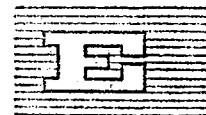


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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 40th MEETING

held at the Palais des Nations, Geneva,
on Friday, 26 February 1982, at 3 p.m.

Chairman: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 3.45 p.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(b) QUESTION OF MISSING AND DISAPPEARED PERSONS (agenda item 10) (continued)
(E/CN.4/1409, 1427 and 1492 and Add.1; E/CN.4/1982/2;
E/CN.4/1982/NGO/3 and 16; E/CN.4/1982/L.17 and L.19)

1. The CHAIRMAN said that the Commission must now decide how it was to overcome the procedural difficulties which were holding up its work.
2. Mr. MUBANGA-CHIPOYA (Zambia) said that the Commission's main role was to investigate matters brought to its attention and, in the light of the evidence placed before it, make suitable recommendations to the Economic and Social Council. In performing that role, it could not reject statements a priori, but every delegation was entitled to caution the Commission about any submission which, in its view, would prejudice a fair appraisal of the matter that happened to be under discussion. The Commission alone was competent to decide whether or not it would heed such cautions - otherwise, any member could block its work. Similarly, it was certainly competent to hear statements by accredited non-governmental organizations. The Chairman had been right to proceed as he had, although it appeared that not all members had considered the implications of the approach adopted. However, the previous meeting should not have been suspended, as the delegation of the Philippines had moved, until a vote had been taken in accordance with rule 48 of the rules of procedure. Unless the Argentine delegation was prepared to withdraw its objection to the Commission hearing the original spokesman for the International Commission of Jurists (ICJ), his own delegation would call for an immediate vote.
3. Mr. MARTINEZ (Argentina) said that his delegation had asked to speak before the previous meeting had been suspended; had it been allowed the floor immediately after the delegation of the Philippines, the Commission's proceedings might have continued. Indeed, his delegation had asked for the floor simply to say that, despite its reservations, it had no objection to completion of the ICJ's statement but would reserve its right of reply if the Commission's rules of procedure relating to statements by non-governmental organizations were exceeded.
4. Mr. KOUIJMANS (Netherlands) said that, at the previous meeting, the Commission had tacitly agreed, at the request of the Argentine delegation, that the Commission could ask for the names of spokesmen of non-governmental organizations allowed to address it. The apparent intention behind the request was that delegations wishing to do so could ascertain whether the spokesmen were in fact accredited. His own delegation, however, felt that the choice of spokesman was a matter for such organizations themselves and feared that the tacit agreement could be interpreted in such a way as to challenge the right of a non-governmental organization to take the floor - an interpretation which he strongly rejected because it was at variance with long-established practice in the Commission and other United Nations forums.

5. When the objection had first been raised, the Commission had not even discussed it. Only after the second point of order had been raised had the representative of Senegal been able to put forward his delegation's interpretation, which the Netherlands delegation endorsed. He could not agree, therefore, that the Senegalese representative's observations should have been made earlier. It was true that the procedure in question was not intended to allow politically motivated attacks on Governments, but it was almost impossible to know in advance whether statements would contain such attacks. At all events, the Commission should not depart from the practice of allowing non-governmental organizations themselves to appoint their spokesmen.
6. The CHAIRMAN said that at no time had he compelled the Commission to take a decision, tacit or otherwise, and he had always allowed members time to reconsider matters if they so wished. If he heard no objection, he would invite the International Commission of Jurists to resume its statement.
7. Mr. MacDERMOT (International Commission of Jurists) asked whether the Commission would allow him to reply to the objections raised in connection with ICJ's spokesman at the previous meeting. If it would not, ICJ would not take the floor.
8. Mr. MORENO-SALCEDO (Philippines) said that the objection, on a point of order, to a certain person speaking on behalf of a non-governmental organization had apparently been withdrawn and the organization in question wanted the Commission to hear its original spokesman. His country had always upheld the right of freedom of expression, but the members of the Commission, as representatives of States, had the right to challenge the bona fides of spokesmen representing any organization invited to address it.
9. Mr. MUBANGA-CHIPOYA (Zambia) endorsed the Netherlands representative's observations. As his delegation saw it, ICJ had been invited to address the Commission and its original spokesman was therefore entitled to take the floor.
10. Mr. JAHN (Federal Republic of Germany) said it was his understanding that the right of a non-governmental organization to take the floor was not being questioned. If the Commission believed - as his delegation certainly did - that allowing non-governmental organizations to address it was an important means of obtaining information on human rights situations, it must allow such organizations the right to appoint their own spokesmen. There was a well-established precedent for doing so, and there was no written rule empowering the Commission to judge the way in which a non-governmental organization appointed its own accredited representatives.
11. The Commission could easily find itself in a very serious situation if it sought to focus on the background of a particular person. It had no warrant to lay down criteria concerning any representative of a non-governmental organization. The Argentine delegation, like any other, had the right to state its own case whenever it disagreed with a statement made in the Commission. Hence, it was for ICJ itself to decide who should act as its spokesman; if any members of the Commission thought otherwise, a vote should be taken on the matter.

12. Mr. OTUNNU (Uganda) said that, in view of what the spokesman for ICJ and the Chairman had said, it seemed clear that ICJ should be allowed to proceed with its statement, unless it was thought that some other matter first needed clarification. But the Commission should avoid embarking on further issues which could only serve to mislead it.

13. The CHAIRMAN said that, under the rules of procedure, the right of observers to address the Commission differed from the right of members in that it was subject to invitation to do so. On each occasion, an invitation had been issued before an observer had been given the floor. Members of the Commission were entitled to raise objections to such statements by observers whenever they chose.

14. Mr. GONZALES de LEON (Mexico) said that the point was not simply whether a non-governmental organization had the right to address the Commission, but whether a particular spokesman could do so. There was no question about that right; rules 75 and 76 of the rules of procedure said nothing about appraisal by the Commission of such organizations' authorized representatives. His delegation agreed with those of the Netherlands and the Federal Republic of Germany that a non-governmental organization's choice of spokesman was a matter for the organization alone to decide. The difference between Government representatives and those of non-governmental organizations regarding the right to address the Commission was simply one of degree. The Commission could no more rule on the composition of observer delegations from non-governmental organizations than it could on that of its member delegations.

15. Since there appeared to be no objection to ICJ addressing the Commission, and since an objection had been raised on a point of order concerning ICJ's intended spokesman, the Commission should perhaps vote on the matter under rule 42 of the rules of procedure.

16. Mr. CALERO RODRIGUEZ (Brazil) said that, in his opinion, an important principle was involved, but one that it would take the Commission a long time to decide. He hoped that it would be possible to find a more pragmatic solution than fiat justitia ruat coelum. In practical terms, the difference between the views expressed was not wide. As he understood it, Mr. MacDermot wished to explain on behalf of ICJ why the Argentine representative's objections to the spokesman originally selected by ICJ were not justified. He appealed to ICJ to give the explanation in the first part of its statement. The Argentine representative had agreed not to object to that procedure and had simply reserved his right to reply.

17. The CHAIRMAN said that such was his own understanding of the situation and he would therefore give the floor to the International Commission of Jurists.

18. Mr. MacDERMOT (International Commission of Jurists) said that Mr. Mignone was a distinguished Argentine who had served as Under-Secretary of State for Education between 1969 and 1971 and as Rector of the University of Luján from 1973 to 1976. He was President of ICJ's Argentine affiliate, the Centre for Legal and Social Studies (CELS) in Buenos Aires. For some years, it had been a rule that ICJ's spokesmen must be members of ICJ itself, the international secretariat or an affiliated national organization.

19. The Argentine representative had raised three objections to Mr. Mignone taking the floor, the first being that he had already supplied evidence to the Working Group and, therefore, the Commission knew in advance what he would say. Mr. Mignone's statement was intended to supplement the statement which he had already submitted both to the Working Group and to the Inter-American Commission on Human Rights, a statement that had been published in Argentina. The second objection was that Mr. Mignone was under judicial investigation for alleged violation of Act No. 14031, which made it an offence to demand political or economic sanctions against the Argentine State. The police had indeed accused him of contravening the Act, alleging that in his statement to the Working Group he had demanded sanctions against Argentina. That was quite false and Mr. Mignone had already categorically denied the charge during the inquiries conducted by the Federal Criminal Judge, acting as examining magistrate. The police had adduced no evidence to support their charge, Mr. Mignone had not been committed for trial and he was expecting the judge to dismiss the case. The third objection, namely, that Mr. Mignone had been arrested on a previous occasion, was true. Mr. Mignone had indeed been arrested, together with four lawyers working for CELS, on 27 February 1981 on a charge of possessing a document prejudicial to the security of the State. The document in question had been a map marking the location of military offices. The judge had dismissed the case and the prosecution's appeal against the verdict had likewise been dismissed.

20. In the circumstances, there were no grounds for refusing to hear Mr. Mignone, who should be allowed to make a statement on behalf of ICJ.

21. Mr. MARTINEZ (Argentina), speaking on a point of order, said that the account of his earlier statement had been distorted. He had not made any personal attack on Mr. Mignone, who was a most respectable individual. His remarks had concerned Mr. Mignone's position with regard to the Argentine Government, as displayed before the Working Group and the Argentine Courts. It was a contravention of the Economic and Social Council's rules of procedure to allow a speaker with a known political position to take the floor. Mr. Mignone was currently under judicial investigation for his activities and the final decision on his case, which he (Mr. Martínez) had no wish to prejudge, had not yet been taken. In mentioning Mr. Mignone's previous arrest, he had merely been citing some background information given by the Chairman of the Working Group.

22. If the Chairman of the Commission decided that Mr. Mignone should be allowed to make his statement, such a course would be contrary to the rules of procedure and his delegation would raise the matter in the Commission and in other United Nations forums.

23. Mr. MIGNONE (International Commission of Jurists) said that he was speaking on behalf of ICJ in his capacity as president of one of its affiliate organizations, CELS. He had also been one of the direct victims of the indiscriminate repression practised by those who held power in Argentina. In 1976, one of his daughters had been arrested at his house and in the presence of her family by officers of

the armed forces. Subsequently, the military Government had refused to issue any information as to her fate. The same thing had happened to thousands of Argentine citizens who had disappeared under similar circumstances since that date.

24. The Working Group had performed a difficult task in handling an impressive amount of sometimes conflicting information, in a field which was particularly sensitive for some Governments. As the Inter-American Commission on Human Rights had also established, there was clear proof from the information available that, in the vast majority of cases, those responsible for the disappearance of persons were officials or agents of the State security services. In the Revolutionary People's Republic of Guinea, for example, as ICJ had informed the Working Group, a dozen people had been officially arrested in 1970 and 1971 but the Government had always denied the fact and the families were never informed as to the fate of the prisoners. It was only in January of 1982 that a French member of parliament who took up the case was notified officially by the Conakry authorities that all the individuals concerned had been judged, convicted and secretly executed 10 years previously.

25. ICJ had also looked into disappearances and murders of lawyers in Guatemala. In many instances, the mutilated corpses of lawyers were found on the public highways and the circumstances surrounding the abductions pointed to the participation or complicity of agents of the State security forces.

26. In the case of the Argentine Republic, the military Government's persistent refusal to provide information about the thousands of missing persons, often arrested before witnesses, was in itself a violation of a basic human right. There was no hope of peace, reconciliation and democracy without truth, justice and freedom. One of the founder members of the military Government, Admiral Riveros, had made it clear in a speech in Washington in 1980, also reported in Argentina, that the repressive measures had always been enforced by regular units of the armed forces and security services, acting on written instructions from their commanders-in-chief transmitted through headquarters. Admiral Riveros had further stated that it had never proved necessary to call on para-military or para-police groups. The secret orders issued by the commanders-in-chief of the three armed forces in September 1975, which had become fully operational from March 1976 onwards, were still in force and authorized units to conduct clandestine operations without any moral or legal constraints. It would be impossible to return to a situation in which human rights were respected until the system was abandoned and the Constitution and the rule of law prevailed.

27. Lastly, ICJ hoped that the Working Group's mandate would be renewed. It should be given greater powers, including the capacity to act in emergency cases and, subject to the prior authorization of the Governments concerned, to conduct on-the-spot investigations. It would also be desirable if the Working Group could deal with specific cases of missing persons and provide information on them.

28. Ms. COSTERMANS (International Movement for Fraternal Union among Races and Peoples) congratulated the Working Group on the clarity and depth of its report (E/CN.4/1492). It was clear from the increase in the widespread phenomenon of missing persons that the international community could not relax its efforts, for anyone might share the same fate tomorrow. Her organization had particularly noted the cases cited by the Working Group of disappearances of young children and hoped that the Commission would take measures to put a stop to that development, which was an affront to all mankind. Fortunately some Governments had co-operated with the Working Group to clear up a number of cases and she trusted that by the next session, all the parents in the cases documented would be reunited with their children.

29. Attention should be drawn to two specific cases of violations of human rights in Equatorial Guinea. The first was that of two senior servants of the Ministry of Foreign Affairs who had been imprisoned, tortured and then dismissed for maintaining contacts with the United Nations Division of Human Rights. The second was the case of 350 political dissidents who had been arrested in April 1981 but still had not been brought to trial.

30. It was plain that the Working Group should not only be maintained but should also be provided with the necessary staff, funds and greater legal powers. In addition, it was to be hoped that the States concerned would agree to co-operate with the Working Group.

31. Mrs. ALMEIDA de QUINTEROS (Pax Romana) said that her organization was an international Catholic movement of students and intellectuals which participated in the mission of the Roman Catholic Church in the world. Hence it shared the Commission's concern with human rights: Pope John Paul II had repeatedly stated that peace among men could only come about as a result of true respect for the rights fundamental to the human condition. Any violation of human rights was to be viewed as a personal injury to everybody. She wished to thank the Working Group for its efforts to mitigate the terrible phenomenon of disappearances, including those of young children, and she deeply regretted the departure of Mr. van Boven, Director of the Division of Human Rights, whose impartial work had encouraged her organization to continue to co-operate with the United Nations.

32. "Disappearances" were becoming a universal practice: complaints had been received from 22 countries and territories on four continents, and a large number from Latin America in particular. Generally speaking, there was a lack of response from Governments, which did not pay sufficient heed to the repugnance that had been expressed throughout the world. In the report under consideration, the Argentine representative had maintained that it was no longer possible to speak of missing persons as a current phenomenon in Argentina, but the recent case of Ana María Martínez showed that the practice still continued there. Again, in annex XVI of the report, the Uruguayan representative had recognized that some persons were missing in his country. In the case of Julio Castro, he had stated that Castro had left the country but had failed to add that no one had seen him since his disappearance in Montevideo on 1 August 1977. The Uruguayan representative had acknowledged three cases of people who were still missing, including the case of her

own daughter, Elena Quinteros, but had maintained that the Government was not responsible. Statements had been submitted to the Working Group by witnesses to the abduction of Elena Quinteros by Uruguayan forces from inside the Venezuelan Embassy. Similarly, a witness who had been held with her daughter in a secret detention centre had given the names of some of the persons responsible for the abduction. Such examples obviously highlighted the general problem. How could the Commission guarantee that the right of the relatives to know the whereabouts of missing persons would be respected in future if Governments did not admit responsibility, made no serious attempt to investigate cases and refused to admit members of the Working Group to their territory?

33. Her organization requested the Commission to renew the Working Group's mandate and to give it increased powers and better resources. Moreover, the Working Group should directly inform the families of missing persons of the results of their representations to Governments.

34. Mrs. MORALES de CORTINAS (Pax Christi International) said that her movement was seriously concerned with the tragic disappearances in Latin America and she wished to bear witness to a specific case.

35. She was one of the Mothers of the Plaza de Mayo and had spent the past five years searching for her son. On 15 April 1977, he had left home to go to work and had not been heard of since that time. That very night, several heavily armed men claiming they were from the police had searched her home and told the family not to make a complaint. Nevertheless, she had gone to the local police station, where they had first refused to accept her complaint and had then told her that they knew about the case. She had never received any reply from the police. She had then lodged a writ of habeas corpus, without the assistance of a lawyer, for few lawyers were willing to sign such complaints. Indeed, many had disappeared for having done so. The Government always responded to the writ of habeas corpus through the judges, saying that her son was neither detained nor being sought at the time of the submission of the writ, something that made it necessary for her family to continue to lodge writs in order to determine whether any new developments had occurred in the meantime.

36. Whenever she denounced that case of unlawful deprivation of liberty before the courts, no one was ever found guilty. She had searched for her son everywhere, including prisons, hospitals and military establishments, and had turned to the Church but always without any success. In her visits to Government offices, hospitals and military units, she had come into contact with other mothers who were in the same dramatic situation. They had finally decided to unite and to demand the release of their sons at the Plaza de Mayo, in front of the Government House. She had been arrested there on several occasions, along with other mothers. Sometimes she had been subjected to violent treatment and had once been placed in a cell with the corpse of a young man.

37. Her organization, which was striving for peace, supported the efforts of the Working Group on Enforced or Involuntary Disappearances and requested that the Group's mandate should be renewed and that a representative of the Group should be sent to Argentina to study the situation on the spot.

38. Mr. MARTINEZ (Argentina), speaking in exercise of the right of reply, said that he had been opposed to giving the floor to the representative of a non-governmental organization because there had been valid reasons to believe that that representative's statement would be politically motivated. It was obvious that he had not been mistaken. In his delegation's opinion, the Commission was faced with a situation that was of vital importance to its future. Not only Economic and Social Council resolution 1296 (XLIV) but also many other resolutions of the United Nations pertained to the question of relations between non-governmental organizations and the United Nations and, in that connection, he wished to draw attention to paragraph 3 (a) of Economic and Social Council resolution 1919 (LVIII). It was clear that the Commission was hardly abiding by the standards observed in the United Nations system. Infringements of the relevant standards by the Commission would not help to promote respect for human rights. The members of the Commission were representatives of Governments, which had an important role to play in the protection of human rights and, without the presence of the representatives of States, no useful dialogue could be undertaken.

39. It was contradictory that the very people who brought individual cases before the Commission maintained that they were in favour of extending the mandate of the Working Group. However, if the Commission dealt with individual cases, there would be no need for a Working Group. Those who spoke on behalf of non-governmental organizations should ponder carefully what they were doing, for if they changed the existing procedures in the Working Group and the Commission, they would not be furthering their cause. He was well aware of the personal tragedy which the individual cases represented, but considered that presentation of them in the Commission would be counter-productive. If the Commission was going to be used in the future as a public sounding-board for individual cases, his delegation was of the opinion that the Commission would have to review its mandate.

40. Mr. GIAMBRUNO (Uruguay), speaking in exercise of the right of reply, drew attention to the record of unfailing co-operation between his Government and the Working Group, a record his Government would continue to maintain despite the small number of disappearances in Uruguay. It should be noted that the disappearances in question had in fact occurred during a period of armed violence in his country and that his authorities had made serious efforts to shed light on them. He sympathized with the representative of Pax Romana, who had informed the Commission of the concern expressed by the Government of Uruguay in connection with the case mentioned by her.

41. With regard to other cases, his Government had no additional information to provide, but the competent authorities were still proceeding with their inquiries. His Government was concerned at all times about the fate of any Uruguayan citizens who were missing, and it had no need to be spurred by action at the international level.

42. Lastly, his delegation commended the Working Group on its activities and wished to assure it of his Government's continued co-operation.

43. Viscount COLVILLE OF CULROSS (Chairman, Working Group on Enforced or Involuntary Disappearances) said that he first wished to thank all those who had congratulated the Group on its work and to point out that, in carrying out their duties, the members of the Group acted as individual experts and not as members of the Commission representing their respective Governments. Needless to say, all members of the Group and the Secretariat were well aware of the delicate nature of the subject-matter. They had always been conscious of that fact and they appreciated the co-operation extended over the past year by many Governments and the promises of continued co-operation. Before approaching any Government, the Group always sent a letter on the alleged disappearances in question, indicating that it had in no way made up its mind and requesting the Government to co-operate in an investigation of the disappearances. The Group's approach was summarized in paragraph 6 of its report (E/CN.4/1492). Clearly, the Group had to consider the question of the selection of cases in order to be sure that it did not transmit to Governments anything that might be unsuitable for their attention. It would be seen from paragraph 182 of the report that, although countries had their own constitutional and legal systems which could be invoked in the case of a disappearance, they had proved in some instances to be ineffective and the Group gave the reasons for that situation.

44. The discussion in the Commission had been most constructive. Some delegations had expressed the wish to have their Government removed from the list and he stressed that nothing would give the Group greater pleasure than to do so. Lastly, the Group would study all the comments made in order to improve its next report if its mandate was renewed and do its utmost to carry out its task as efficiently as possible.

45. Mr. SABZALIAN (Observer for Iran), speaking in exercise of the right of reply, said that the people of his country had made great sacrifices to attain freedom, independence and establish an Islamic Government, a Government so popular that it had no need or wish to resort to arbitrary executions. It should be remembered that nearly all of his Government's officials had been subjected to torture by the régime of the former Shah, who had been supported by the United States. An indication of the popular support for the Islamic Republic of Iran was the fact that, of a total population of about 40 million, nearly 17 million people had participated in the elections and more than 16 million of them had voted for Mr. Khomeini as President after the assassination of President Rajai by terrorists. The philosophy of the Islamic Revolution, for which his country had paid and was continuing to pay a heavy price, was the establishment of a social order organized in keeping with the tenets of Islam, and article 20 of the Constitution stated that every individual citizen of the nation, whether female or male, had equal protection under the law and all human, political, economic, social and cultural rights were based upon Islamic precepts.

46. The sources for the report of Amnesty International were of dubious authenticity. However, one thing was certain, namely that the sources included opponents of the Islamic system in Iran and therefore used every possible means to destroy the reputation of not only his Government but of Islam as well. The use of such sources certainly destroyed the validity of the report of Amnesty International. Indeed, the representative of Amnesty International had exceeded his mandate and had insulted the very basis of Islam and Islamic jurisprudence, but it should be borne in mind that 98 per cent of the electors in his country had voted in support of its Constitution and legal system.

47. Amnesty International had recently announced that more than 4,000 Iranians had been killed since the Islamic Revolution and had made that assertion at about the same time as a bomb planted by a United States-supported terrorist group had exploded in Teheran and killed 15 innocent people and injured 65 others. It was his sincere hope that the announcement had not been intended in any way to reduce the impact of that tragic event. In all fairness, Amnesty International should also have mentioned that more than 1,000 elected and Government officials in Iran had been murdered by agents of zionism and United States imperialism. Again, Amnesty International had not said a word about the fact that many of those killed had earlier murdered tens of thousands of innocent persons under the reign of the Shah and during the course of the revolution. The comments of the representative of Amnesty International had been reminiscent of the Voice of America, the BBC or the Voice of Radio Israel, which also sought to defend the rights of former agents, such as the head of the secret police, who had been responsible for torturing and murdering thousands of Iranians whose only fault had been to defy the Shah, and strive to establish a Government based on Islamic jurisprudence.

48. Mr. AL-KAISY (Iraq), speaking in exercise of the right of reply, said that at the previous meeting the observer for Amnesty International had alleged that political executions had taken place in Iraq in 1981, that no defence counsel was allowed and that no appeal to the ordinary courts of law was possible.

49. It was hardly necessary for him to defend his country against those baseless allegations, which had already been refuted in the information supplied to Amnesty International in direct contacts with the competent Iraqi authorities, which had expressed their readiness to clarify any matter on which Amnesty International wished to have clarification. In fact, according to that organization, for the purposes of previous reports it had often received misleading information about Iraq, including false names and incidents that were mere fabrications.

50. The report by Iraq contained in document E/CN.4/Sub.2/444/Add.1, of 6 June 1980, gave the real facts concerning trial procedures in Iraq and Iraqi legislation relating to detainees and prisoners. One of the fundamental objectives of the Iraqi Constitution was the protection of human rights and article 22 (A) specified that the dignity of man was to be ensured and that any practice or any act of mental or physical torture was prohibited. The Act on the Reform of the Legal System defined protection of the freedom, safety and dignity of all citizens against abuses as one of the general principles of penal legislation. Punishment of criminals was a deterrent but was also intended to rehabilitate persons convicted of crimes, with the exception of crimes affecting the security of the State, the rights of the people and loyalty to the homeland.

51. Under the legislation governing the legal profession in Iraq, a lawyer was entitled to have access to all official and semi-official departments, including prisons, to receive at all times the attention befitting his status, to be supplied with all facilities required for the performance of his duties, in particular to inspect the file on the person he was defending, as well as all the documents in the case, and to be present at the questioning of the accused. Those particulars clearly revealed that the statement by the observer for Amnesty International did not reflect the true facts.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (A/36/594; E/CN.4/1484)

52. Mr. DIEYE (Special Rapporteur on the situation of human rights in Chile), introducing his report of 20 January 1982 (E/CN.4/1484), said that it had to be read in conjunction with his report of November 1981 to the General Assembly (A/36/594), which it supplemented and brought up to date. At its thirty-fifth session, the Commission had decided to appoint him as Special Rapporteur and, in that capacity, he had previously submitted two annual reports. In each case he had indicated the methods used to arrive at his conclusions, focusing particularly on the methods of investigation used, bearing in mind the fact that he had not been able to proceed to Chile and examine the situation on the spot for the purposes of the reports.

53. He had had the privilege of visiting Chile in 1978, when a sovereign country had for the first time in the history of the United Nations freely agreed to receive an investigating group and enable it to shed light on the human rights situation. Unfortunately, relations between the Chilean Government and the United Nations system, and particularly the Commission on Human Rights, had since been broken, for reasons that were known to all. He was convinced that, whatever the country involved, the best approach for clarifying any situation regarding human rights was to engage in close co-operation with the Government concerned. The Commission had the obligation to make every effort to ensure that such co-operation was effective, so as to obtain the maximum amount of information and aim at improving the situation and, if possible, completely eliminating all violations.

54. It was in that spirit that, ever since his appointment as Special Rapporteur, he had taken all possible steps to establish co-operation with the Chilean Government. His efforts had been in vain, since the Chilean Government considered it was being subjected to discriminatory measures and, in the United Nations system, it was not conceivable that a particular country should form the object of repeated investigations when other countries that failed to respect human rights did not receive the same attention from the international community. Such reasoning seemed plausible, but only at first sight.

55. The human rights situation had to be examined on a global basis and suitable machinery must always be sought to determine the situation in whatever country was concerned. Naturally, the Commission should not concentrate attention on a single country to the exclusion of all others, since what was valid for one country was ipso facto valid for all. Nevertheless, it was essential to determine the most appropriate measures in each particular case and it did not necessarily follow that the same measures should be taken in every instance. The argument that there was inequality of treatment in respect of Chile was therefore unfounded.

56. He had been entrusted with a specific mandate for a particular country and, in the light of the information and evidence available, it had to be recognized that the human rights situation in Chile had not improved. He would have been the first to welcome any proof by the Chilean representatives that there was some inaccuracy in the facts recorded in his report, which drew on many sources: statements of witnesses whom he had himself heard, official statements of representatives of the Chilean Government, newspapers published in Chile, and a variety of other data.

57. The reason for the unsatisfactory situation in Chile lay in the great structural changes which had been initiated in September 1973. The series of decree-laws enacted at that time had been examined by the Ad Hoc Working Group, which had arrived at the conclusion that most - in fact nearly all - of them violated the provisions of the International Covenants. That legislation had later been consolidated into a fundamental law containing a number of provisions which unquestionably made for violations of human rights. They were applied in the context of the simultaneous application of two states of emergency, the first introduced in 1973 to replace the earlier state of siege, and the second introduced in 1981 on the basis of a provision of the new Constitution enabling the President to declare an exceptional state of emergency due to threats to internal peace. Admittedly, Chile was a party to the International Covenant on Civil and Political Rights, article 4 (1) of which enabled a State Party, "in time of public emergency which threatens the life of the nation" to take measures derogating from the provisions of the Covenant, provided there was no discrimination, but article 4 (2) clearly specified that: "No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision". The available evidence indicated that there was no such public emergency threatening the life of the nation to warrant the perpetuation of two states of emergency, which amounted to a state of siege. Of course, any sovereign Government could take measures to deal with disturbances, but it was plain that no situation of that kind had existed in Chile for 10 years. According to a statement by a Chilean representative quoting the President of the Republic himself, the situation in Chile was quiet, there were no more disturbances and institutions were functioning normally. If that was indeed the situation, clearly the Government should put an end to the state of emergency.

58. Under the provisions of the state of emergency, persons could be arrested without a warrant and they were sometimes subjected to ill-treatment and even torture. In most instances, the judiciary was no longer in a position to protect the person under arrest. Being a judge himself, he had been particularly impressed during a visit to Chile some years ago by the powers of a judiciary working in an exemplary democracy. The current state of affairs was therefore all the more tragic, since the judiciary, if it had remained independent, would have contributed to observance of human rights. In the present situation, however, the judiciary was bypassed under the emergency powers of the Minister of the Interior, whereby a person could initially be held in detention for 20 days, a period during which much could be done against him or her. By means of the remedy of amparo, or enforcement of constitutional rights, a petition could be submitted to a court for the purpose of declaring the arrest illegal, but if the judges were informed that the person had been arrested by administrative order, they no longer had jurisdiction over the case, a fact that went to explain the large number of irregular arrests.

59. In terms of the number of arrests, there were fewer detainees than had been the case immediately after the takeover on 11 September 1973, but the considerable decline in mass arrests had recently been accompanied by an increase in individual arrests. He was deeply concerned that, with time, the methods used were being "improved", something that was particularly true with regard to torture, and he urged the Commission to denounce that extremely grave phenomenon. It was also true to say that if the police enjoyed some autonomy, guaranteed if necessary by an independent judiciary, the present situation would perhaps have been avoided. However, the DINA, created in September 1973, had been disbanded, but had been replaced by a new force called the CNI, which used similar methods. In fact, many officers had been transferred from the DINA to the CNI and the new force played a large part in the violations of human rights. Again, the jurisdiction of courts martial had recently been revived and such courts afforded no guarantees of due process and no proper facilities for the defence of the accused.

60. The situation in the prisons had commanded particular attention by the Ad Hoc Working Group in 1978. The then Minister of Justice had undertaken to separate the political prisoners from ordinary prisoners and that measure had been fully implemented. Now, several years later, the decision had been reversed and political prisoners were once again sharing the quarters of ordinary criminals, an extremely grave fact to which special attention should be drawn.

61. Acts of intimidation, particularly against the Church, and against organs engaged in protecting human rights, were still being reported. In that connection, he had been greatly impressed at the truly exceptional role being played by the Church in particular, which deserved praise from the Commission, and by certain human rights bodies. In Chile men and women were courageously facing great risks, and sometimes being killed or tortured, in the defence of human rights.

62. As a party to the International Covenant on Civil and Political Rights, Chile was under an obligation to observe article 12 thereof, concerning the right to reside in, enter and leave one's country. There again, in 1978 a firm commitment had been obtained from the Chilean authorities to respect that right, but the authorities had since reversed their position. Chileans were being expelled from their own country purely on the grounds that their ideas were dangerous for the Government. Such expulsions constituted a grave violation of human rights and called for the attention of the Commission.

63. Some 600 persons were still missing or had disappeared, in some cases since 1974. The Chilean Government had been requested to co-operate to ensure that the persons in question were identified and their whereabouts ascertained, but those appeals had not been followed by any concrete effort. The position at present was that numerous secret burial grounds had been uncovered, each containing 10, 20 or even 30 dead bodies. In a number of cases, judges had taken legal steps to clear up the mystery and whenever they reached the point of identifying the persons responsible, the proceedings were abruptly brought to a halt. As a result, absolute silence surrounded the question of the fate of those 600 persons.

64. There was a tendency in many quarters to present the situation in Chile as one that formed part of the question of human rights violations as a whole and specific proposals had been made to turn agenda item 5 into a more general item. As he saw it, the important issue was to bring the Chilean Government to co-operate with the Commission. The fact that situations in other countries were examined within the framework of a general item did not mean that the Chilean situation should be examined in the same way. When the Chilean problem had first come before the Commission, it had undoubtedly been a specific situation and the Commission had taken the appropriate steps in connection with it. The human rights situation in Chile was perhaps no worse than that in some other countries, but it had particular features that had led the Commission to take certain particular measures. Subsequently certain decisions had been adopted with regard to a large number of countries within the framework of agenda item 12. Any change of approach would be warranted only if it induced the Chilean Government to co-operate with the Commission. The fact remained, however, that the situation in Chile did not justify any relaxation of vigilance on the part of the Commission.

65. Mr. JERKIC (Yugoslavia) noted with regret that the report by the Special Rapporteur (E/CN.4/1484) again indicated a pattern of gross violations of human rights in Chile in 1981. Two aspects of the problem were particularly disquieting. The first was the failure by the Chilean authorities to reply to the Commission's request for measures to respect and promote human rights, along with their continued refusal to co-operate with the United Nations and to respond to the concern expressed by the international community at human rights violations, especially in the case of missing persons, and to the appeals by the General Assembly for measures conducive to a normalization of the situation. The second reason was the worsening of the situation in Chile itself. The new Constitution contained numerous discriminatory provisions based on political assessments which could jeopardize the human rights of many citizens and also made provision for a parallel introduction of two martial laws which conferred exceptionally broad powers on the President of the Republic, to the detriment of civil and political rights.

66. The number of individual arrests had increased during the period covered by the report, the right to a defence was still curtailed, and it was disturbing to note the number of threats being made against lawyers, physicians and others who were defending human rights and freedoms. One problem was the justifiable suspicion concerning the veracity of official statements concerning the cause of death of particular persons, more particularly because it was the security service which usually issued such statements.

67. New restrictions had also been introduced in academic life, for students who had expressed their disagreement with official policy had been expelled from or denied access to the universities. Again, considerable concern had been caused by the enactment of laws which endangered trade union rights. Judicial monitoring of employment contracts, which had previously afforded some protection to the rights of workers, had been abolished and the new regulations conflicted with articles 7, 8 and 9 of the International Covenant on Economic, Social and Cultural Rights. In view of the fact that the bulk of the new regulations was to be in force for a period of eight years, in other words, the duration of the President's mandate, the prospects for improving the human rights situation appeared gloomy indeed. Accordingly his delegation fully supported the Special Rapporteur's recommendations contained in the report to the General Assembly (A/36/594).

68. Mr. KOOLJMANS (Netherlands) said that his delegation would be among the first to submit a draft resolution to the effect that human rights violations in Chile had ceased, if only the situation allowed it to do so. Representatives of the Netherlands were not infrequently asked by Chilean colleagues how long the United Nations involvement with Chile would last and, invariably, the answer was that everything depended on the supply of satisfactory information demonstrating that the human rights situation had improved. Unfortunately, his Government had received no such information, but merely complaints from the Chilean Government that the General Assembly and the Commission were practising selective, discriminating and illegitimate treatment. If the Chilean Government had responded to United Nations decisions and restored full enjoyment of human rights, the special procedure would already have been terminated. The argument that the situation in Chile was somewhat better than in other countries was not acceptable, for even if it were correct, it would not relieve the Chilean Government of its obligations under the International Covenants.

69. The increase in the number of applications to the court for protection against what the applicants regarded as "acts of persecution, acts which might lead to their arrest or acts which might endanger their lives and their physical integrity and safety and those of members of their families" (E/CN.4/1484, para. 125) was most disquieting. The system of intimidation established by torture and other cruel, inhuman or degrading treatment had obviously continued over the past year and he wished to make it perfectly clear that his delegation would not consider any proposal to terminate United Nations involvement with the case of Chile so long as reports of torture continued to be filed and their reliability continued to be reasonably beyond doubt. For example, it was recently reported that, instead of complying with operative paragraph 4 (d) of General Assembly resolution 36/157, calling for effective measures to prevent torture and similar practices, the Chilean Government, far from prosecuting the persons responsible, was still applying a decree-law of 1979 that pardoned all those involved in criminal acts following the 1973 military coup. As late as January 1982, a military court had dismissed legal proceedings against policemen being tried for the summary execution of some 20 people who had later been buried secretly. In the same month, some 30 persons who had simply been exercising their right to freedom of expression had been arrested after the funeral of former President Eduardo Frei. Hence, the Chilean Government had not complied with the General Assembly's call, in the same resolution, for an end to arbitrary detentions.

70. Similarly, the Special Rapporteur had found that the situation of the indigenous inhabitants was deteriorating (A/36/594, para. 490), but the Chilean Government continued to dispossess the Mapuche people of their property, and to adapt them to alien methods of work and economic relationships on the basis of manifestly discriminatory legislation. Moreover, in February 1982, 15 university students and some 40 Mapuche agricultural workers had been arrested at a meeting to discuss their problems. To enable the Commission to express its concern at the attitude of the Chilean Government, his delegation and others would be submitting a draft resolution whereby the Commission would, inter alia, decide to continue its monitoring function and to extend the mandate of the Special Rapporteur for another year. In that connection, his delegation was grateful to the Special Rapporteur for his willingness to assist the Commission during the coming year.

71. Mr. ZORIN (Union of Soviet Socialist Republics) said that more than eight years had elapsed since the military fascist takeover on 11 September 1973, but the Chilean junta régime was still stubbornly pursuing the policy and the practice of violating all human rights without exception - political, civil, economic, social and cultural. The tragic plight of the freedom-loving and industrious Chilean people was a cause for concern and indignation to decent people throughout the world, irrespective of their political, religious or other convictions. Many States with different social and economic systems, including members of the Non-Aligned Movement, had expressed strong condemnation of the Chilean fascist junta and its crimes.

72. The world public was keenly aware that the fascist coup in Chile had been achieved with the help and support of external imperialist forces. Sections of the United States administration, in collusion with United States giant monopoly concerns angered by the nationalizations carried out by the Popular Unity Government, had exerted every form of economic and other pressure upon the Government in order to destabilize the country and pave the way for a military takeover. The direct involvement of United States imperialist forces in the overthrow of the Popular Unity Government and the establishment of a fascist dictatorship in Chile had been publicly confirmed by the United States representative at the Commission's 1977 session. As the Non-Aligned Movement had repeatedly pointed out, the imperialist policy of interference in the domestic affairs of States posed a serious threat to many countries, especially developing countries. It was significant in that connection that the Chilean junta, wishing to show its gratitude to those who had helped it to seize power, had transferred many nationalized enterprises into the hands of United States monopolies and had created conditions in Chilean industry which enabled the new owners to intensify their exploitation of the workers and to extort ever greater profits.

73. The latest report on the question of human rights in Chile (E/CN.4/1484) confirmed, on the basis of fresh information, all of the conclusions contained in the previous report to the General Assembly (A/36/594) and the Special Rapporteur was to be commended on his efforts in fulfilling his mandate. In the period since 11 September 1973, tens of thousands of Chileans had lost their lives, many thousands

had been crippled as the result of torture, and millions had been deprived of their rights and were forced to live in a lasting climate of fear and intimidation. Year after year, the General Assembly, the Economic and Social Council, the Commission on Human Rights and other United Nations bodies adopted resolutions demanding the immediate and unconditional cessation of the Chilean junta's crimes. In that respect, he particularly wished to draw attention to General Assembly resolution 36/157. Yet it was clear that the Chilean junta still openly ignored the just demands of the United Nations and the public throughout the world and refused to have anything to do with the Commission's Special Rapporteur, despite the fact that Chilean representatives had formally endorsed his appointment and his mandate.

74. The latest report fully demonstrated that the human rights situation in Chile had not only failed to improve but was actually deteriorating in some respects. The entry into force of the so-called new Constitution contained discriminatory provisions that were based on political considerations and led to violations of fundamental human rights. At the same time, the judiciary did not really protect the victims of arbitrary measures and the practice of arbitrary arrests, a typical feature of late being the increase in arrests among the relatives, colleagues or friends of previously arrested or wanted individuals, was being continued. Even small children, pregnant women and elderly persons were subjected to arbitrary detention and used as a means of pressure to obtain information from parents, spouses or other relatives. Fresh data showed that the junta's authorities continued to apply torture to detainees, including women and children, and, as a means of mass repression, to engage in the monstrous practice of declaring that persons arrested on political grounds were "missing". Moreover, as far as the poorest sectors of the Chilean population were concerned, recent legislation had abolished various safeguards for the economic and social rights of workers, so that a further deterioration in living and working conditions could be expected. The Special Rapporteur was entirely justified in once again expressing deep concern in connection with the pattern of gross violations of fundamental human rights in Chile.

75. The Soviet people, like the international community as a whole, resolutely condemned the flouting of all fundamental human rights by the Chilean junta and insistently demanded an end to human rights violations in Chile. Needless to say, so long as the Chilean junta failed to mend its ways, the United Nations as a whole, and the Commission in particular, should continue to devote the closest attention to the problem. His delegation hoped that the Commission would take further effective measures to stop the practice of gross violations of human rights in Chile, thereby contributing towards the early cessation of repression and persecution in that country.

76. Mr. TAFFAR (Algeria) said that the Commission, reflecting the concern of the international community, had been considering the question of human rights in Chile as a priority item since 1975, and it could not remain indifferent to the continuing deterioration in the human rights situation in a country where revolting practices were being daily perpetrated by a military junta against the civilian population and where torture, sham trials, unjust punishments and arbitrary arrests were rife. The worsening situation in Chile was in fact amply demonstrated in the remarkable report (A/36/594) by the Special Rapporteur and, despite the dilatory tactics of the Chilean authorities, the Special Rapporteur - and also the Expert on the Question of the Fate of Missing and Disappeared Persons - had been able to discharge their tasks admirably. In 1981, the Chilean authorities had once again refused to co-operate with the Special Rapporteur, an attitude that was unquestionably an obstacle to the search for a solution and displayed marked indifference to the work of the Commission.

77. The General Assembly and the Commission had never ceased to express their profound concern at the deterioration in the human rights situation in Chile, the modifications in the traditional legal system and institutions and the prevailing repression, and it was all too apparent from the report that the régime showed no inclination to introduce the reforms required to eliminate flagrant violations of human rights. Indeed, the new Constitution, which had entered into force in March 1981, gave the military authorities supremacy in the exercise of power, thereby institutionalizing a military Government that had initially been imposed as a provisional measure. A new state of emergency, based on the threat to internal peace, had been proclaimed under the transitional provisions of the new Constitution and had been superimposed on the state of emergency enforced without interruption since 1973. The simultaneous application of those two states of emergency had the effect of greatly restricting the exercise of fundamental human rights. It should also be noted that, in spite of a decline in the number of mass arrests, the number of individual arrests had distinctly increased and persons arrested illegally were often subjected to cruel, inhuman or degrading treatment. Moreover, the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1492) revealed that the fate of 600 persons arrested by the authorities in Chile and subsequently reported missing was still unknown. Again, the Chilean Government had not shown any willingness to co-operate in clearing up that matter.

78. As to the question of outside support for the Chilean military Government, the 9 February 1982 issue of the newspaper "The Observer" had stated that the South African Government had sold modern anti-aircraft missiles to the Chilean junta. Furthermore, relations between South Africa and Chile were growing closer and a new South African ambassador, Mr. Dutton, had been appointed in 1981. Economic aid amounting to over \$US 15 million had also been provided by South Africa for copper mining in Chile and two South African companies had announced an investment of \$US 8 million in a Chilean fisheries programme. Such a natural alliance between the Chilean Government and the world champion in the violation of human rights confirmed the criminal intentions shared by the two régimes in their policy of denying the population's right to life. Hence it was imperative for the Commission to continue to accord special attention to the present item and to ensure the application of General Assembly resolution 36/157, inviting it to extend the mandate of the Special Rapporteur and urging the Chilean Government to co-operate with the Special Rapporteur and ensure full respect for human rights and fundamental freedoms in accordance with its international obligations.

79. Ms. DERMENDJIEVA (Bulgaria) said that, for many years, both the Commission and the General Assembly had demonstrated the justified concern of the United Nations at the policies of the fascist military junta in Chile, which had seized power in a coup d'état against the constitutionally elected Government of President Allende with the connivance and active support of the CIA and such monopolies as ITT. It was undeniable that, after 1973, massive and flagrant violations of human rights

had been committed against the Chilean people. The fact that the Commission had terminated the mandate of the Ad Hoc Working Group in 1979 and appointed a Special Rapporteur on the human rights situation in Chile could not be interpreted as meaning that the Commission and the General Assembly showed any less concern with the continued policy of gross violations of human rights in Chile.

80. Her delegation wished to congratulate the Special Rapporteur on his reports to the General Assembly (A/36/594) and the Commission (E/CN.4/1484), reports which revealed that no improvements had occurred and that the Chilean Government was still contemptuous of the relevant decisions of the United Nations, and still refused to co-operate with the Special Rapporteur. In his report to the General Assembly, the Special Rapporteur had referred to the simultaneous imposition of a state of emergency and the "exceptional state of emergency due to threats to internal peace", adding that the declaration of two types of states of emergency was in violation of Chile's international commitments, because the country was not in a public emergency threatening the life of the nation, a condition which, according to article 4 of the International Covenant on Civil and Political Rights, must be met in order for the State to be authorized to restrict the full exercise of human rights (A/36/594, paragraph 43). The background to that statement was the sequence of arbitrary arrests, torture, executions, disappearances, prosecutions by courts martial and acts of persecution and intimidation. No legal façade could screen or obscure the character of the dictatorship. Laws were being enacted and electoral farces were being staged with the aim of legitimizing the régime of fascist terror. The new Constitution had been adopted in 1981 under a state of emergency illegally imposed by the fascist junta and, obviously, it could not be regarded as a true expression of the free will of the people of Chile.

81. The same report indicated that the practice of torturing detainees had been institutionalized and that staff specializing in torture included doctors who monitored the state of the victims and advised the torturers. The security agencies enjoyed exceptional prerogatives and impunity for crimes committed against political opponents and had even acquired the right to commit offences, otherwise punishable by law, on the pretext that they were essential to safeguard public order. World public opinion still shuddered at the assassination, by agents of the Chilean junta, of Mr. Orlando Letelier, who had been the Minister for Foreign Affairs in the Allende Government. The report also confirmed that there were missing persons and arbitrary executions in Chile and proved the complicity of the fascist junta with the perpetrators of such crimes, since it was the only possible explanation for the decision of the military court of 8 June 1980 to grant the benefit of amnesty to all identified murderers of people who had been considered as missing until their bodies had been found.

82. The most recent report (E/CN.4/1484), and more particularly the chapter on trade union rights, showed without doubt which interests the military régime in Chile was serving, namely, the interests of imperialist monopolies that ran counter to those of most of the Chilean population. In order to provide more favourable conditions for international and local capital, the economic and social rights of the Chilean working people were being systematically violated. The State social security system had been scrapped, allocations for public health and educational facilities had been cut, the activities of the trade unions had been curtailed and

legislation had been enacted to abolish various safeguards for the economic and social rights of workers, facts that unquestionably demonstrated which social strata and which international interests were benefiting from the blatant violations of human rights in Chile.

83. Her delegation warmly endorsed the Special Rapporteur's recommendation that the international community should continue to give its attention to the human rights situation in Chile and use whatever means it deemed appropriate to ensure the full restoration of those rights (A/36/594, para. 521) and had supported General Assembly resolution 36/157, which, inter alia, had invited the Commission to extend the Special Rapporteur's mandate for another year and had requested it to report on the situation of human rights in Chile to the General Assembly at its thirty-seventh session.

84. Mr. SHILOVICH (Byelorussian Soviet Socialist Republic), said that General Assembly resolution 36/157 expressed grave concern at the deterioration in the human rights situation in Chile, particularly the intensification of the practice of arbitrary detention, often accompanied by torture and inhuman treatment which, on occasion, resulted in death; persecution, intimidation and imprisonment; and the forced exile of persons participating in trade union, academic, cultural and humanitarian activities. Unceasing terror and repression were a typical feature of all spheres of political and economic life in Chile. Human rights had continued to be brutally trampled underfoot in the more than eight years that had elapsed since the takeover of September 1973. Despite a perfunctory gesture by the United States Congress prohibiting deliveries of arms to the Chilean junta, General Pinochet had gone on receiving large credits through international financial organizations controlled by the United States and had thus been able to continue buying all the arms he needed. Arbitrary and repressive rule had been maintained thanks to United States military support. The so-called new Constitution, which virtually made Pinochet president for life, had not only failed to improve the human rights situation in Chile but, on the contrary, had considerably exacerbated it. Now, the United States Senate's recent decision to remove the ban on arms deliveries and the provision of military aid to the Chilean junta afforded eloquent proof of the United States Administration's hypocrisy in the human rights field.

85. The excellent work done by the Special Rapporteur in the reports before the Commission (E/CN.4/1484 and A/36/594) showed that assaults upon life, liberty, physical and moral integrity and the safety of the individual had become legalized practice in Chile. The number of arbitrary arrests had increased in 1981 and torture during interrogation continued to be widely practised. Assassinations of the régime's opponents were still being perpetrated, both by official security forces and by fascist groups acting with the authorities' support. Moreover, the régime's failure to investigate the fate of many missing persons and to punish the officials responsible for the disappearances represented a direct affront to the international community. At the same time, the junta was continuing the practice of expelling nationals from the country and the new Constitution limited the right of Chileans to enter their own country.

36. The reports also confirmed the persistence of mass violations of the most important social and economic rights. In the space of 8½ years the Chilean rulers and their patrons in the United States had managed to reduce the country's economy to a state of extreme exhaustion. Unemployment was officially admitted to run at 14 per cent, but the figure supplied by the trade unions was closer to 30 per cent. In that connection, it should be recalled that the Popular Unity Government had succeeded in reducing unemployment to only 3 per cent. The current high rate of unemployment and the decline in wages in real terms, added to the increased cost of essential consumer goods, the return to private hands of health services and the reduction in the budget for education had meant that services which had previously been free now had to be paid for and a substantial proportion of the people of Chile were thereby deprived of their economic and social rights (A/36/594, para. 445). The State was steadily reducing the resources allotted to education and the dismissal of teachers and expulsion of students who had tried to exercise their right of freedom of expression, assembly or association were widely practised. Education in Chile was geared more and more to the economic system advocated and applied by the authorities, which tended to emphasize social differences while sharpening the differences in the level of instruction (A/36/594, para. 516).

37. As pointed out in paragraph 521 of the report submitted to the General Assembly (A/36/594), it was not possible, generally speaking, to point to any improvement in the human rights situation in Chile. The new constitutional and institutional situation had not helped to reduce the scope of the restrictions and violations of human rights or to change the repressive measures directed at ever broader sectors. None of the appeals by the General Assembly and the Commission on Human Rights had been heeded, nor was it possible to report the adoption of any measures conducive to restoring the exercise of human rights. For all those reasons, his delegation resolutely condemned the gross and massive violations of human rights in Chile and supported the call for their immediate cessation contained in General Assembly resolution 36/157. It was in favour of extending the Special Rapporteur's mandate and of insisting that the Chilean authorities should co-operate with the Special Rapporteur, as they had been urged to do by the General Assembly. The Byelorussian delegation would support an appropriate draft resolution incorporating those points.

38. Ms. MOLTKE-LETH (Denmark) said that, in his report to the General Assembly (A/36/594), the Special Rapporteur had indicated that in certain respects the human rights situation in Chile had even deteriorated. The General Assembly had thereupon adopted resolution 36/157, urging the Chilean authorities to respect and promote human rights in accordance with their obligations under international instruments and, in particular, to take concrete steps to enable the Commission to consider terminating the mandate of the Special Rapporteur.

89. Denmark had always joined in the expressions of concern voiced by the international community regarding the human rights situation in Chile and had appealed to the Chilean authorities to restore the democratic institutions and institutional guarantees formerly enjoyed by the Chilean people. Her delegation had accordingly studied with interest the Special Rapporteur's latest report (E/CH.4/1484) and deeply regretted to learn therefrom that the Special Rapporteur's earlier observations to the General Assembly had been confirmed by the events of the last months of 1981.

90. In her opinion, the Chilean authorities could well have ended the states of emergency, since there did not appear to be a situation of exceptional danger in Chile to warrant restrictions on human rights. As the Special Rapporteur had pointed out, the continuation of two states of emergency had created a more serious situation than had previously existed, given that the Executive branch now had discretionary powers which the judiciary was not equipped to monitor and which impinged upon the rights to liberty, physical and moral integrity and security of person. Her delegation was especially concerned about violations of the right of prisoners and detainees to life and security of person. The fact that the number of complaints of torture had decreased and that the activities of the security agencies were now more strictly controlled was indeed a positive development. Unfortunately, however, the practice of torture was said to be continuing, and such a completely unacceptable practice must cease. The Chilean Government must take effective measures to guarantee the right to life and physical integrity of prisoners and detainees and to prosecute and punish the people responsible for those practices.

91. The reintroduction of the practice of expelling nationals because they were in disagreement with the Government's political course was deplorable. Her Government experienced great concern at the recent expulsion of four well-known Chilean figures, mainly because they had exercised their right to freedom of expression, and its concern was heightened by the fact that the right to enter and leave the country had now become subject to further restrictions. Clearly, the international community should continue to accord attention to the question of the human rights situation in Chile and her delegation therefore subscribed to the recommendation of the General Assembly that the mandate of the Special Rapporteur should be extended for another year.

92. During the debate in the Third Committee which had preceded the adoption of what had later become General Assembly resolution 36/157, the Chilean representative had accused the sponsors of being selective and had rejected the resolution because, according to him, it echoed a series of baseless accusations, because it crudely distorted the situation in his country, because it constituted a flagrant intervention in the internal affairs of a sovereign nation, and, finally, because it maintained a "special entity" which his Government had not accepted and did not recognize. Those arguments were not justified. The attention paid by the United Nations to the problem was a manifestation of global solidarity with the people of Chile who were suffering from violations of human rights in their own country. She urged the Chilean authorities to co-operate with the Special Rapporteur and to take the necessary steps to restore the enjoyment of human rights in Chile. Until real progress was made in that respect, the international community must inevitably continue to deal with the problem.

93. Mr. BETTINI (Italy) said that the Chilean Government's refusal to participate in the Commission's work, the observations contained in the Special Rapporteur's latest report (E/CN.4/1484), as well as recent information from a variety of sources, gave grounds for great concern on the part of the Commission regarding the present situation in Chile, a country towards which Italy had always felt sincere friendship and affection. His delegation's position with regard to the present item had been made clear not only by its stand during the debate but also by the decisions taken by Italy in favour of so many Chilean friends who had been victims of the dramatic events affecting their country.

94. The report under consideration indicated the efforts being made by the Chilean Government to achieve normalization of the internal situation and, at the same time, the delay with which improvements were being made. What his own country could not accept, however, were the aberrant methods of normalization chosen by some régimes when they were in power. The principles of respect for human life and the dignity of all individuals did not derive merely from legal norms. Their strength and their absolutely imperative character lay in natural law, the observance of which was essential if the human community was to speak a common language.

95. His delegation earnestly hoped that the situation in Chile would cease to be marked by the cruel and inhuman features displayed in the life of that country for a number of years. At the same time, it was deeply convinced that a country could only find its proper place in the international community if its political, social, economic and cultural evolution respected the elementary principles of democracy, which could admit of no compromise. The only true conception of democracy was that which placed the individual at the very core of its existence and fully ensured enjoyment of his rights and fundamental freedoms. It was for those reasons that the Italian delegation had voted in favour of General Assembly resolution 36/157, which invited the Commission to extend the mandate of the Special Rapporteur.

The meeting rose at 8.20 p.m.