

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1983/SR.43
7 March 1983

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 43rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 2 March 1983, at 10 a.m.

Chairman: Mr. OTUNNU (Uganda)

CONTENTS

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 (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.6108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.83-15762

The meeting was called to order at 10.05 a.m.

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) (continued) (E/CN.4/1983/16-20, /22 and Add.1, 33, 43, 47, 51, 52, 55; E/CN.4/1983/L.18, L.37, L.38, L.48; E/CN.4/1983/NGO/2, 4, 8-15, 21, 25, 27-31, 38)

1. Mr. CANKOREL (Observer for Turkey) said that he wished to reply to allegations made against his country by a number of non-governmental organizations at the previous meeting. In another context, his delegation had already provided the Commission with detailed clarifications on the human rights situation in Turkey, but the International Association of Democratic Lawyers had raised the issue of the 52 members of the Confederation of Revolutionary Trade Unions who were being tried by the Istanbul Military Court. No one in Turkey could claim the privilege of immunity from legal proceedings. All of the 52 individuals concerned had been brought to trial for acts punishable under Turkish law and not for their trade union activities. Eighteen of them had already been released from custody, including Mr. Orhan Apaydin, to whom the Association had referred, and he therefore failed to understand the organization's continuing concern.
2. His Government had categorically declared that torture was illegal. It was dealing with the matter openly and honestly, had investigated all allegations of torture, and the persons found guilty had been sentenced by the courts. No country could claim to be totally free from torture, and the Commission's concern should be whether torture was practised systematically and was condoned by the Government.
3. As to the treatment of detainees and their access to legal assistance, it was not true that individuals in detention were deprived of contacts with their immediate family or with lawyers. Those rights were guaranteed by law and an ILO contact mission to his country in July 1982 had confirmed that fact. The report of the contact mission had been presented to the 221st session of the ILO Governing Body, in November 1982.
4. Suicides by persons being held in custody occurred throughout the world and ironically, were more prevalent in highly industrialized countries. Suicides had indeed occurred in Turkish gaols, but they had been isolated instances and there was no evidence of a pattern peculiar to his country.
5. It had also been claimed that Turkish military courts did not meet modern legal standards. The military tribunals had been established by an Act of 1971, consisted of two career judges and one military officer, and their judgements were reviewed by higher courts. They were not courts martial and they would be dealing solely with military cases after the lifting of martial law.
6. Another non-governmental organization had referred to alleged shortcomings in the Turkish Constitution. The new Constitution which had been approved by more than 90 per cent of all eligible voters, embodied no lesser guarantees for human rights than did any other modern constitution.
7. Ms. TIRONA (Philippines), speaking in exercise of the right of reply, said that her delegation took exception to the statement made at the previous meeting by the representative of Pax Romana. It was seriously concerned about allegations against her Government made by professional critics without the benefit of an objective and concrete assessment of the actual situation and without the benefit of consultations.

8. Her delegation strongly objected to the sweeping conclusion, based on unreliable and prejudiced general observations, that harm caused to democratic institutions in her country was severe and might be irreversible. Progress had been made in her country in improving the quality of life of the people, something that was essential to full enjoyment of human rights. The rate of real growth of the economy had increased from five to six per cent, agricultural production had expanded by five per cent a year, self-sufficiency had been achieved in rice production, fixed investment had risen from 16 to 25 per cent of GNP and exports had doubled. Many important programmes had also been undertaken in such areas as rural water supply, transport and electrification, urban development and health matters.

9. Even during the state of emergency from 1972 to 1981, her Government had continued to be a model of stability in South-East Asia, something possible only in conditions of social justice and human dignity, since love of individual freedom lay at the heart of Philippine nationhood. The normalization of the political process in 1982 had strengthened democratic institutions even further. Regional autonomy and direct participation by all of the people had been introduced and encouraged. Ombudsmen and people's councils had been set up to safeguard against corruption in government. Some 9,000 members of the military had been punished for abuses and ombudsmen even initiated investigations of officials on the basis of anonymous complaints. In the period of martial law, legitimate political dissent had none the less received full protection, although constant vigilance had been exercised to protect society from disorder and violence.

10. Other innovations in democratic institutions had been introduced, such as the election of representatives of youth and the labour and farming sectors to the National Assembly, thus enabling those important segments of society to participate directly in the law-making process. As in any democracy, her country's fundamental law provided for religious tolerance and the separation of church and State. However, the separation principle had been interpreted liberally and the church had been allowed to speak its mind on political issues, provided such activities did not threaten to destroy the very fabric of national unity.

11. Paragraphs 191-193 of the Special Rapporteur's report on summary or arbitrary executions (E/CN.4/1983/16) did not objectively reflect the situation obtaining in her country. In introducing that report, the Special Rapporteur had admitted that the paragraphs in question were not up to date and that replies had in the meantime been received from the Philippine Government. The latter had also submitted a report on the constitutional and statutory guarantees against summary or arbitrary execution, a report which, it hoped, would be circulated to members of the Commission. Document E/CN.4/1983/16 should be revised accordingly.

12. A written statement submitted by the Christian Democratic World Union (E/CN.4/1983/NGO/39) stated that there were some 1,000 political detainees in the Philippines. In fact there were none at the present time. With the lifting of martial law, those detained had been brought before the courts on charges of ordinary offences.

13. Mr. Tan Koon San (Observer for Malaysia) said that, in referring to his country's Internal Security Act, various non-governmental organizations should have borne carefully in mind the actual situation. Malaysia was far from being governed by a repressive regime. On the contrary, it had always had a free and open parliamentary democracy based on universal suffrage and had an independent judiciary that was very conscious of its responsibilities. All laws were duly considered and

approved in parliament and, although the Internal Security Act had regularly been a major issue raised by opposition parties in general electoral campaigns, the people had consistently returned the ruling party to power, thereby confirming that the Act was necessary for the protection of internal security.

14. The duly elected Government of Malaysia could not ignore such a mandate or neglect its responsibility to the people. It had, in fact, shown great restraint in enforcing the provisions of the Act. No person charged under it was denied a fair and open trial and the assistance of legal counsel of his choice. Before any final execution of a judgement, the accused person had the right to appeal and to a mandatory review by the Pardons Board and was afforded every opportunity to defend himself.

15. His delegation could not accept the suggestion that convicted persons should be spared their punishment as a matter of course. To do so would not only make a mockery of his country's sovereignty and the laws of the land but also encourage potential criminals. Any attempt by outside organizations to influence the due process of law and the fate of convicted persons in his country would be tantamount to interference in its internal affairs.

16. Persons convicted under the Internal Security Act were not prisoners of conscience but common criminals who had flouted the law. They must therefore face the consequences of their crimes. Leniency towards convicted criminals would only serve to encourage the commission of similar offences by others and could lead to chaos and the loss of innocent lives. The provisions of the Act related exclusively to crimes directly prejudicial to internal security and did not in any way affect the freedom of legally constituted political parties to engage in legitimate activities.

17. He wished to remind non-governmental organizations which appeared to be so easily persuaded by baseless allegations that they were in no way qualified to lecture his Government on national security requirements. As a multiracial and multireligious nation which could boast of consistent democratic and stable governments over the years, Malaysia knew what was best for its society. It welcomed constructive criticism, but not fanciful and damaging allegations.

18. Mr. AL-BADRAN (Observer for Iraq) said that his delegation had expected the delegation of Iran to unleash a political campaign against his country and use every possible pretext to divert the Commission's attention from the human rights situation in Iran.

19. The Special Rapporteur and members of the Commission and non-governmental organizations had put information before the Commission illustrating the frightening realities in Iran. The Observer for Iran had attempted to distort those realities and use the Commission as a forum for political purposes. Iran had made allegations at the Commission's past two sessions regarding Iraqis in Iran. Iraq, for its part, had been open to Iranians, many of whom had emigrated in order to escape political repression under the Shah. After the outbreak of the war between his country and Iran, Iranians living in Iraq had engaged in terrorism with the aim of destroying the economic and social structure of his country. The Iraqi Government had transmitted warnings to the Iranian Government through official channels but the only reply had been an increase in terrorist acts. His Government had thus had no choice but to expel the Iranians concerned. Thousands of Iranians continued to flee their country daily. It was absurd to suggest that the Kurds, who enjoyed self-determination in Iraq, should want to flee to Iran, where they would face persecution and be subjected to terrible atrocities.

20. Instead of seeking to justify its prosecution of the war, the Iranian Government should heed the voice of reason and the appeals addressed to it by the Security Council, the Secretary-General and many organizations, and stop the fighting and restore peace in the area.

21. Mr. POUYOUROS (Cyprus), speaking in exercise of the right of reply, said the Observer for Turkey, who had probably misinterpreted the Cypriot delegation's avoidance of polemics in dealing with the matter of the violation of human rights in Turkey and by Turkey as a sign of weakness, had had the audacity to make false and scurrilous accusations against Cyprus. The representative of the country which had committed the international crime of aggression against Cyprus and had brought so much havoc to it had tried to justify that act by reference to international agreements. The aim of the Turkish aggression against Cyprus was to annex and occupy all or part of the island in violation of Article 103 of the Charter, customary international law and the Vienna Convention on the Law of Treaties, and the Government of Turkey could not, therefore, invoke any international agreements to justify its deeds.

22. Cyprus was eighty times smaller than Turkey and it was shameful for a country like Turkey, with its arsenal of modern weapons, to attack a defenceless island and claim that its action constituted peaceful intervention. Cyprus had been crippled physically, but never morally, and it refused to succumb to the law of the jungle.

23. Turkey continued to defy the numerous resolutions adopted by the General Assembly, the Security Council and the non-aligned movement that demanded the withdrawal of Turkish troops from Cyprus. The Observer for Turkey had tried to justify the invasion by invoking the familiar myth of the mistreatment of the Turkish community in Cyprus. However, he had omitted to say that, during the 1974 invasion, thousands of Cypriots had been slaughtered by the Turkish army and 200,000 had been forced to leave their homes, becoming refugees in their own country. He had failed to mention the indiscriminate bombing of towns and villages, the more than 1,600 missing persons whose fate was still unknown, the concentration camps, the looting, the indiscriminate killings and other crimes. The European Commission of Human Rights had condemned Turkey for its violation of human rights in Cyprus and the report it had issued in 1977 was a blistering indictment of Turkey and its soldiers and civilians alike.

24. The Observer for Turkey had made the baseless allegation that Turkish Cypriots were being forced to leave Cyprus for other countries. Thousands of Greek Cypriots had also emigrated to many parts of the world. The sterile repetition of false propaganda was a political manoeuvre to draw attention away from the real issue and to justify the abominable international crime perpetrated against the Republic of Cyprus by the Turkish occupation forces, which still held 40 per cent of Cypriot territory. That occupation and the persistent refusal to allow 200,000 refugees to return to their homes was a blot on the history of the twentieth century. The Turkish invasion of Cyprus could in no sense be portrayed as a peace operation.

25. Mr. KONSTANTINOV (Bulgaria) said that adverse political, economic and social phenomena had been building up in the world for a number of years. The forces of imperialism were continually interfering in the internal affairs of States, using their economic potential to conduct a policy of diktat. Global confrontation with the socialist countries, the anti-communist "crusade", the new escalation of the arms race and the doctrines acknowledging the "possibility" of a nuclear conflict obstructed calm discussion and international co-operation in solving problems in

all fields. His delegation strongly believed that full respect for human rights and fundamental freedoms was feasible only in conditions of peace, international security and understanding among peoples; therefore, all efforts aimed at reducing tensions and consolidating peaceful coexistence were inseparably linked with respect for human rights. The Commission must strive to create conditions guaranteeing the adoption of mutually acceptable solutions for the promotion of human rights and fundamental freedoms throughout the world.

26. His country could not support a political and social system that claimed to ensure the promotion and protection of human rights yet did no more than proclaim lofty ideals. In such a society, difficult access to political activity due to financial and other barriers, inflation and unemployment, the lack or high price of medical services and education and the absence of effective social security and social justice meant that the rights and freedoms proclaimed were empty words. The legal and political systems of the Western States did not prevent racial discrimination, inequality between men and women and the constant denial of such basic rights as the right to work and the right to a dignified existence. The massive and flagrant violations of human rights in the highly-developed Western countries had not ended. Indeed, they had increased and become part of the capitalist socio-economic system.

27. That explained why the United States Administration was still refusing to ratify the International Covenant on Economic, Social and Cultural Rights. The number of the unemployed in the developed capitalist countries had increased during the past decade from six million to some 20 million or more. The most disturbing thing, however, was the structure of that army of jobless people. Statistics showed that the most gravely affected were the young: half of the young people aged 16 to 19 were permanently or temporarily without a job. The second group was the non-white population, in which the number of unemployed was twice as high. The unemployment rate among black youth was even worse. One of the cruellest forms of discrimination was the one affecting aging workers and women. Unemployment was becoming more and more unendurable, rising both in volume and in duration. The Commission should take a closer look at that situation.

28. The most frightening trend, however, was that such societies were exported to other countries. Imperialism had always promoted violence and counterrevolution and stifled social progress. Modern history was full of examples of attempts to suppress the legitimate right to self-determination and independence of colonial countries and peoples, and showed who had been against the national liberation movements and called them "terrorists", who had fought a war of extermination in Viet Nam and who had never discontinued the blockade of Cuba. It also showed that imperialism was the threat to every country that did not wish to follow its lead and which countries supported, protected and engendered repressive, reactionary and racist regimes, shielding them against any monitoring of their human rights records.

29. The achievements of the United Nations in combating massive and flagrant violations of human rights had been made possible by the collective efforts of the Member States. The United Nations had contributed to the collapse of the colonial system and the liberation of a number of countries. Support and assistance should be provided to the national liberation movements still struggling against colonialism

and foreign occupation for the right to self-determination in Namibia, South Africa, the Middle East, Chile, El Salvador and Guatemala. Without the political, military, economic and other forms of assistance rendered by the United States, some other Western countries and transnational corporations, South Africa would hardly have been able to pursue its policy of apartheid and illegal occupation of Namibia, Israel would not have been able to continue to hold on to Arab lands and deny the Palestinian people their basic rights, Chile would not have experienced 10 years of terror, torture and fascist military dictatorship, and El Salvador would not have seen the massacre of tens of thousands of innocent people.

30. Imperialist circles had forcibly introduced the "question of Poland" in the Commission, attempting to use human rights as a political weapon. His delegation deeply regretted that the Commission was again involved in a discussion of events that concerned solely the Polish people and Government and firmly believed that the attempts by some Western delegations to distort the real situation in Poland were politically motivated. He would refrain from commenting on the bleak and ill-founded "report" that had been submitted in that connection.

31. It was all too clear that human rights were violated blatantly wherever imperialism defended its political, military and economic interests, which it did by all possible means, no matter how abhorrent. Those were the gross and massive violations of human rights that the Commission should focus on, in keeping with the Charter and the resolutions already adopted on the subject.

32. Mr. BEAULNE (Canada) said that the Commission reviewed the human rights situation throughout the world, not in order to condemn anyone but in order to defend human dignity. The case of Equatorial Guinea illustrated the positive role that the Commission was called upon to play when an iniquitous regime had destroyed the very fabric of the nation. It was encouraging that the Secretary-General's plan of action for the full restoration of human rights and fundamental freedoms in Equatorial Guinea had not remained a dead letter. The constant collaboration between the Government and the Secretary-General had made it possible to take the first step under the plan, namely, the formulation of a Constitution as soon as possible. A national commission had elaborated a draft Constitution which had subsequently been promulgated and accepted by the people. The text might be regarded as controversial, but it was important to emphasize that two experts appointed by the Secretary-General at the request of the Government had assisted the national commission in drafting it. His delegation would be submitting a draft resolution inviting the Government of Equatorial Guinea to continue, in the same spirit of collaboration, the implementation of the Secretary-General's proposed plan.

33. The report on Bolivia by the Special Envoy (E/CN.4/1983/22 and Add.1 and 2) indicated that the situation had continued to improve, especially since the constitutional Government had entered into office in October 1982. Discriminatory laws which had jeopardized full enjoyment of human rights had been revoked and, during the period under review, there had been no serious violations of human rights, an achievement on which the new Bolivian authorities should be congratulated. Paragraph 113 of the report highlighted the role of the United Nations in the progress made and the value and the effectiveness of the system of special rapporteurs. The example of Bolivia could form a precedent for similar situations in future.

34. His country had always rejected the argument that prosperity was a pre-requisite for the enjoyment of human rights, and the report on Bolivia showed that the protection of human rights could be decisively improved despite adverse economic and social conditions. The Special Envoy had also pointed out that to report on violations was to begin to remedy them, but it went without saying that reports alone were not enough. The United Nations could provide Governments with consultative services and other forms of assistance that could consolidate their initiatives. His delegation endorsed the Special Envoy's recommendations, and would be submitting a draft resolution on Bolivia in due course.

35. The full report on the human rights situation in Guatemala was still not available; indeed, a special rapporteur had not been appointed. Apparently, human rights violations, especially in the rural areas and among the Amerindians, had not ended in 1982. The 1965 Constitution had been replaced by Decree-Law 24-82, and a state of siege had been declared on 1 July 1982. The Special Rapporteur on summary or arbitrary executions had indicated that such abuses had occurred, particularly with regard to the indigenous populations, and the Commission could not ignore them.

36. The explanations by the Guatemalan authorities and the Secretariat of the failure to appoint a special rapporteur were somewhat bewildering, since they did not even tie in with the facts. The Guatemalan Government must be prepared to co-operate fully with a special rapporteur and he welcomed the fact that that Government had invited the Special Rapporteur on arbitrary and summary executions to visit the country. No special rapporteur could present a valid report unless he was extended the full co-operation of the Government concerned. His delegation hoped that, eventually, the special rapporteur, who must be appointed without delay, would be able to take advantage of the co-operation promised by the Guatemalan Government.

37. The report of the Special Representative on the human rights situation in El Salvador (E/CN.4/1983/20) was, once again, balanced, objective and thorough. Some delegations had expressed curiosity as to why Canada, which was separated by history and geography from El Salvador, had submitted a draft resolution on the matter. Canada's motives were, as always, thoroughly humanitarian. Thousands of Canadians from all walks of life had openly expressed their indignation at what were among the cruellest human rights violations in modern times. The Government shared those concerns, which it had communicated on many occasions to the Salvadorian authorities in the course of bilateral meetings. It had also offered its good offices to all parties to the conflict ravaging El Salvador, in the hope of facilitating the political dialogue, that was indispensable for any lasting settlement. He did not wish to insist on those initiatives, since the Commission was not the place for the discussion of political conflicts. It must interpret its mandate strictly and concern itself exclusively with violations of human rights, not just near to home but wherever they existed.

38. According to the report, the Government of El Salvador had shown its good intentions by allowing the Special Representative's visit, establishing a Human Rights Commission and inviting the Inter-American Commission on Human Rights to make an investigation. However, as the Special Representative had noted, good intentions had to be translated into reality, without equivocation. In El Salvador, unfortunately, the gap between deeds and good intentions remained immense. Human rights violations had reached such proportions that it would have been pointless for the Special Representative to have considered individual complaints and he had therefore been compelled to examine general categories of violations, such as murders, abductions, involuntary or forced disappearances, the detention of prisoners of opinion, terrorism and gaps in the judicial system. The conclusion reached was that

the principal civil and political rights continued to be violated in a serious, massive and persistent manner. For example, political assassinations had numbered nearly 5,000 in 1982. Although that figure represented a decrease of 50 per cent over the preceding year, it was impossible to aver that the human rights situation was improving. Only a return to civil peace could ensure the gradual restoration of human rights in El Salvador. To prolong the state of siege and the bloody battles was to prolong the agony of an entire people. The 1982 elections had proven that the vast majority of the population had a deep desire for peace, democracy and security. The parties to the conflict should explore all avenues to restore social peace and end the violence by political and democratic means.

39. However, it was not for the Commission, which was not the Security Council or an international court, to tell the parties concerned how to achieve that goal, but it did have the right and duty to urge them to take the necessary steps to achieve the goal rapidly. A fruitful dialogue between the adversaries should therefore be begun as soon as possible, so as to enable them to unite their efforts for the good of their country rather than to ruin it by their divisions. The draft resolution submitted by his delegation therefore avoided strident condemnations and excesses of language and took a balanced, conciliatory and moderate tone. He hoped that the Commission would look on it with favour.

40. The systematic refusal of the Chilean Government to co-operate with the Special Rapporteur was a gratuitous insult to the international community, for Chile had freely undertaken obligations under the International Covenants on Human Rights, and there was good reason to believe that the Government was not fulfilling those obligations. On 20 December 1982, 33 Chilean bishops had published a document denouncing violations of human dignity, unjust restrictions on certain prisoners and attacks on Christian values. In the social field, the document pointed to the suppression of organizations such as trade unions, limitations on the media, and growing poverty and violence, and indicated that the 1980 Constitution was not being applied as far as human rights were concerned. The document had been published two weeks after President Pinochet had rejected any political dialogue. If the Chilean Government would not engage in dialogue with its own citizens, what hope was there that it would agree to do so with the Commission, the Secretary-General or the General Assembly? He was convinced that new tactics had to be devised in regard to certain States whose isolation had made progress impossible so far. All the situations in question should be studied under the same agenda item, but for that purpose the co-operation of the parties concerned was necessary. It was to be hoped that the Government would make an effort to ensure that Chile would once again take its rightful place in the international community.

41. It was gratifying to note that the Government of Iran had finally agreed to a visit by a representative of the Secretary-General, in pursuance of Commission resolution 27/182, and he hoped that once contact would be made rapidly and effectively and that the human rights situation in Iran would soon benefit accordingly. Vehement disclaimers were not an adequate response to specific and well-founded demands, and the documented accusations submitted by well-known objective international organizations could not be swept aside. A representative of Iran had stated elsewhere that the Iranian people had resolved to remain free, independent and Islamic, and not to be deluded by the imperialist myth of human rights. The revolutionary Government, however, had not denounced the International Covenant on Civil and Political Rights ratified by the previous Government, even though it did not fully respect all of the provisions thereof, particularly those concerning torture, summary and arbitrary executions, cruel, inhuman or degrading treatment or punishment, arbitrary arrest or detention, trials in public before independent and impartial courts and freedom of thought, conscience and religion. Everything indicated that the persecution of the Baha'is was continuing, but the Government had not responded to the expressions of concern by the diplomatic community.

42. With regard to the Polish Government's refusal to co-operate with the representative of the Secretary-General, it was plain that Poland could not hope to be accepted as a fully-fledged and respected member of the international community when it refused to allow a duly appointed representative of the United Nations to visit the country and report on the situation. Although martial law had been suspended, it had not been repealed. Some 1,500 people were still in prison serving long sentences. Many of the prisoners who had been freed in December 1982 were still affected by punitive measures, such as the loss of their jobs, in order to induce them to leave their country. As long as that situation continued, it must be a subject of concern to the Commission.

43. The report of the Special Rapporteur (E/CN.4/1983/16) stated that over 2 million people had been the victims of summary or arbitrary executions in the past 15 years. They were of all ages and social categories and had one thing in common: real or perceived opposition to the dominant ideas in their society at a given time. He endorsed the recommendations contained in section IX of the report concerning the need to establish machinery allowing those practices to be identified and monitored. The Special Rapporteur's mandate must certainly be renewed as an initial step, so that Governments and organizations which had not yet furnished information or responded to requests for comments on allegations of violations would do so without delay. The Governments and organizations concerned must also give the Special Rapporteur their opinions on long-term steps which would make it possible to combat effectively such a serious violation of the right to life. The Commission would be greatly remiss in its task and would have to answer to the world public opinion if it failed to give due and proper consideration to the report.

44. The year 1982 had marked the end of an experiment which had been indicative of the goodwill of the Eastern European Governments which had ratified the International Covenants and signed the Helsinki Agreements. The Moscow watch group of the Final Act of the Conference on Security and Co-operation in Europe had been dissolved for lack of funds and support. Forty-eight of the 71 people who had belonged to similar groups in the Ukraine, Lithuania, Armenia and Georgia had been imprisoned. Professor Naum Meiman, Mrs. Elena Bonner, the wife of Andrei Sakharov, and Sofiya Kallistratova, the only members of the Moscow watch group who were not now in prison or exile, were neither dissidents nor traitors to their country - they were citizens convinced that the Soviet Union had a duty to implement the international instruments on human rights to which it had acceded. They had believed that silence in the face of violations of those commitments would have meant passive acceptance. However, they were now unable to pursue their campaign of reminding the Soviet authorities of the promises that they had made. The activities of the Helsinki watch groups were legitimized by article 28 of the Universal Declaration of Human Rights. The writers of the Declaration would undoubtedly be deeply disillusioned at how little attention many Governments paid to the obligation which that article placed on individual citizens to ensure respect for human rights. The Commission's principal mandate had not changed since its establishment: to uphold the primary role of the individual in the human rights field. As Andrei Sakharov had written, the defence of human rights was one of the ways of uniting men and relieving suffering in a troubled world.

45. Mr. GONZALEZ de LEON (Mexico), speaking on a point of order, observed that the situation of human rights in Chile formed a separate item, but at least two delegations had already referred to it in their statements on item 12. He wished to remind delegations that the item on Chile would be dealt with later on.

46. The CHAIRMAN pointed out that item 12 dealt with violations of human rights and fundamental freedoms in any part of the world. The representative of Mexico had none the less been right to draw attention to the fact that the agenda included a separate item on Chile.

47. Mr. HERDOCIA ORTEGA (Nicaragua) recalled that, ever since the adoption of Commission resolution 2 B (XXII) in March 1966, the Commission and the General Assembly had focused increasing attention on human rights violations and the **search for solutions** to mass and flagrant violations of human rights. At its thirty-seventh session, the General Assembly had requested the Commission at its thirty-ninth session to continue its efforts to take urgent action in cases of serious violations of human rights. That task thus represented one of the Commission's clearest mandates.

48. At its thirty-eighth session, the Commission had adopted a resolution expressing concern at the continuing scale and magnitude of the exoduses and displacements of populations and at the human suffering of the millions of refugees and displaced persons in all regions of the world. The Special Rapporteur's lucid study on human rights and massive exoduses had contributed to a better understanding of the causes of the phenomenon of refugees and displaced persons, and some of the accompanying recommendations could be implemented with United Nations resources, in particular the proposal for an early-warning system concerning potential mass exodus situations.

49. His delegation would, at the appropriate moment, evaluate for the Commission's benefit the reasons why many Nicaraguan citizens had been forcibly displaced by persistent counter-revolutionary incursions from Honduras which had created a situation of violence and terror in all Nicaragua's border areas. His country was very grateful for the assistance from UNHCR in the voluntary repatriation of persons thus displaced and also for the co-operation of the International Committee of the Red Cross. At some point, however, the Commission would have to study what was referred to as France's position, namely, that one reason for displacements and exoduses was the existence of armed conflicts which made it impossible to go on living in combat areas. The Nicaraguan people was facing an undeclared war on its borders in which 500 men, women and children had already been killed. The international community knew perfectly well who was responsible for that war and who was supporting and financing it. Without prejudice to any action that might be devised to avert new flows of refugees, his delegation supported the French position that such flows could be averted by means of a code of conduct, the implementation of which might be subject to international supervision.

50. His delegation was grateful for the study on human rights in Bolivia (E/CN.4/1983/22). In paragraph 41 of the report, the Special Envoy noted that the establishment of a constitutional Government in Bolivia in 1982 was to some extent the culmination of the investigation and analysis of the human rights situation in that country. In contrast to his first visit, when he had found that grave, massive and persistent violations of human rights had occurred in Bolivia since 17 July 1980, on his second visit in November 1982 the Special Envoy had found an auspicious and positive situation of full respect for human rights and a determination to investigate and severely punish human rights violations perpetrated under earlier military regimes. His delegation therefore believed that the case of Bolivia should be closed by an express resolution of the Commission. It had absolute confidence in the Special Envoy's report and also in reports from its own sources, which indicated that what was now needed was international support for Bolivia's economic and financial **recovery**. The Commission, for its part, must aid that country in its institutionalization of democracy.

51. With regard to the situation in El Salvador, he fully endorsed the contents of General Assembly resolution 37/185, on human rights and fundamental freedoms in El Salvador, and was grateful for the Special Representative's final report (E/CN.4/1983/20), in particular the recommendation that the Government of El Salvador should constructively consider the possibility of a dialogue with all the political

forces involved, including those of the left-wing opposition, with a view to putting an end to the armed confrontation. In that connection, his own Government supported the Franco-Mexican proposal and was appreciative of the determination of France and Mexico to find a solution to the conflict in which the Government and forces representing the FMLN and the FDR might sit down together at the negotiating table. Similarly, he supported the recommendations contained in subparagraphs (1), (2) and (3) of paragraph 125 of the report.

52. It would be remembered that, at the Extraordinary Ministerial Meeting of the Co-ordinating Bureau of Non-Aligned Countries held at Managua in January 1983, the ministers of non-aligned countries had expressed concern at the continuing deterioration in the situation in El Salvador caused by imperialist intervention and repression; called for an immediate and unconditional end to such intervention; expressed concern at the growing involvement of the Honduran Army in the conflict; urged the United States Government to adopt a constructive attitude that would contribute to a peaceful settlement of the problem; recognized the need for a negotiated settlement between all representative political forces; welcomed the FDR-FMLN proposal for a dialogue without preconditions and the peace initiatives of Mexico and Venezuela and Mexico and France and other similar initiatives; and had expressed regret at any attempt to prevent or obstruct such negotiations.

53. Again, the question of summary or arbitrary executions (E/CN.4/1983/16) had long been discussed in the United Nations. The Special Rapporteur, however, referred only to allegations of summary or arbitrary executions received since the end of 1980 when the Commission and other United Nations organs had begun to deal with the question formally. Paragraph 146 of the report referred to allegations of summary or arbitrary executions in El Salvador, while paragraphs 148 to 151 gave details of the mass killings that had occurred in Guatemala in 1981 and had continued after General Ríos Montt had taken power in March 1982. His delegation endorsed fully the written communication contained in document E/CN.4/1983/NGO/13, which referred to "brutal and massive repression by the Guatemalian armed forces", a statement that was borne out by General Assembly resolution 37/184 and Commission resolution 1982/31. It was plain that both Guatemala and El Salvador were in need of immediate international action before the lives of thousands more men, women and children were sacrificed.

54. In Poland, the Government had had to deal with a difficult domestic situation, as a result of which it had finally imposed martial law on 13 December 1981. In so doing, it had complied fully with article 4 of the International Covenant on Civil and Political Rights. When it had lifted martial law on 31 December 1982, it had again fulfilled the provisions of that article. His delegation saw no reason why the item should remain on the Commission's agenda and believed that consideration of the human rights situation in Poland should be terminated. The measures taken by the Polish Government were a strictly internal matter and any attempt to continue to manipulate the situation would only obstruct the building of a new society in Poland. History had shown the extraordinary capacity of the Polish people to rebuild their nation and solve their own problems and his delegation would not lend itself to any measure which might place obstacles in the way of broad national reconciliation free from any outside interference.

55. Mr. HAYES (Ireland) said that, to mention only two aspects of the human misery resulting from the continuing political violence in Central America, notably in El Salvador, Guatemala, Honduras and along the Honduran-Nicaraguan border, the death toll and the numbers of displaced persons had reached appalling dimensions. The deaths were estimated, probably conservatively, at 15,000, while hundreds of thousands of people fleeing from the terror had been displaced in rural El Salvador and Guatemala, as had thousands in Nicaragua.

56. In the three years since El Salvador had first attracted international attention with the assassination of Archbishop Romero, the situation in that country had been horrifying. According to reliable sources, at least 5,000-6,000 civilians had been killed by the security forces and paramilitary squads in 1982. The various reports available tended to the conclusion that grave violations of human rights were being perpetrated by members of the State apparatus and by violent extreme right-wing groups apparently acting in collusion with or tolerated by them. Attacks on the life, physical integrity, liberty and security of persons were mostly perpetrated by members of the State apparatus and extreme right-wing groups while the destruction of private property was due mainly to opposition groups. There were also indications that the opposition forces were more concerned to give humanitarian treatment to captives than were the Government forces. His delegation hoped that humanitarian treatment of persons captured in combat would soon become a general practice.

57. In order to put an end to serious human rights violations in El Salvador, the Government and other interested parties must respond to the various recent initiatives to promote a comprehensive and negotiated political settlement in El Salvador. The Government and the authorities must also implement the measures recommended in subparagraphs (2), (3) and (5) of paragraph 125 of the Special Representative's report (E/CN.4/1983/20). In view of the Special Representative's conclusions and of many other reliable reports of continuing grave human rights violations in El Salvador the mandate of the Special Representative should be extended for another year and he should be requested to present a further interim report to the General Assembly at its thirty-eighth session.

58. Prior to adopting resolution 1982/32, the Commission had expressed its profound concern at the continuing deterioration in the situation of human rights and fundamental freedoms in Guatemala and had requested the appointment of a Special Rapporteur to study the situation in that country thoroughly. Regrettably, a special rapporteur had yet to be appointed. However, material available to the Secretariat, as well as other information, made it possible to form an opinion of the human rights situation currently prevailing in that country. Many features of the situation in El Salvador - such as abductions, disappearances, torture and extra-legal executions - were found also in Guatemala, which had suffered from a policy of oppression of the indigenous population, frequently in the form of massacres or summary killings, which, according to Amnesty International, had resumed shortly after the current Guatemalan regime had come to power in March 1982. The civilian death toll in the countryside during the past year had been variously estimated as between 2,600 and 8,000. His delegation therefore urged all parties in Guatemala to respect the internationally recognized provisions of humanitarian law in armed conflicts.

59. The report of the Special Envoy on the situation in Bolivia (E/CN.4/1983/22) gave cause for some satisfaction. Massive and persistent violations of human rights had indeed been committed in Bolivia after July 1980, but the situation had become more auspicious since the advent of President Siles Zuazo's Government in October 1982. According to the Special Envoy, the current authorities were actively

committed to full respect for human rights, although the latter might be affected by the implications for political stability of the adverse economic and social conditions. His delegation accepted the Special Envoy's conclusion that consideration of the situation in Bolivia should be terminated, on the understanding that United Nations assistance should be available to the Bolivian authorities in order to strengthen the democratic process and assist in economic and social development.

60. In Colombia, the recently elected President had recognized that economic and social conditions were a root cause of the violence in that country. The Government's amnesty and other measures offered realistic hope for an improved human rights situation in Colombia, a country which, under its current Government, deserved the requisite United Nations assistance.

61. In Europe, competing ideologies viewed human rights questions in different perspectives, both of which could and should be accommodated in an international approach, although neither ought to impose arbitrary limits on any people's aspirations. With regard to Poland, however, the situation had unfortunately developed in such a way that the Commission should adopt a text such as that contained in draft resolution E/CN.4/1983/L.37, which his delegation had co-sponsored. The release of detainees was a welcome step, but the suspension of martial law had been accompanied by some exceptional legislative measures, one of which seemingly gave scope for repression non-existent before August 1980, and many people were still in prison, convicted of martial law offences. The banning of Solidarity had grievously disappointed millions of Polish workers, who were clearly reluctant to transfer loyalty to the new Government-established trade unions.

62. Ireland had consistently condemned grave breaches of human rights wherever they occurred. His delegation, in its very first statement in the United Nations on a question of human rights, had rejected the argument that international action to redress human rights violations in any country constituted an unwarranted interference in that country's internal affairs. To accept such reasoning was to deny any United Nations role in protecting human rights and any function for the Commission. Sadly, the representative of Poland was one who had adduced that argument in rejecting a resolution legally adopted by the Commission. The Irish delegation regretted that attitude and the Polish Government's refusal to co-operate with the Secretary-General's representative.

63. Although the circumstances surrounding the imposition of martial law in Turkey differed significantly from the situation in Poland, the reports of serious human rights violations in Turkey since September 1980 remained a cause for concern. His delegation had already had occasion to comment on it and he hoped that the Turkish Government's policies of human rights issues in the coming months would allay the international community's widespread concern.

64. In the case of Iran, it was understandable that a new regime, established in the wake of a popular revolution and facing grave internal and external security problems, might feel the need for vigorous measures. Moreover, every people had the right to establish its own forms of political, economic and social organization. But such considerations could not justify the horrible events which continued to occur in Iran. The large-scale execution of political detainees without due process of law, the torture and other inhuman treatment of prisoners, and the religious persecution of minorities, especially the Baha'i community, had been reliably reported from many sources, including the note by the Secretary-General (E/CN.4/1983/19). The

death sentence for 22 members of the Iranian Baha'i community in Shiraz had been pronounced on 10 February 1982. He appealed to the Iranian authorities to end the summary executions of Baha'is and allow them to practise their religion without discrimination. The horrifying deeds reported, sometimes carried out in the name of Islam, violated Islam's principles and the values proclaimed in Iran's own Constitution and in the international human rights instruments to which Iran was a State party. His delegation called upon the Iranian authorities to put an end to such abuses, and hoped that the Government edict of 16 December 1982 signalled a genuine determination to improve the situation without delay. The Government's readiness to receive an envoy of the Secretary-General was particularly welcome.

65. Reports of the situation in the Philippines had caused serious disquiet. As elsewhere in the world, economic and social deprivation, particularly in rural areas, had led to growing frustration, whose expression - for example, through trade-union activity - had in many cases been suppressed. His delegation had read with regret the disturbing reports of disappearances and of arbitrary killings, illegal arrests and torture committed by security forces, together with the harassment of priests and religious workers on the grounds - rejected by the Roman Catholic Primate of the Philippines - that they had taken part in killings by guerrilla forces. It was his hope that the Government would take prompt steps to improve the human rights situation in the Philippines.

66. In recent years the international community had become increasingly concerned about large-scale killings by security forces, or unofficial groups in open or secret collusion with them, sometimes illegally and in defiance of international law, and at other times arguably within the law but with little or no respect for the defendants' rights. The Special Rapporteur's report concerning summary or arbitrary executions (E/CN.4/1983/16) indicated a figure of some two million victims of such killings, from all social classes and in most parts of the world, during the past 15 years. The report linked the phenomenon to serious internal disturbances or political tension and to situations of grave human rights violations. One common feature was that the victims were opposed, or deemed to be opposed, to the authorities in power. Therefore, summary or arbitrary executions were not haphazard events but a factor of political repression, aimed not simply at killing a regime's opponents but at cowing political opposition through deliberate violence.

67. The question covered a wide field, from legal procedures contrary to established international law to disappearances, torture and executions whose secrecy flouted international efforts to protect human rights, and to outright massacres of entire categories of people. The authorities involved must be urged to respect international legal conditions governing the death penalty, and the most effective way must be sought to end illegal acts by security forces and punish the persons responsible. Unfortunately, many new Governments, including those popularly elected, allowed the offenders to go free or even appeared to reward them; until that attitude was changed entirely, there was little hope of eradicating the practice. Because of the secrecy usually surrounding mass killings - the ultimate form of summary and arbitrary executions - a policy of extermination sometimes failed to come to the international community's attention, or did so too late, despite modern high-speed communications. It was time to consider a United Nations human rights presence in various parts of the world, to provide early and unbiased

information for the Secretary-General and legislative bodies. Since United Nations information services existed in many countries, the assignment of human rights officers need not be a major or expensive undertaking. The Director of the Centre for Human Rights had made a similar proposal at the start of the Commission's session. The possibilities should be considered favourably.

68. Mr. HUTTON (Australia) said the very wording of the item under discussion acknowledged that a mere assertion that human rights were provided for or were incorporated into international or domestic law did not guarantee their observance. Human rights were violated, in various ways, in many parts of the world. The manner in which the Commission, on behalf of the international community, approached the difficult and sensitive task of deciding how best to ensure the protection of human rights was a matter for close attention by the public and had a direct impact on the credibility of the Commission and the United Nations as a whole. The broader issue of credibility was of particular importance, having been mentioned by the Secretary-General in his report to the General Assembly at its thirty-seventh session.

69. The Commission represented Governments, which bore the primary responsibility for upholding the human rights of all persons within their jurisdiction. Human rights could, of course, be threatened from other quarters; in his opinion, human rights protection could not be viewed in isolation from the conditions prevailing in the country and the constraints its Government might be facing. But such constraints did not qualify the paramount obligations to human rights and all Governments should be judged by the determination with which they pursued those obligations. They were unlikely to welcome the external scrutiny and criticism involved and it was all too easy for them to seek to frustrate the international community's efforts by procedural or other means. Australia had never accepted the argument that United Nations examination of a human rights situation in a particular State was precluded under Article 2, paragraph 7 of the Charter. Moreover, the voting record on General Assembly and other United Nations resolutions in recent years showed that few, if any, States Members had consistently denied that appropriate international bodies had the right to consider questions of serious human rights violations occurring within national jurisdictions. Indeed, pursuant to Articles 55 and 56 of the Charter, nations shared a responsibility for joint and separate action in order to promote the universal observance of human rights and fundamental freedoms. The Commission in exercising that solemn responsibility, must act in the way most likely to have a positive and specific humanitarian impact.

70. Statements of a clearly political nature could undermine and even annul the examination of any question of human rights violations. Likewise, a self-righteous approach, or the extolling of a particular country's real or imagined achievements, did not enhance the atmosphere of responsibility and co-operation necessary for dealing with the realities of a particular situation. Other United Nations forums existed for the pursuit of political objectives. Hence, the Commission should seek first to strengthen the internationally accepted framework for protecting and promoting human rights, and second, to enhance the effectiveness, in humanitarian terms, of its remedial efforts. The second objective had been advanced, in recent years, by means of a thematic approach, stressing primarily the facts and nature of violations rather than the country or region concerned. Although that approach would never replace the need for the Commission to deal with specific situations of genuine concern, it was an important complementary measure which might offer, in the short term, the prospect of more immediate humanitarian achievements.

71. The value of that significant innovation in the Commission's work was well borne out by the first report of the Special Rapporteur relating to summary or arbitrary executions (E/CN.4/1983/16). His delegation was appreciative of the Special Rapporteur's report, which provided a first broad view of the problem's dimensions and it should be taken in the constructive and humanitarian spirit in which it had been prepared. The Commission should continue to give special attention to the violations concerned, which not only attacked the fundamental right to life but were irrevocable.

72. However, although the thematic approach might effectively complement the attention given to particular situations, it did not obviate or lessen the need to appraise them. The Commission had before it reports relating to **the human rights** situation in Bolivia, Chile, El Salvador, Iran and Poland, as well as a note relating to the situation in Guatemala. There was some force in the argument that those cases did not make up a balanced picture of the world's current human rights situation and did not necessarily reflect the worst situations. Furthermore, the Commission's procedures in that regard were still at an early stage of development. However, by adopting resolutions on Poland and Iran at its thirty-eighth session, the Commission, had significantly broadened the geographical and political scope of its inquiries; it was important to continue the trend towards a better balance and the elimination of bias. The fact that the Commission's work could be criticized in some respects did not mean that it was inherently unsound; on the contrary, significant precedents had been established. Efforts must be made to enhance the Commission's capacity to deal with situations in any part of the world, and to secure the co-operation, confidence and commitment of Governments in pursuit of the Commission's objectives.

73. His delegation, which had co-sponsored Commission resolution 1982/27, remained deeply concerned at the continued reports of gross violations of human rights in Iran, and welcomed the information provided in the Secretary-General's report (E/CN.4/1983/19). The Australian Parliament and people remained actively concerned about the persecution of the Baha'i community and the loss of life and property solely on grounds of faith. Australians were equally concerned about the subversion of essential safeguards of the right to life, especially the proper operation of an independent judiciary. Iran had undergone years of turmoil, but prevailing conditions did not modify any State's obligation to protect all its citizens' rights. The edict issued by the Iranian authorities on 16 December 1982 relating to the judicial system seemed to have led, at least, to some urgently needed improvements in the protection of human rights. Nevertheless, the Baha'i community and groups deemed opponents of the regime still appeared to be subjected to discriminatory and degrading treatment. His delegation urged the Iranian authorities to pursue the path represented by that edict - which implicitly acknowledged that serious human rights violations had occurred - and hoped that profitable contacts could be held between the Iranian Government and the Secretary-General. It welcomed the indication, in document E/CN.4/1983/52, that such a process might begin shortly.

74. Australia's concern about events in Poland, including the banning of Poland's only free trade union, had been expressed at the Commission's previous session. The report contained in document E/CN.4/1983/18 indicated that, although martial law had been lifted, some drastic limitations of Polish citizens' human rights had been incorporated in Poland's legislation. The Polish Government's refusal to co-operate with the Secretary-General in his efforts pursuant to Commission resolution 1982/26

was profoundly regrettable. The representative of Poland had described the resolution as the outcome of a malicious plot, but evidence readily available to the Commission and to other bodies, including the ILO, showed that serious violations of trade union and other rights continued to occur in Poland, despite the suspension of martial law. Australians had great respect and affection for the Polish people, many of whom had contributed to Australia's development; indeed, Australia's highest mountain bore the name of the Polish patriot mentioned by the Polish representative. Therefore, the Australian delegation would like to be able to accept the Polish representative's assurances that the situation fully accorded with Poland's international human rights obligations; but if that was so, it was hard to understand why the Polish authorities refused access by the Secretary-General's representative to information sources within Poland. Under the circumstances, the Commission could only extend the Secretary-General's mandate. The Commission's action concerning other situations considered under the present item had clearly established that its findings must be based on full co-operation from the authorities of the country concerned.

75. Unfortunately, the situation in Guatemala, where violations of the rights to life and security of person, especially among the indigenous population, had been continued and extensive, was still a matter of deep concern. There had been signs, during the past year, of the new Government's willingness to co-operate with the Commission. It was highly disturbing and ~~disappointing~~, therefore, to be confronted at the present session with a situation tantamount to failure to implement Commission resolution 1982/31. There seemed little value in attempting to apportion responsibility or blame for that deplorable situation. It was of the utmost importance that means should be devised, without delay, for the Commission to obtain an independent and authoritative assessment of the many reports of massive human rights violations in Guatemala. His delegation would support a resolution to that effect, and hoped that a special rapporteur could be appointed in the immediate future and mandated to make such an assessment.

76. The discussions in recent years on the situation in El Salvador reflected one of the main difficulties in making the Commission's work effective and revealed the extent to which political compulsions governed its actions. The indisputably grave situation in that country was underlined by the Special Rapporteur's report (E/CN.4/1983/20), which provided a well-balanced evaluation of the continued sufferings experienced in that country. The Special Rapporteur had commented on the need for civil peace in El Salvador as a prerequisite to the full restoration of human rights, the need for effective Government control over all units of the armed and security forces, and the need to continue and extend administrative and social reforms, including agrarian reform. Adoption of draft resolution E/CN.4/1983/L.18 would be an effective inducement to the parties in El Salvador to take the necessary steps to protect human rights. The Australian delegation had abstained from voting on resolutions relating to El Salvador at previous sessions because they had contained certain political judgements irrelevant to the essential issues. However, it firmly hoped that the Commission could adopt draft resolution E/CN.4/1983/L.18 by consensus, as it had at the thirty-eighth session adopted a resolution on the situation in Bolivia - an action unprecedented at the time but one which, it was to be hoped, would set a precedent for the future.

77. The situation in Bolivia had improved significantly, to judge from the report submitted by the Special Envoy (E/CN.4/1983/22). Although the report gave no grounds for complacency, the Special Envoy's recommendation that the Commission should discontinue its consideration of the situation in Bolivia was entirely welcome and appropriate.

78. The latest report to the General Assembly by the Special Rapporteur on the situation in Chile (A/37/564) showed once again that there had been no real improvement. The case of Chile was a matter for some regret, since the current state of affairs could have been avoided had the Commission and the Chilean authorities handled the matter differently. On previous occasions, Australia had lent its support to efforts to regularize certain procedural anomalies which, in its view, merely drew attention away from the essential human rights situation - not that procedural shortcomings justified the Chilean authorities' utter lack of co-operation with the Commission. His delegation again appealed to the Chilean Government to reconsider its self-defeating attitude; the Commission could not agree to change its stance relating to the human rights situation in a particular country when that country's Government failed to co-operate with it.

79. The CHAIRMAN said that, during the statement made under the present item by the observer for the World Council of Indigenous Peoples, a reference to the Innu people had been wrongly interpreted as the Inuit people. The Commission wished to express its regret to the communities concerned for any embarrassment caused.

The meeting rose at 1.05 p.m.