the Cuban Committee for Human Rights, which had been reproduced in annex XXXI. It would have been preferable if attention in the sphere of health and human rights had been focused on the recipients of health care rather than on the remuneration of physicians. Occasional shortages of physicians were attributable to the inefficient organization of the medical system; the attempt that had been made to turn it into a human rights issue did not help to promote the right of the Cuban people to medical care.

28. Mr. de FARIA (World Peace Council) said that the report of the mission to Cuba, and particularly paragraphs 153-155 containing the Group's final considerations, highlighted the spirit of co-operation that had been shown by the Government and people of Cuba. Never before had a United Nations mission received such a welcome from a Government that had been publicly accused, and even insulted, as had the Cuban Government.

29. The report, as well as the detailed explanations provided by the representative of Cuba, showed that, contrary to the allegations that had been made, the human rights situation in Cuba was steadily improving and the restrictions that had been imposed 30 years previously on some civil and political rights, due to the threats, the repeated attempts at invasion and the continuous economic blockade to which Cuba had been subjected, were being increasingly relaxed and lifted whenever the situation became less tense. The

Cuban Government had itself admitted the truth of some of the allegations. However, no country in the world could claim to be above reproach in regard to human rights. The Commission's role was precisely to help the States Members of the United Nations in their efforts to improve the protection of human rights in their territory. Such improvements were evident in the case of Cuba.

30. In particular, the report showed the extent of Cuba's remarkable progress in the field of economic, social and cultural rights. The fact that Cuba had continued to accord a high degree of priority to the protection of those rights, in spite of the external difficulties which the country faced, should elicit respect rather than suspicion on the part of the Commission and the international community as a whole. It was clear that the allegations of flagrant and systematic violations of human rights in Cuba were not only ludicrous but reflected aims that were totally extraneous to the protection of human rights.

31. In conclusion, he expressed the hope that the co-operation the Group had enjoyed before, during and after its visit to Cuba would become a standard feature of every other mission undertaken in the field of human rights. He also hoped that all Governments that had been accused or suspected of committing human rights violations would invite representatives of the Commission to their countries and, like Cuba, would grant them all the facilities and assistance needed for the accomplishment of their tasks.

32. Mr. McDERMOT (International Commission of Jurists) said that the International Commission of Jurists welcomed the spirit of co-operation that the Cuban Government had shown by inviting members of the Commission to visit Cuba to look into the human rights situation there and by permitting various non-governmental organizations, such as Amnesty International and Americas Watch, to visit that country. Those NGOs had confirmed some of the serious allegations concerning violations of civil and political rights mentioned in the report, particularly in regard to the conditions of detention of political prisoners, the restrictions that had been imposed on the right to leave the country and on freedom of expression, and the lack of independent information media. However, the report did not contain any information that would justify the many other serious accusations that had been made against the Cuban Government at the last session of the Commission. The report also indicated that measures had been taken to rectify some abuses, as had been confirmed in studies undertaken by NGOs. Although the reforms that had been introduced since 1980 had considerably improved the prospects of a fair hearing for persons charged with offences, there was still scope for further improvement; the right of defence counsel, in particular, should be guaranteed from the time of arrest. Spectacular progress had also been achieved in the enjoyment of economic, social and cultural rights since the Cuban revolution in view of the fact that, according to the report, all sections of society had access to education, adequate housing, health care and employment.

33. The International Commission of Jurists regretted that the Group which had visited Cuba had not made any recommendations to the Cuban Government on the conclusion of its visit. In particular, it could have invited the Government to improve prison conditions even further, to show greater tolerance towards opponents and to respect the right of citizens wishing to leave the country. The Group's report shed useful light on the positive and negative aspects of the human rights situation in Cuba although, in the opinion of the International Commission of Jurists, it contained no evidence

of a consistent pattern of gross violations of human rights in that country, in contrast to other countries, such as Iraq and Romania, which merited the Commission's attention and to which the International Commission of Jurists intended to refer during the consideration of agenda item 12.

34. Mr. GONZALES (International Indian Treaty Council) said that, to understand the situation in Cuba, it was necessary to understand the historical context in which that country had lived for the previous 30 years, in other words the economic blockade, military aggression, attempts at diplomatic isolation, campaigns of denigration, acts of sabotage and incitement to terrorism. In spite of all those difficulties, the Cuban people had made considerable progress in the political, economic, social and cultural spheres, as could clearly be seen from the report before the Commission and the reports prepared by various non-governmental organizations which had visited that country.

35. The report (E/CN.4/1989/46 and Corr.1) showed that the Cuban Government had proved its willingness not only to co-operate with the United Nations and, in particular, with the bodies concerned with human rights, but also to correct its mistakes and seek ways of further promoting the well-being of the Cuban people. Moreover, nothing in that report suggested that human rights were being violated in Cuba in a systematic and persistent manner that would justify continued consideration of the matter by the Commission.

36. The International Indian Treaty Council strongly deplored the behaviour of some Member States which took every opportunity to attack Cuba, to turn that country into a scapegoat to divert attention from other countries of the world in which serious violations of human rights were being committed, and to deny the progress that the Cuban people had made since the Revolution. Today, Cuba had won the respect of all oppressed peoples subjected to colonial domination.

37. It was ironic that a newly-arrived "pilgrim" could attain the rank of ambassador and claim to speak on behalf of the American people while the indigenous peoples were still suffering from poverty and diseases which sometimes threatened their very lives. The International Indian Treaty Council congratulated Cuba on its efforts to correct what was wrong and encouraged it to always pursue a policy of openness, justice and dignity.

38. Mr. PARADA (International Union of Students) said that the aim of his organization, which represented 117 student associations in 110 countries, was to promote the democratization of education and defend the rights of students and teachers. His organization noted that the report contained in document E/CN.4/1989/46 and Corr.1 reflected considerable progress in the field of education in Cuba, where the number of students had increased from 15,000 in 1959 to over 300,000 at the present time.

39. The International Union of Students, which received daily reports from many countries concerning repressive measures taken against students and their organizations throughout the world, could testify that no such measures were being applied in Cuba. Paragraph 147 of the report indicated that two young teachers at the Havana Technical School had expressed their disagreement with the ideological orientation of education in Cuba, as well as their wish to leave the country; however, according to the report, there were 104,741 teachers in Cuba! Moreover, paragraph 146 reported an opinion by the Cuban Committee for Human Rights concerning the obligatory nature of

instruction in Marxism-Leninism. However, that opinion was contradicted in paragraph 105 of the same document, which quoted the view of the Executive Committee of the Ecumenical Council, representing 54 Protestant churches:

"... there is no contradiction between the Christian education ... and the Marxist education given in schools, since atheism is not an objective of the Revolution and Marxism-Leninism is taught only in the last two years of pre-university studies".

40. Finally, he quoted extracts from a declaration by 242 student organizations in 129 countries and territories, which had participated in the World Student Conference held at Havana in 1987:

"During our brief stay in this country, we noted the noteworthy progress that has been made in the establishment of a socialist society in Cuba ... to raise the standard of living, promote public health, education, culture, sport ... Moreover, we observed constant manifestations of Cuba's international solidarity with the peoples struggling for peace, independence, democracy and social progress."

41. Mrs. VYJTIGSCHILD (Women's International League for Peace and Freedom) thanked Ambassador Sene, the Chairman, and the other members of the Group which had visited Cuba in accordance with Commission decision 1988/106. The report showed that the Group had worked in a entirely objective manner and with the full co-operation of the Cuban authorities, which had taken the praiseworthy step of inviting the Commission to send a delegation.

42. The Group had received about 1,600 complaints, more than 70 per cent of which concerned problems of emigration. It was to be hoped that those problems would be solved on the basis of agreements between the Cuban Government and the Governments of the potential countries of immigration. The few complaints concerning the right to life seemed vague, although the authorities should nevertheless be requested to conduct investigations. They should also be requested to examine the 137 complaints of torture and cruel or inhuman treatment which had been submitted to the Group during its visit. In that regard, it was encouraging to note that cases of torture had already been investigated in Cuba and the persons responsible punished.

43. The report also reflected the efforts made by the Cuban authorities to comply with the provisions of the human rights instruments that Cuba had ratified. Although problems had arisen in that country, there seemed to be no evidence of gross and massive violations of human rights. Problems also existed in many other countries and Cuba should not, therefore, be singled out for special treatment. She expressed the hope that all countries would establish normal diplomatic and economic relations with Cuba, in the interest of the full enjoyment of human rights in that country.

44. Mr. GALLARDO (World Federation of Democratic Youth) commended the spirit of co-operation that the Cuban Government had shown by inviting the United Nations to observe the human rights situation in the country. Cuba had thereby set an encouraging precedent and it was to be hoped that its example would be followed. The report of the mission that had visited Cuba (E/CN.4/1989/46 and Corr.1) was the result of painstaking work based on consensus. That mission had demonstrated that, over and beyond ideological frontiers, it was possible to make an effective contribution to the triumph of truth.

45. The present situation in Cuba could not be discussed without taking into account what had happened during the past 30 years. The Cuban revolution had triumphed at the cost of tremendous sacrifices by the people as a whole. In spite of the isolation to which it had been subjected, that country had made considerable progress, as indicated in the report of the mission, especially in the administration of justice, the social security system, health, the right to housing, access to culture and art, etc.

46. With regard to education in particular, the Group that had visited Cuba had held discussions with various youth organizations although, unfortunately, the outcome of those discussions had not been reflected in the report. On the other hand, the impressive progress that had been made in education between 1958 and 1987 was highlighted in the table on page 50. It was noteworthy that education was free of charge and compulsory and that its budgetary allocations exceeded UNESCO recommendations. The number of persons benefiting from higher education had clearly increased. In that and other fields, the Cuban people had little cause to envy most of the industrialized countries.

47. The negative aspects and the shortcomings mentioned in the report should not be disregarded. However, in general, the human rights situation in Cuba, as described in that document, bore no resemblance to that which some had sought to portray in the Commission in recent years. The World Federation of Democratic Youth was convinced that Cuba would now continue its fruitful participation in United Nations human rights activities.

48. Mrs. SINNIGER (Women's International Democratic Federation) commended the work of the delegation that had visited Cuba and thanked the Cuban Government for its efficient assistance. Commenting on the report (E/CN.4/1989/46 and Corr.1), she noted that, according to paragraph 18, the Group that had visited Cuba had spoken with provincial representatives of the Federation of Cuban Women at Pinar del Río; it would have been preferable had the report given details of the discussion with that organization, which was affiliated to the Women's International Democratic Federation. The same paragraph also referred to a meeting with the Provincial Social Welfare and Assistance Commission at Pinar del Río; in that connection, it was regrettable that no mention had been made of the problem of the integration of women in the labour force in Cuba.

49. Paragraphs 92 and 93 of the report gave a dramatic account of the situation of four Cuban women, referred to as mothers who were prevented from leaving the country; mention should also have been made of the fate of Cuban mothers who had lost their sons as a result of imperialist aggression and counter-revolutionary activities. Moreover, the report failed to mention the policy of the United States towards the Cuban Government, which was responsible for the dispersal of a large number of families. The report should also have spoken of the Cuban Government's policy on emigration, which had enabled many mothers to visit their children in Cuba or the United States and had facilitated family reunification.

50. Mr. SENE (Chairman of the Group which visited Cuba in accordance with Commission decision 1988/106), speaking on behalf of the Group, thanked all the delegations, observers and non-governmental organizations for their comments on the report (E/CN.4/1989/46 and Corr.1). Although there had been some criticism, the work of the Group had in general been viewed favourably.

He emphasized that the quality of the report was attributable to the objective and balanced manner in which the members of the Group had endeavoured to present the facts. For his part, the Deputy Minister for Foreign Affairs of Cuba had expressed his Government's appreciation for that work.

51. It had been asked why the Group had met representatives of non-governmental organizations outside Cuba, at Miami or Madrid. In that connection, he pointed out that, following the adoption of decision 1988/106, the Commission had received many communications concerning Cuba, which should normally have been submitted to the Working Group on Situations. However, in view of the mandate that the Commission had entrusted to the Group, it had seemed more rational that all the communications should be submitted to the latter, in order to standardize the procedure. That had been explained to the Cuban authorities, which had shown comprehension.

52. The mission to Cuba had required meticulous preparation to avoid bias or misunderstanding. The procedure that had been established had proved its worth; it had overcome various misgivings that had been expressed the previous year and undeniably made a significant contribution to the achievement of further progress in the application of the legal norms set forth in the Universal Declaration and the other international human rights instruments.

53. Mr. VALLADARES (United States of America), speaking in exercise of the right of reply, deplored the fact that, in his replies, the representative of Cuba had lost his self-control. Instead of launching personal attacks, he would have done better to refer to the report concerning the mission to Cuba. That report had not been prepared by the United States, but by a Group in which all regions of the world were represented.

54. For 30 years, Cuba had played the role of prosecutor and judge in regard to human rights, but its impunity had now come to an end and it must answer to the Commission for its abusive practices. Its arguments had so far been insufficient; in particular, an 11-page text was not enough to reply to 1,600 complaints. Cuba had merely objected that: of 56 complaints concerning security of person, two-thirds were totally false; of 91 complaints relating to arbitrary arrests, 51 were false and the others inadequately documented; of 78 complaints concerning the right to a fair trial, 57 were unsubstantiated in the light of the legislation in force in Cuba; 64 complaints concerning the right to security were also unfounded in the light of that legislation; and 78 complaints concerning economic rights had been submitted by persons who had misinterpreted their rights. In the face of all those denials, the United States felt that what counted in the Commission was international norms and not Cuba's Draconian laws. Cuba should endeavour to vindicate itself not on the basis of its own laws but the Universal Declaration of Human Rights. From that standpoint, the replies that Cuba had so far provided were unacceptable. That country had not replied to the 2,000 allegations mentioned in the report of the mission, nor to the 100 questions which the Group that had visited Cuba had raised in connection with the Constitution and the Penal Code.

55. Many defenders of Cuba now admitted that human rights were being violated in that country, although not on a massive scale. However, he noted that the truth concerning the human rights situation in Cuba was gradually coming to light.

56. Mr. ROA KOURI (Cuba) presented the Cuban delegation's final comments following the consideration of the report of the mission which had visited Cuba in accordance with Commission decision 1988/106.

57. First of all, his delegation wished to state, once again, that the report of the Group that had undertaken the mission had found no evidence of the existence of violations of human rights in Cuba. That document merely reproduced the declarations of a few persons who had either spoken directly with the members of the Group or filled in the forms that had subsequently been submitted to the Secretariat. No attempt had been made to verify the truth of the statements received or to arrange medical examinations to confirm the allegations of torture or ill-treatment. Testimony had been transcribed in its original form and submitted directly to the Commission for consideration.

58. The Commission on Human Rights was obviously not a court of law and, even if it had been, none of the "accusations" that had been made would have been deemed admissible as evidence. Moreover, the Cuban delegation was well aware of the manner in which some accusations had been fabricated; in the very room in which the Commission was meeting, there was an individual who, when he was a prisoner in Cuba, had claimed to be disabled and a poet, whereas in actual fact he was neither, as everyone had now realized and as Mr. Régis Debray, the special representative of the President of the French Republic, who had initially been moved by his story, had subsequently been forced to admit (Les Masques).

59. Furthermore, the exercise that was currently taking place was nothing more than an act of political vengeance by the Government of the United States against Cuba. Since, and even before, the beginning of the session, the representatives of the United States had attempted to influence the outcome of the discussion. On 30 January 1989, for example, Under-Secretary of State Williamson had declared to the International Herald Tribune: "We hope that, in its report, the Commission on Human Rights will indicate that the Cuban Government is effectively depriving Cuban citizens of the most fundamental rights set forth in the Universal Declaration ... A decisive test, the result of which remains to be seen, is whether the Commission will decide to continue its consideration of the case of Cuba. If the United Nations shows itself incapable of action ... its credibility will suffer, possibly in an irreversible manner". For his part, the head of the United States delegation had affirmed, at a press conference held on 24 February: "There is no reason not to extend the mandate (of the Group that visited Cuba); we want a report, a serious discussion and the continuation of the examination procedure. The United States is in favour of a renewal of the Group's mandate".

60. Those two spokesmen had not even tried to hide the real purpose of their anti-Cuban crusade, which was to place Cuba in the same category as several of their most faithful allies - racist South Africa, Zionist Israel, Chile and El Salvador - the policies of which were characterized by systematic and brutal violations of the fundamental rights of their own people and, in the case of the first two, of other populations. That attitude was not only ignominious, but also devoid of all sense of responsibility. In actual fact, it clearly illustrated the purely political nature of the objectives that the United States was pursuing in its vendetta against the Cuban Revolution.

61. Moreover, during the discussion, several representatives of countries allied to the United States had spoken of the need to appoint special rapporteurs, commissions of inquiry, working groups etc., which would have the same objectives as those already mentioned. However, some of the instigators of those proposals could well be asked whether they themselves would be willing to do what Cuba had done. Would they have the courage to invite a group to observe the human rights situation in the prisons of their own countries? By so doing, they would be making a splendid contribution to the cause of the Universal Declaration.

62. It had also been urged that the Cuban Constitution, which had been freely adopted by the people of Cuba, should be scrutinized; that would be historically unprecedented. Those who had made such a demand had apparently forgotten the existence of something called "national sovereignty", that supreme asset which they were conveniently seeking to belittle, but which Cuba was not willing to renounce after having struggled for a whole century to obtain it. That was not a subterfuge; it should clearly be understood that, in regard to the Constitution, the Cuban Government would answer only to the people that had adopted it, and to no one else.

63. However, some delegations had expressed misgivings, which Cuba regarded as sincere, concerning certain cases of a fundamentally humanitarian nature. The Cuban delegation wished to state that a solution to those problems should be sought, in co-operation with the Cuban Government, through dialogue and agreement, and not through coercion.

64. The Cuban delegation had given a detailed reply the previous day to the principal questions contained in the Group's report or which had been raised during the discussion. Referring again to the questions concerning migration, which constituted the largest proportion (65.7 per cent) of the problems submitted to the mission, he indicated that about 21,000 persons had emigrated in 1988 and that Cuba's policy, as the authorities had explained to the Group, was not to obstruct the legal emigration of persons not falling in the exceptional category.

65. The Cuban delegation was particularly proud of having contributed to the international examination of the human rights situation in the world by setting a precedent consisting in inviting a mission from the Commission to observe how those rights were respected in a specific country. It was also pleased that the Group had been able to discharge its mandate in full collaboration with the Cuban Government. Cuba did not feel inferior to any other country in regard to its record on human rights, and no country was more resolute than Cuba in its determination to rectify any shortcomings that might be found in certain aspects of the situation in the country, whether in regard to the penal system or institutional procedures. The Cuban authorities were willing to undertake an objective study of the comments that the mission had made in its report, as well as those made by the members of the Commission during their consideration of that document. All those comments would be taken into account in the interest of the exercise and enjoyment of human rights in Cuba.

66. The CHAIRMAN said that the Commission had concluded its consideration of agenda item 11 bis.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (E/CN.4/1989/7 and 72; E/CN.4/1989/NGO/9, 29, 45 and 58; A/43/624 and Corr.1)

67. The CHAIRMAN requested the Secretariat to read out a letter it had received from Mr. Volio Jimenez, the Commission's Special Rapporteur on the Human Rights Situation in Chile.

68. Mrs. MOLINA (Secretary of the Commission) read out the letter from Mr. Volio Jimenez, the Special Rapporteur, which was worded as follows:

"... I have pleasure in acknowledging receipt of the telegram dated 1 February 1989 notifying me that the Commission has invited me in my capacity as Special Rapporteur, to submit to it, the report on the question of human rights in Chile. I regret to inform you that, following a recent major surgical operation, the physicians have strongly advised against a resumption of my normal professional activities. Consequently, I feel obliged to decline your kind invitation, trusting that you will transmit to the members of the Commission my apologies at being unable to be present at Geneva during the consideration of the question of human rights in Chile. Although I am convalescing, I have made the necessary arrangements to prepare a new report on the situation in Chile, which is contained in document E/CN.4/1989/7. This new report gives an account of my fourth visit to Chile and updates that which I submitted to the Third Committee of the General Assembly in November 1988 (A/43/624). The two reports should therefore be read in conjunction".

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12);

Report of the Special Rapporteur of the Commission on the human rights situation in Afghanistan (E/CN.4/1989/24)

69. Mr. ERMACORA (Special Rapporteur) introduced his report (E/CN.4/1989/24) which supplemented the interim report he had submitted to the General Assembly in November 1988 and contained information collected during his recent visit to Pakistan and Afghanistan in late January and early February 1989. It was the fifth such report that had been submitted to the Commission. He thanked the governmental authorities of the two countries visited for their assistance and co-operation. He also expressed gratitude to the United Nations Co-ordinator for the Humanitarian Assistance Programmes relating to Afghanistan, whose report on the situation in that country had confirmed his own findings, and to the humanitarian organizations that were endeavouring to assist the Afghan people.

70. As indicated in paragraph 11 of the report, the Special Rapporteur had not taken into account any unconfirmed rumours, speculation or hearsay, he had made no reference to non-identifiable sources and had avoided any generalization concerning certain events that had made headlines. The report that had been submitted expressed his own personal views, based on his commitment to the cause of human rights. Finally, he pointed out that his mandate required him not only to report on the human rights situation in Afghanistan, but also to make recommendations on ways of improving that situation before, during and after the withdrawal of foreign troops.

71. The principal new development in regard to the human rights situation in Afghanistan was the withdrawal of Soviet troops, which had now been completed. The Commission had repeatedly stated that their withdrawal was a precondition for the restoration of peace in that country. Unfortunately, in view of the conditions in which the Soviet troops had withdrawn and the situation that had prevailed since that time, no one could claim that peace had been restored. Moreover, the Geneva Agreements concerning a settlement of the question of Afghanistan, which constituted an important step towards the re-establishment of conditions conducive to the exercise of the right to self-determination, did not take into consideration all the human rights aspects of the situation in Afghanistan.

72. The withdrawal of Soviet troops had not been followed by an improvement in the overall human rights situation, nor in the plight of the millions of refugees who had been forced to leave the country and whose wretched living conditions unfortunately remained unchanged. In spite of the efforts of the present Afghan Government, which he himself had witnessed, there had been no large-scale return of refugees. On the basis of the statements of some refugees to whom he had spoken, he believed that the requisite conditions for the exercise of their right to self-determination could be regarded as fulfilled only when they were able to return to their country and participate in the shaping of its political destiny.

73. During his visit to Pakistan, the many refugees with whom he had been able to speak in the camps had confirmed their desire to return to their country, but on three conditions: the complete withdrawal of Soviet troops (which had now taken place), the replacement of the present Government by an Islamic Government, and the clearing of minefields, which posed a significant threat to their personal safety. During his visits to hospitals, he had noted an increase in the number of persons injured by exploding mines, which caused terrible wounds not only among fighters but also among civilians, including women and children. The present unstable situation was also preventing the refugees from returning to their country; the fighting had not ceased and would most probably continue for some time to come. The ongoing hostilities were creating enormous problems in regard to the application of humanitarian law. He had been informed that, in recent months, "Scud" missiles had spread terror among the population of the provinces in which they had been deployed.

74. He was convinced that, since the introduction of the so-called "reconciliation" policy, which had coincided with the invitation that he had received to visit Afghanistan, the human rights situation had improved in the areas under Government control. However, that did not signify that the situation was in full conformity with the provisions of the international instruments to which Afghanistan was a party.

75. As anticipated in paragraph 46 of his report, he had learned that the Afghan Government had proclaimed a state of emergency, with effect from 19 February 1989, which it justified by invoking a threat to the country's independence and territorial integrity. In accordance with article 4 of the International Covenant on Civil and Political Rights, to which Afghanistan was a party, the Government had notified the Secretary-General of the United Nations, in a letter dated 21 February 1989, of the provisions from which it had derogated, although it had not specified the date on which the

derogation would be terminated. He quoted the relevant presidential decree, which stated that the powers of the National Council in regard to the provisions of paragraphs 1, 4, 5, 6 and 7 of article 81 of the Constitution had been transferred to the Council of Ministers of the Republic of Afghanistan; that the application of articles 30, 46 and 49, the final paragraph of article 51, and article 60 of the Constitution would be restricted, that articles 44, 45 and 53 of the Constitution had been suspended; and that, in accordance with the State of Emergency Act, special security and military courts would be operating in conformity with the provisions of the laws in force and the Defence Council Act. That was a disturbing development, since any state of emergency could lead to violations of human rights and give rise to arbitrary intervention by the authorities.

76. In his view, urgent measures should now be taken to ensure respect for human rights and fundamental freedoms throughout the country, particularly the rights set forth in article 4, paragraph 2, of the International Covenant on Civil and Political Rights. Those inalienable rights from which, as everyone was aware, no derogation could be permitted under any circumstances, were: the right to life, the prohibition of torture, the inadmissibility of retroactive penal measures, the right to recognition of legal personality, freedom of conscience and religion and the prohibition of imprisonment for civil debt.

77. During his visit to the prison at Pol-i-Charkhi, he had noted that the number of detainees had increased since September 1988 and was disturbed by the fact that persons could be held and interrogated for more than 72 hours by the police and the Khad. According to the information received, cases of torture and ill-treatment were still occurring. Newly-released prisoners to whom he had spoken had told him that they had been subjected to torture and ill-treatment in prison, in spite of repeated assurances by the Afghan authorities that the persons responsible for such acts would be punished in accordance with the laws in force. Although prison conditions seemed to have improved to a certain extent, they were not yet in conformity with the minimum standards in that respect. He had been particularly disturbed by the situation of detainees awaiting trial.

78. With regard to the situation in combat areas, he had previously reported an increase in acts of terrorism, as defined in international law, both in and outside Afghanistan. Those acts were continuing and he had received oral and written testimony from reliable sources concerning executions attributed to members of opposition movements in the "liberated areas". Those cases had also been reported in the press. As indicated in paragraph 55 of the report, a number of Afghan soldiers who had surrendered, as well as civil servants and their families who had joined the resistance, had allegedly been executed by members of the opposition forces. He urged all persons in authority to put an end to those indiscriminate acts, in the same way as he had previously appealed for the cessation of indiscriminate bombardments.

79. He once again drew the attention of the Commission to the fate of prisoners of war, particularly those held in combat areas who were being used as a bargaining tool or means of exchange. He felt that an in-depth investigation of reported disappearances was required.

80. He was convinced that the assistance which was being administered so competently by the United Nations Co-ordinator would be effective only if it

was provided on a purely humanitarian basis and in a spirit of strict political neutrality. In his recommendations, the Special Rapporteur had indicated what, in his opinion, should be done by the Government and the other parties to the conflict. In conclusion, he said that, should the Commission renew his mandate, he hoped it would be for the last time, since freedom should enable all Afghans, without exception, to enjoy their full human rights. He appealed to all the parties to the conflict to work for the full restoration of human rights at all levels, regardless of the type of government that would be established in the country.

The meeting rose at 1 p.m.