



---

SUMMARY RECORD OF THE 60th MEETING

Chairman: Mrs. SHAHANI (Philippines)

CONTENTS

- AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued)
- AGENDA ITEM 89: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE
- OTHER MATTERS

---

\* This record is subject to correction. Corrections should be incorporated in a copy of the record and should be sent *within one week of the date of publication* to the Chief, Official Records Editing Section, room A-3550.

Corrections will be issued shortly after the end of the session, in a separate fascicle for each Committee.

The meeting was called to order at 3.20 p.m.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/C.3/3 and Add.1 (parts I and II); A/33/163 and Corr.1; A/33/219, A/33/281, A/33/293, A/33/331; E/CN.4/Sub.2/412 (vols. I to V); E/CN.4/Sub.2/SR.816-818; A/C.3/33/7; A/C.3/33/L.4, L.20, L.26, L.30, L.40, L.42, L.44, L.49 and L.51)

1. Mr. FARAH (Assistant Secretary-General for Special Political Questions), introducing the question of emergency assistance to South African refugee students, said that when the United Nations High Commissioner for Refugees had addressed the Committee on the work of his organization he had mentioned briefly the efforts made to co-ordinate a multilateral assistance programme for South African student refugees who had sought asylum in Botswana, Lesotho, Swaziland and Zambia and he had emphasized the programme's continuing need for international support. Historically, the need for an emergency programme stemmed from the policies of apartheid and from the introduction of an educational system for the black population based on the Bantu Education Act of 1953. When in 1976 the Government had attempted to enforce that Act at a secondary school in Soweto the students had demonstrated in protest, the resistance against governmental repression and discrimination had spread from Soweto to other urban areas, and that had led to a large exodus of students from South Africa to neighbouring countries.

2. At its past two sessions the General Assembly had expressed its concern over both the plight of the students and the heavy burden which their influx placed on the limited resources of the bordering States, namely, Botswana, Lesotho, Swaziland and Zambia; it had accordingly requested the Secretary-General to take immediate steps to organize emergency financial and other assistance. In February 1977 a mission had been sent to those countries which had recommended projects calling for a capital expenditure of some \$7 million and a recurring annual expenditure of \$1.4 million for the purpose of establishing the necessary infrastructure for the reception, care and education of the South African student refugees. The task of co-ordinating the international response had been entrusted to the United Nations High Commissioner for Refugees. In September 1977 a second United Nations mission had stated that it had found additional needs, which had been detailed in a report of the Secretary-General to the thirty-second session of the General Assembly. Pursuant to his mandate, the Secretary-General had arranged for the situation to be further reviewed in mid-1978 and the resultant findings, which were to be found in document A/33/163, indicated that as of 31 December 1977 the international community had pledged or provided, through UNHCR, nearly \$6.9 million. In the first six months of 1978 further contributions to a value of more than \$5 million had also been received.

3. In the case of Botswana the problem was still acute, although some of the student refugees had been able to leave the country on scholarships; a small centre was to be constructed to accommodate new arrivals and another project called for the construction of two secondary schools, at a cost of \$6.8 million, of which UNHCR had agreed to provide \$4.2 million. Contributions were urgently needed to make up the difference, namely, \$2.6 million.

/...

4. In Lesotho the number of South African student refugees was nearly 2,000, of whom 450 were still waiting for educational opportunities. The construction of additional classrooms, laboratories and hostel accommodation at secondary and technical schools and the expansion of facilities at the national university would require international assistance to the extent of about \$2 million.
5. In Swaziland the number of refugee students was not as large as in the other three countries, owing to the fact that most refugees entering Swaziland passed on to other countries. International assistance had enabled work to begin on the construction of a centre which would cater for refugees in transit to other countries, as well as for those who wished to continue their education in Swaziland, and UNHCR had agreed to cover the construction costs. However, additional funding was required for furniture and other equipment.
6. In Zambia there were at the present time more than 50,000 refugees. Many students had been given places at Zambian educational institutions and others were being accommodated at refugee camps. As Zambia was a recent addition to the assistance programme, no specific project had yet been formulated for those student refugees.
7. Miss KONIE (Zambia), speaking on behalf of the delegations of Botswana, Lesotho, Swaziland and Zambia on the question of assistance to South African refugees, said that the report under consideration (A/33/163) was an objective assessment of the situation prevailing in Botswana, Lesotho and Swaziland. As Zambia was being included in the programme for the first time, it had not been possible to provide information reflecting the situation in that country, but the Government of Zambia was currently co-ordinating the relevant information and it was confident that the next report would reflect a comprehensive picture of the situation.
8. In considering the refugee problem it was important not to lose sight of the root cause of the problem, which was the fanatical belief in white supremacy held by the racist minority régimes in southern Africa, for unless that root cause was eliminated, the number of refugees would continue to increase.
9. Unfortunately, the political situation in southern Africa was continuing to deteriorate: the Namibian question still eluded an international solution; the illegal Salisbury régime was still oppressing the masses in Zimbabwe and harrasing and killing refugees from neighbouring African countries. With regard to South Africa, she wished to draw attention to the change in the kind of refugees who were coming from that country, owing to the increase in the number of young refugees caused by the mass uprisings such as that at Soweto. Moreover, it could be expected that there would be more oppressive measures aimed at imposing compulsory education on blacks while maintaining segregation, resulting in an increase in the number of student refugees in neighbouring independent States.

(Miss Konie, Zambia)

10. The refugee problem had serious social and economic consequences and consequences in terms of security for both the host country and the refugees themselves, for the racist régimes had repeatedly perpetrated acts of aggression against the host countries. Meeting the cost of providing for the needs of the refugees was an obligation of the international community which should be shared equitably by Member States. The host countries were continuing to divert a substantial part of their meagre resources to refugee programmes. For example, over the past year the Government of Zambia had air-lifted Zimbabwean refugees from Botswana to Zambia at a cost to itself of more than \$2 million. Considering that the refugee problem appeared to be assuming a permanent character, her delegation suggested that, in addition to making voluntary contributions to the Office of the United Nations High Commissioner for Refugees, Member States should make separate budgetary allocations to cater for increasing refugee needs.

11. The report before the Commission showed that the need for international assistance was considerable, particularly in the area of counselling student refugees in Botswana, Lesotho and Swaziland and for the completion of a number of refugee projects and the initiation of new projects. The delegations of Botswana, Lesotho, Swaziland and Zambia welcomed the decision by the United Nations High Commissioner for Refugees to open branch offices and appoint representatives in those of the countries in question where such facilities had not hitherto existed. However, international aid should not be regarded as a permanent solution to the refugee problem. In accordance with the resolution adopted at the Meeting of Heads of State of the Organization of African Unity held at Khartoum, a Pan-African Conference on refugees was to be held at Arusha in May 1979 under the auspices of OAU; it was to be hoped that the Conference would adopt concrete proposals directed at finding permanent solutions to the refugee problem. Lastly, she said it was vital for the international community to keep the situation under review, in accordance with paragraph 56 of the report in question.

12. Mr. RIBICOFF (United States of America) said that for many years his Government had addressed the United Nations on problems associated with illicit production, traffic in and use of both natural and synthetic drugs. He wished to pay a tribute to the efforts made by the Government of Turkey to put an end to illicit cultivation of the opium poppy. The Deputy Director of the Division of Narcotic Drugs, Mr. Kandemir, had spoken about the gigantic sums of money obtained by gangsters dealing in drugs, amounting to tens of billions of dollars a year. That in turn led to the corruption of Governments and private enterprise all over the world and placed great power in the hands of traffickers.

13. During the previous year the General Assembly had adopted resolution 32/124 calling upon the United Nations drug control units to take new and bold steps to control the drug menace. Yet not one dollar had been added to the budgets of those units, and the voluntary contributions to the United Nations Fund for Drug Abuse Control had dwindled. By some estimates, the United Nations and all other international organizations combined were providing only one tenth of 1 per cent

(Mr. Ribicoff, United States)

of the resources needed to control drug abuse throughout the world. His delegation hoped that the Committee in adopting a new resolution would not fail to provide for the resources required for its implementation and that the necessary activities would be carried out through the Secretary-General and the relevant units, activities which must include reassessment of the "below average priority" currently accorded to the provision of the United Nations resources needed in the fight against the ever-increasing menace of world-wide drug abuse.

14. Mr. SHIPTON (Australia) said that it was important to intensify the work of the international community relating to narcotic drugs. Australia, which was a member of the Commission on Narcotic Drugs and which took a keen interest in the work of the United Nations Fund for Drug Abuse Control and the International Narcotics Control Board, had noted with particular concern the fact that, despite the activities of those bodies and various specialized agencies, the drug abuse situation had not markedly improved in recent years. That could be seen from the figures given to the Committee at its 42nd meeting by the Executive Director of the Fund showing the amount of production of opium and cocaine; the Executive Director of the Fund had gone on to suggest that measures must be taken to reduce and, if possible, eliminate the illicit supply at its source. Australia supported the Fund's pilot projects designed to show that legitimate crops could be grown as profitably as certain illicit plants. It was important to persuade farmers that multisectoral crop substitution offered considerable economic and social advantages as well as a new way of life consistent with the ideals of humanity as a whole.

15. The Fund had done very good work despite the scarce resources placed at its disposal. Australia considered that it was of the utmost importance that those activities should have official support: it had decided, for its part, to double its contribution to the Fund, raising it to \$A 200,000 (approximately \$US 298,800) in the financial year 1978/79, and doubling it again, to \$A 400,000 (approximately \$US 597,600) for each of the financial years 1979/80 and 1980/81.

16. With reference to the problem of crime prevention and criminal justice, he recalled that Australia had been selected as the host country for the Sixth United Nations Congress on Prevention of Crime and Treatment of Offenders, which would be held at the Sydney Opera House from 25 August to 5 September 1980. At its fifth session, held at Vienna in June 1978, the Committee on Crime Prevention and Control had completed the preparation of its recommendations concerning the agenda and organization of the Congress, which the Economic and Social Council would consider at its first regular session in 1979.

17. His Government had been making various preparations for the Congress. It had established a Consultative Committee consisting of senior officials nominated by the Federal Government and the Governments of the States. The nucleus of the Committee was comprised of members of the Australian Criminology Research Council and also representatives of the Australian Institute of Criminology and

/...

(Mr. Shipton, Australia)

the Australian Department of Foreign Affairs. Administrative preparations were being dealt with by a management committee, and the Government had also established an Australian Criminal Sciences Committee which was concerned with the development of material relevant to the different agenda items which would be before the Congress.

18. The Congress, like those which had preceded it, should focus its attention on practical issues so as to assist in the formulation of national and international policies for crime prevention and control. To that end, his delegation supported the aim of the Committee on Crime Prevention and Control to set forth the issues and offer solutions in both an administrative and a professional context. To facilitate that process, statements of principles and guidelines should be formulated to balance the instruments and processes which had already been developed for the observance of human rights, in order that they might provide yardsticks against which the implementation of Congress recommendations could be measured.

19. His delegation had distributed a booklet providing information on the Congress site and outlining the criminal justice programmes of the various Australian States. The Sydney Opera House would have facilities for two concurrent plenary meetings, and there would be rooms available for smaller meetings. In general the services provided would be equal to those at earlier United Nations meetings. In order to ensure that that would be the case, his Government was maintaining close contact with the Congress secretariat - in other words, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs - as well as with the Department of Administration and Management and the Department of Conference Services, the Office of Public Information and other relevant units of the Secretariat.

20. The forthcoming transfer of the Congress secretariat to Vienna, in accordance with General Assembly resolution 31/194, should not affect the efficiency or availability of the manpower required for the Congress. At the time of the adoption of that resolution it had been understood that the transfer would take place in 1978 and, according to the original time-table, it should by now have been completed. As was evident from document A/C.5/33/39, however, it was now scheduled to take place in August 1979. His delegation would therefore request the representative of the Secretary-General to assure the Third Committee that the transfer would not be carried out in a way which would result in any disruption of preparations for the Congress, a quinquennial meeting of great importance in the spheres of social development, the development of law and the rule of law, and human rights. He was confident that the Secretary-General would deal with the transfer of the Congress secretariat in the same way as he would deal with the transfer of officers responsible for the preparation of the 1980 World Conference of the United Nations Decade for Women. In particular, foot-note 13 to document A/C.5/33/39 should be broadly interpreted so that the professionals to be transferred in 1980 instead of 1979 would include not only those working directly on the documentation required for the Congress but also those responsible for liaison with the technical services officers and those responsible for the day-to-day contact with missions, especially of developing countries, which were essential to the success of any United Nations conference.

/...

21. The CHAIRMAN, referring to the report of the Administrative Committee on Co-ordination (E/1978/102), said that the Economic and Social Council had on the previous day adopted a decision to consider that report in depth during its first regular session in 1979; for that reason the Committee did not need to take any action on the matter.

22. She also announced that the Economic and Social Council had decided that at its organizational session for 1979 it would examine the question of the Ad Hoc Working Group the establishment of which was recommended in Economic and Social Council resolution 2079 (LXII) for the study of reinforcing the social development sector within the United Nations.

23. Ms. BEAGLE (New Zealand) said that since the General Assembly had before it the documents to which the Chairman had just referred, the decisions taken by the Economic and Social Council did not deprive the delegations represented in the Commission of their right to make comments on them; her delegation had concurred in the decisions adopted by the Economic and Social Council on that understanding, and it intended to refer in its statements to social development, which it regarded as an important aspect of item 12.

24. Mr. van BOVEN (Director, Division of Human Rights), said that as he had already introduced item 12, he would confine himself to drawing attention to some of the documents which the Committee had before it. Firstly, document A/33/293 contained a report of the Secretary-General in which replies received from Governments in accordance with the request made by the General Assembly in resolutions 31/124 and 32/118 were summarized.

25. The Committee also had before it the report of the Ad Hoc Working Group on the Situation of Human Rights in Chile, which would be introduced by Mr. Allana, Chairman-Rapporteur of the Group. With regard to that question, he said that the Committee would also have before it the report prepared by Mr. Cassese, Rapporteur of the Sub-Commission for Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/412) on the impact of foreign economic aid and assistance on respect for human rights in Chile, which, in accordance with the wish of the Commission on Human Rights, was being transmitted to the General Assembly together with the summary records of the meetings of the Sub-Commission at which it had dealt with that item (E/CN.4/Sub.2/SR.816-818). In that connexion, he also drew attention to document E/C.3/33/7.

26. Lastly, he recalled that the Economic and Social Council, in its resolution 1978/15, which was reproduced in document A/C.3/33/L.26, had recommended that the General Assembly should establish a United Nations trust fund for Chile to receive contributions and distribute, through established channels of assistance, humanitarian, legal and financial aid to persons whose human rights had been violated by detention or imprisonment in Chile, to those forced to leave the country and to relatives of persons in the above-mentioned categories.

27. The CHAIRMAN informed the Committee that the Ad Hoc Working Group had designated two of its members to introduce the Group's report and answer any questions which members of the Committee might wish to ask them. The two were Mr. Allana and Mr. Dieye.

28. Mr. ALLANA (Chairman-Rapporteur of the Working Group on the Situation of Human Rights in Chile) said that in the introduction to the report (A/33/331) the history of the reports and decisions of the Group since its establishment in 1978 until the present time were outlined. Since that was perhaps the last report of the Group to the General Assembly, he would like to take the occasion to thank the Committee for the support which it had always given the Group.

29. Chapter I referred to the visit by the Group to Chile in 1978. It recalled that the efforts of the Group to visit Chile had failed year after year, for the Government of Chile had imposed the condition that only two or three members of the Group could make the visit, a condition which the Group, supported by the Assembly and the Commission on Human Rights, had rejected. Finally, determined to break out of that impasse, he had devised a plan which consisted, in essence, of securing the reiteration by the Government of Chile that it would allow the Group as a whole to visit the country without imposing any condition or restrictions. If that was done, the Government of Chile would be informed that he himself would voluntarily refrain from accompanying the Group on its visit to Chile. That formula had been submitted to the other members of the Group, who, after lengthy deliberations, had accepted it, and it had subsequently been discussed with the Government of Chile, which had also finally accepted it. Then Mr. Benites, on the advice of his physician, had been obliged to cancel his plans to visit Chile. He (Mr. Allana) had explained that situation in full in a press release issued in New York on the Group's return from Chile and it appeared in annex XI of the report.

30. As was stated in paragraph 41 of the report, in general, the Group had fully enjoyed the freedom of movement and the freedom of investigation provided for in the memorandum of 26 July 1978. The Government deserved commendation for the manner in which it had fulfilled both the spirit and the letter of its undertakings on co-operation with the Group, for which the Group wished to record its appreciation. However, the Government of Chile had not made it possible for the Group to see General Contreras who had been the Director of DINA, and had merely provided his address and telephone number. The Group had endeavoured to contact the General, but had simply been informed that he was not in Santiago. However, on returning to New York the Group had been informed that General Contreras, who had reportedly been involved in the assassination of Mr. Letelier, was being held under house arrest. Accordingly, the Group had decided to use the good offices of the Chilean Government and had requested it to transmit to the General a questionnaire which was reproduced in annex XIV of its report. The Government of Chile had acceded to that request, but no reply had yet been received from the General.

31. The relations between the Group and the Government of Chile during the year



had been much more fruitful than in the past, and the Group had succeeded in establishing a new precedent in the history of the United Nations.

32. Chapter II of the report was concerned with the constitutional and legal aspects with a bearing on human rights.

33. In its last report to the General Assembly, the Group had stated that the Junta as a whole was invested with constitutional and legal powers. With regard to the arbitrary dismissal of General Leigh, the Group had been informed by a Chilean lawyer that the decree of dismissal showed that the Government was not implementing its own decree laws, even when they concerned members of the Junta.

34. According to the provisions of Act No. 12927 of 1958, a state of emergency could be declared in case of war, external attack or invasion, or in the case of "public disaster". Public disaster had been cited as the reason for successive impositions of the state of emergency. In paragraph 77 of its report, the Group noted that, in declaring the country's entire territory to be in a state of emergency, the Government interpreted the text of the Act in disregard of its origin and intention. On the other hand, the Minister of the Interior had said in his speech concerning Decree Law No. 2191 of 1978, concerning amnesty, "... As every Chilean can today see for himself, our country enjoys peace and order, which guarantee the safety of the individual and his family". If that was the case, there was no public disaster and no justification for the continuation of the state of emergency.

35. Section C of the chapter dealt with the Ministry of the Interior. The Group had asked the Minister of the Interior to give it information on the security services and to provide a list of persons detained by DINA. The Minister had said that he could not do so because it was very difficult to know which detainees had been held by DINA, which by the armed forces and which by the police. Consequently, at the end of that section, the Group had felt obliged to state that, despite the participation of civilians in the Government, the methods of action and the approach to human rights did not appear to have changed.

36. With regard to the specialized State security agencies referred to in section D, the Group noted that, although DINA had been disbanded, the National Information Agency (CNI) had the same exceptional powers and prerogatives and had also enjoyed the co-operation of other agencies in connexion with arrest and detention. In that regard, it was noted in paragraph 132 that CNI's direct dependence on the Supreme Government was simply the confirmation of a situation existing in practice in the case of DINA.

37. Section E of chapter II was concerned with the Office of the Comptroller-General of the Republic which was a characteristic feature of the Chilean constitutional system and was responsible, among other things, for verifying the legality and constitutionality of supreme decrees of the executive power and orders of heads of departments of public administrative departments. That procedure was mandatory, and the Comptroller-General could reject a supreme decree or order. It would be recalled, in that connexion, that the former Comptroller-General, Mr. Humeres, had disagreed with the supreme decree calling for a

(Mr. Allana)

National Consultation of 4 January 1978, holding it to be unconstitutional. He had subsequently retired.

38. Chapter II also contained a section relating to judicial remedies for the protection of human rights which, in essence, stated that there were legal and practical circumstances which interfered with the independence of the judiciary as a result of the concentration of power in the hands of the military Junta by virtue of the emergency régimes. It was also stated that the Supreme Court considered the remedy of protection, as provided in Constitutional Act No. 3, to be applicable only to property rights, but had not decided that it should be applicable for the purposes of protecting life, liberty and security of person. The Group had also been constrained to note that, during its stay in Chile, the President of the Supreme Court had informed them that the purpose of the remedy of amparo was to provide a remedy against improper judicial detention, not administrative detention. Accordingly, the Group had concluded that the Judges of the Supreme Court bore special responsibility for the decline in the power of the judiciary in Chile.

39. In section G of chapter II, which was concerned with civil and political rights, it was noted that trade unions and other similar associations had been deprived of the right to elect their own office-bearers and that political parties had been dissolved and their property confiscated. It was also recalled that, following the National Consultation, General Pinochet had stated that there would be no more elections, voting, or consultations for 10 years, meaning that the whole nation would be deprived of all political rights from September 1973 until 1988, a period of 15 years.

40. Chapter III dealt with Decree-Law No. 2191 of April 1978, granting amnesty. In that connexion, the Group had been informed that most of the people who would benefit by the amnesty decree were outside the country. Furthermore, the Group stated that not all the detained persons who had benefited from the amnesty had regained their freedom in Chile. In that connexion, it was sufficient to recall that the Vicars of the Santiago Archbishopric had issued a statement, published in El Mercurio on 9 May 1978, which the Group had reproduced in annex XXIX of their report and which he recommended members of the Committee should read.

41. Chapter IV dealt with the right to life, liberty and security of person. The table accompanying paragraph 310 showed the number of arrests for 1976, 1977 and 1978 and illustrated that arrests for political or national security reasons had not ceased. It was also noted that the system of intimidation persisted and that the Government of Chile had not yet prosecuted the torturers of Chile as the General Assembly had asked.

42. Chapter V, which dealt with missing persons, contained a summary of the statements and promises made by the Government of Chile which had as yet not been put into effect. It was also noted that the Minister of the Interior had promised to give ex-gratia pensions in cases where the missing person had been the family breadwinner, an offer which had been rejected by the families concerned. In the

/...

view of the Group, the situation of families of missing persons deserved special mention. The situation strengthened the Group's conviction that the proposed United Nations trust fund for Chile must become operative immediately. In that connexion, he recalled resolution 13 (XXXIV) of the Commission on Human Rights and Economic and Social Council resolution 1978/15, concerning the establishment of the Fund. The gravity of the human tragedy involved had prompted him to propose to the Chilean Government, on behalf of the Group, the establishment of an international inquiry committee. The Government of Chile had not as yet made up its mind on that proposal, which was reproduced in annex LV of the report, and had informed the Group that it would like to keep up contacts with it in January 1979.

43. Chapter VI dealt with exile and return. In that connexion, it was recalled that, in accordance with Decree-Law No. 2191, all Chilean exiles could return to Chile. However, the restrictive effect of that Decree was dealt with in chapter III. Therefore, in paragraph 466, the Group stated its conclusion that the fate of all Chilean families living in exile depended on the decision of the Ministry of the Interior.

44. Chapter VII dealt with freedom of expression and information, in respect of which the Group noted that existing Chilean legislation provided the military and judicial authorities with a wide range of powers to control information and the news media. In paragraph 482, the Group acknowledged that, in spite of that provision, some tolerance in the field of information did exist but it was more apparent than real, and concluded by noting the wide range of legal powers enjoyed by the military authorities to control the media.

45. Chapter VIII was concerned with the right to education. During its visit to Chile, the Group had had contacts with students, teachers and professors. It had noted, in that regard, that budgetary expenditures on education had not increased in 1977-1978, as compared to five years previously. The Group noted that, as far as intellectual freedom was concerned, the universities were still governed by representatives of the armed forces, whose authority was felt at all levels.

46. Chapter IX dealt with freedom of association and right of assembly and opened with a pathetic note to the effect that the Group had been informed that political parties were still prohibited and that many other types of associations, particularly student associations, were also prohibited and their property either frozen or confiscated. Only trade unions that supported the Government's policies were allowed to operate under relatively normal conditions.

47. Chapter X also contained a detailed analysis of the provision of Decree-Law No. 2200 of 15 June 1978. With regard to trade union rights, it was indicated that a number of measures restricting trade union activities which had been taken in the past, and which were to have been of a temporary and purely transitory nature, were still in full force and were applied daily more than four years later. The right to strike was still suspended, and trade union leaders had suffered persecution as a result of their activities and many of them were currently missing.

(Mr. Allana)

48. The situation of the indigenous populations was also considered in chapter X. In Chile, there were several indigenous population groups, the most important of which were the Mapuche Indians, who constituted 10 per cent of the population. Paragraphs 693 and 694 of the report contained references to killings of Mapuches since the military coup. Representatives of the Mapuches had informed the Group that they had been expelled from their lands and that their traditions, culture and language were being suppressed by force.

49. Finally, in chapter XI, the Working Group set out its conclusions and recommendations, and stated that the current situation of human rights in Chile had improved in comparison with that reported by the Group in the years immediately following the change of Government on 11 September 1973. The Group was convinced that that was due largely to the international concern expressed inter alia through resolutions of the General Assembly and the Commission on Human Rights. For that reason, the United Nations should continue to keep the situation in Chile under consideration until respect for human rights met international standards (para. 779). The Group's visit to Chile had convinced it that the information contained in its earlier reports had been accurate. The Group recommended that the General Assembly should call upon Chile to end the state of emergency in order that all human rights might be fully enjoyed. The Group also recommended that the General Assembly should take the necessary steps to establish as early as possible an effective international penal jurisdiction to judge persons alleged by the international community to be responsible for torture. The Group recommended to the General Assembly that a special rapporteur on Chile should be appointed, from among the members of the Working Group as currently constituted, by the Commission on Human Rights, in consultation with the Chairman of the Working Group, and that the United Nations trust fund for Chile, recommended by the Economic and Social Council in its resolution 1978/15, should be established. The Group went on to express its deep concern about 600 missing persons and recommended that an independent international inquiry committee should be established to clarify the whereabouts and fate of missing persons and that the General Assembly should call upon the Chilean Government to remove restrictions on political and trade union activities.

50. With regard to the situation of the Mapuche indigenous population, the Group recommended to the General Assembly that it should call on the Chilean Government to take the particular cultural characteristics of the Mapuches effectively into account in any measures that affected them and to adopt the necessary special provisions to guarantee to the Mapuches their right to own land, in accordance with their customs and traditions, and the right to preserve their cultural identity.

51. Finally, the Group concluded that its visit to Chile had proved to be useful, that the Government of Chile had co-operated with it during its visit and that the people of Chile had given the Group a warm welcome.

52. It would be noted that the Working Group had recommended structural changes in the method and manner in which the United Nations should demonstrate international concern for the restoration of human rights in Chile. Firstly, a special rapporteur

should be designated to replace the existing Working Group. Secondly, an international inquiry committee should be appointed to clarify the whereabouts and fate of missing persons; and thirdly, the United Nations trust fund should be set up as soon as possible, in view of the urgent need for it.

53. Mr. DIEZ (Chile) said that each time that his delegation listened to the Rapporteur of the Ad Hoc Working Group giving the Third Committee a detailed report on the Group's views and on the information gathered regarding the situation in Chile, it could not help feeling some surprise. It would seem that, over the past four years, the human rights of the world in general were limited solely to the cases referred to by the Chairman of the Group in connexion with the situation of human rights in Chile. Once again, he felt the weight of unprecedented discrimination upon himself and his country. At the same time, as an individual living in the second half of the twentieth century, he felt the weight of the blindness of the United Nations with regard to what was happening in other parts of the world and the hypocrisy of the words uttered in judgement of a single country.

54. In spite of that discriminatory and absurd treatment, Chile had honoured its pledge to the United Nations; it had lived up to the agreement to allow the Working Group to visit Chile and, according to the Group itself, during that visit it had received extensive documentation from official sources; at the request of the Group, the Government had supplied all types of documents such as arrest decrees, lists of arrested persons, medical certificates, legal provisions and reports on missing persons. As the Group had also pointed out, the Government had acceded to its requests to visit places of detention. In general, the Group had enjoyed full freedom of movement and investigation as provided for in the memorandum of 26 May 1978.

55. As the Chairman had stated, the manner in which the Government had complied with the spirit and the letter of its undertaking to co-operate with the Group was commendable, and the Group had wished to express its appreciation.

56. As a reading of the report (A/33/331) showed, during its visit to Chile, the Group had had an opportunity to meet with the country's highest authorities, either in the course of courtesy visits or in working meetings. It had held meetings with the Ministers of Foreign Affairs, the Interior and Justice, with the President of the Supreme Court, with Members of the Santiago Court of Appeals and with former Presidents of the Supreme Court. It had also had the opportunity to visit prisons and penitentiaries, assistance and community aid centres, suburban areas of the capital and the province of Valparaiso, and the offices of the National Information Agency (CNI). It had interviewed representatives of the opposition, trade union leaders and representatives of the Church. His delegation was pleased to note that two full days had even been devoted to meetings with the Vicaría de la Solidaridad, whose position on the question was well known.

57. Finally, in addition to the recognition on the part of the Working Group in that regard, the Government of Chile also wished to note that the co-operation extended fell within its understanding of its obligation under the Charter to co-operate in

(Mr. Diez, Chile)

promoting human rights, an obligation that had been fully complied with by the Government of Chile.

58. He regretted, however, to have to state that the Working Group could not be said to have complied fully with either the letter or the spirit of the undertakings that it had entered into with the Government of Chile. It was regrettable that the Government had not obtained from the Group the reciprocity to which it was entitled.

59. The Government of Chile considered that the Group had not fully complied with the agreements of May 1978, that it had involved itself in matters outside its competence, and that the conclusions contained in its report were unbalanced when compared with the actual situation in Chile, as the Group had been in a position to observe.

60. The main idea of the agreement between the Government and the Group -- the idea for which the Government of Chile had been striving since early 1975 -- had been to establish a number of minimum standards of procedure based essentially on trust and good faith. He did not wish to give the impression that the Group had acted in bad faith, or that, through its actions, it had abused that trust. Nevertheless, there were ways and means of fulfilling the agreements, and he regretted to have to note that the Government of Chile was disappointed at the way in which the Group had understood and carried out its undertaking.

61. For example, when the Group had been set up in 1975, an essential part of its mandate had been to concern itself with serious, massive and persistent violations of fundamental human rights thought to exist in Chile. Regardless of its comments, the Group had been in a position to establish on the spot what was revealed by the report as a whole, namely that there were no such violations. Nevertheless, there was not a single line which stated specifically that, in Chile, there were currently no massive, systematic or institutionalized violations of human rights. It should be noted that the Group had made no explicit statement on that fact, which was what the international community was concerned with, and that, on the contrary, it had left it shrouded in ambiguity, just as in the report.

62. In the view of his Government, the Group had had an obligation to make it clear, beyond any doubt, that the alleged climate of terror and of massive, persistent and systematic violations of human rights did not exist in Chile. The Group had been in a position to determine as much by walking the streets of Santiago, talking spontaneously with the people of Chile, informing themselves about the freedom of expression and thought, reading the press, and seeing and listening to journalists; it could even have deduced as much from all the anti-Government information received from informants, through evidence provided within Chile in absolute freedom and without a single complaint that the Government of Chile had taken, or had attempted to take, any steps against the informants.

(Mr. Diez, Chile)

63. Nor was the Group fully honouring its commitment to collect information from all relevant sources, since it had failed to include in the report all the information provided by the Government of Chile. He drew attention to one omission which, by its very magnitude, seemed inconceivable in such a report.

Paragraph 371, on page 107 of the report stated: "On the question of the concept of a political crime, the Group, after having heard the competent Chilean authorities, reached the conclusion that these authorities have a very restrictive and in some cases even circumstantial conception of such a crime in so far as the Government and, in particular, the Minister of Justice, refuse to consider the motives which may have prompted the person responsible for the crime to act as he did". Moreover, in paragraph 373 and following, reference was made to the information provided by the Government of Chile on that question, and the reader was referred to annex XLI. In other words, information as important as that provided on the subject was not included in the body of the report. But that was not all. An examination of annex XLI showed that a lengthy and well-documented memorandum in which the Minister of Justice of Chile, at the express request of the Working Group, explained the Government's understanding of what was meant by a political crime, on the basis of both national and international doctrine and indicating the case law on the subject and the sentences handed down in Chile, was not even included as an annex.

64. His Government considered that a grave omission, since there was a conceptual distinction which must be made clear, in respect of the concept of a political crime. Motive was not, nor could it be, the only criterion used in classifying an act as a political crime. For example, if a person, in the exercise of the right to freely express his opinion, called for the overthrow of the Government and the subversion of the established order, that was obviously a political crime. If, at the same time, he was to insult the Head of State, that was nevertheless not considered as constituting the general law offence of insulting behaviour, since there was no animus iniuriandi. As it had been the political motive that had prompted his action, the insult would therefore be considered as part of a political crime. However, if for a political motive, a bank was robbed to finance an organization, or a kidnapping was committed to obtain money to finance the resistance movements, then regardless of the motive, that was not, nor could it be, a political crime, but a common crime to which the full force of penal legislation must unquestionably be applied. Consequently, there was a fundamental distinction between the Group's apparent understanding and the understanding of the Chilean Government as to what constituted a political crime.

65. As he understood it the Group had been instructed to transmit all the information to the General Assembly, particularly that which was provided to the Group, upon its request, by the Government of Chile. He could therefore not help expressing, respectfully but frankly, his disappointment at the way in which the United Nations resolutions on the provision of information relating to the Chilean situation had been implemented.

66. Furthermore, some facts of major importance, relating to freedom of the press, were omitted. The Group had been able to observe, and it had been seen in

/...

(Mr. Diez, Chile)

the streets of Santiago, that the foreign press circulated daily. The New York Times, the Washington Post and the Wall Street Journal arrived the day after their publication and were freely obtainable without any restriction. Periodically, dailies, such as Le Monde and Il Corriere della Sera, and all international reviews arrived. The Group had seen that in the streets, but there was no mention of it in the report.

67. Freedom of opinion in a country was assessed not only by the publication of its local dailies, in which, moreover, the Group always suspected that that freedom was influenced by some kind of underground, almost magical kind of control exercised by the Government over the press. It could not have such influence over the foreign press, which was sold in Chile as freely as ever and purchased in as large a quantity as ever, which was something that frequently happened in countries that were far from international centres and where everyone wanted to keep informed, because he wanted to feel a citizen of the world. That was a major fact, observed by the Group and not expressed in its report.

68. Another point to be noted was the extensive discussion with the Working Group on the way in which the data were to be evaluated, the value of the information supplied by Governments and what the Group would do when faced with information from other sources which was contradictory to the information provided by the Government, i.e., information given by a State Member of the Organization.

69. It had been agreed that where there was contradictory information and the official information was set aside, preference being given to the information provided by the informants, who were sometimes anonymous and whose credibility had to be weighed, the Group should make explicit mention of the reasons why, faced with such contradictory information, it rejected that offered by the State and accepted instead that offered by the informants. That was explicitly set forth in the memorandum of May 1978: "The Group will continue to carefully weigh the evidentiary value of all the information it receives taking into consideration, inter alia, the character of the source of the information, its direct and reliable nature, the potential motivations of the source and the concordant nature of other information. The Group is aware that in taking these factors into consideration certain information or evidence, in some cases that from official sources, both national and international, may in given circumstances have greater probative value than other information or evidence and that such be reflected in the findings of the Group."

70. That was the agreement, which he had read verbatim from the memorandum. Accordingly, when official information was disregarded or placed in a foot-note, when unofficial or sometimes anonymous information was preferred and official information was relegated to the annexes and when sometimes it was included in an incomplete form, he honestly believed that he had a right to express his disappointment at the way in which abuses had been made in the weighing of the evidence.

71. He invited the Committee to consider one example, because a specific example was the best illustration of his argument. With regard to detainees, the Group

/...



(Mr. Diez, Chile)

had asked the Government of Chile how many persons had been arrested for political reasons. The Government had given it a list with surnames, given names, date of arrest and reason for arrest and indicating whether the persons arrested had been released or brought before the competent courts. That was the information which the Chilean Government had given the Working Group.

72. The Working Group, however, with regard to detainees, merely indicated in a foot-note that the Government of Chile had provided a list of detainees, but in the body of its report - as the Chairman had pointed out - it published a statistic; it was well known how statistics could be manipulated. It had never been known whence that statistic had been received; no names were mentioned, and no source was given; it stated that there had been 70 detainees in one month or 800 but gave no names. If the Group believed that the Government's list was not accurate, it should have stated the reasons why it had doubted it and should have given the names of the detainees - or the persons whom the Group had been told were detainees - who were not mentioned in the list provided by the Government.

73. Furthermore, there was something which displeased him, because things had to be very clear. When the Group said that in Chile in 1978 there had been 985 political arrests (including the 780 arrests that had taken place on 1 May for acts not authorized by the authorities), he found that the way in which that was stated was, to say the least, ambiguous, if not to apply other terms. Persons who had been arrested by the public authorities in the street, taken to a police station, had their domicile checked and had been released and brought before the competent judge for a decision could not be called political detainees. No one could in good faith include such persons among the political detainees. However, since even the figure given by the anonymous source had seemed very low, because there had been only 210 arrests during the year in a country with 12 million inhabitants, it had been necessary to add to them those 780 persons who had momentarily passed through the police station on 1 May.

74. He asked how Mr. Allana would react if he asked him how many political detainees there were in Pakistan, if persons who merely passed through the police stations and were not imprisoned were regarded as such. Where were their names? Where was Mr. Allana's moral concern for those political detainees in Pakistan, or were there none? In the case of Chile, a person merely had to pass through the police station in order to sign his name and give his domicile in order for a United Nations body to waste time, money and paper by including such persons among a country's political detainees. He did not believe that that reflected the balanced approach based on good faith which should be acceptable to a Government representative.

75. He regretted to have to say that, but that was the situation, and Chile was tired of keeping quiet for political reasons. Now it had decided to speak up and tell things as they had happened and as they should be told.

76. The Chairman of the Working Group had referred, moreover, to the chapter on the indigenous populations included in the report, a chapter which had given rise

/...

(Mr. Diez, Chile)

to laughter in Chile, because it seemed like a rigged-up machination based on statements generally written by former agents of the previous Government, who showed a love for the indigenous populations that was subsequent to Mr. Allende's Government.

77. Chile actually had an indigenous population, which he himself knew personally. It was not 13 per cent of the population as misquoted by Mr. Allana, who had been reading over quickly an annex by the Government of Chile; it was 12 per cent of the rural population, not 13 per cent of the total population of the country, to start to put things straight. Did the Working Group and the Committee believe, that with all the world-wide attention that had been focused on Chile, anyone could believe that 1,100 members of the indigenous population had died near Santiago, in the place known as Paine, without its having been mentioned in the present forum 500 times by Amnesty International, the International Commission of Jurists and the so-called Chilean "resistance" movements? Nevertheless, one allegation was enough for the Group, one allegation, which the Group had certainly not checked with the Chilean Government, which it had in no way tried to verify and which Chile had learnt of only through the reading of the report - one allegation was sufficient for the report to register such a monstrous fact, namely the death of 1,100 members of the indigenous population near Santiago. He could have included in his reply many ideas which had come to him concerning the procedure of the United Nations and the Working Group. He had not done so, because absurdities should not be repeated in a document that prided itself on being serious.

78. There were some statements in the report that discredited ancient Chilean institutions. In his opinion, a minority of Chileans had, for political motives, given information to the Group that was absolutely political in nature and based on purely political intentions, and that minority had concealed their names, not from fear of Government reprisal, no instance of which had ever been alleged, but from fear of the political responsibility which they did not wish to assume in the eyes of domestic public opinion for their intemperate judgements on the real situation in Chile.

79. Chile was deeply disturbed by the Working Group's comments on the Chilean judiciary, which had a long-standing tradition of prestige, and on 13 judges of the Supreme Court, 11 of whom had been members of the Supreme Court before the current Government. In accordance with the rules of composition of the Supreme Court, no judge could become a member of it unless he had previously been selected by the Court itself. The Group had been superficial in its assessments, judgements and opinions on the judiciary. On behalf of the Government of Chile and as a lawyer, he wished to register his protest on that point.

80. The Working Group's report contained some conclusions that lawyers would consider totally inadmissible or out of the question in serious reasoning. For example, the Working Group said, when analysing one of the cases, that, based on its thorough examination of that case, the Group could not exclude as manifestly ill-founded other statements on arrest, detention and ill-treatment which were not studied so thoroughly (para. 309).

/...

(Mr. Diez, Chile)

81. The Group considered then that a study of one case was sufficient to give verisimilitude to all the others. Instead of regarding the case as an exception in a country whose normality they had seen and experienced, they fell into what logicians called "error by generalization", which no judge and no investigator could risk, because it was the elementary error against which children beginning to study logic were warned as being the most frequent cause of error.

82. The Chairman-Rapporteur of the Working Group had been through the report chapter by chapter. The Government of Chile would not submit its comments on the report, because they were included in the report. In a summary of approximately 30 pages, the Government of Chile had punctiliously commented on each one of the Working Group's allegations. That was in annex LXXXII, but, nevertheless, there were certain things that must be clarified. They related basically to a charge that had repeatedly been levelled against the Government of Chile, namely that of torture.

83. In his opinion, the Group, in its analysis of torture, should, in order to make it impartial and unemotional, have stated that in Chile there was the possibility of submitting complaints, which was an important step with regard to human rights. The Government of Chile had supplied all the information which it had, without any regard to what might be prejudicial or beneficial to it, because the Government of Chile had believed that it was its duty to co-operate in clarifying the facts and promoting human rights.

84. The Chilean Government - as the Group should have determined - had respected the guarantees it had given to all persons coming forward to give testimony, regardless of the matters reported. The Group should at least have stated that it found it strange that in a country where there was such freedom matters reported to the Group should never have been reported to the Chilean courts, before which the same persons who had furnished information to the Group had had to testify during the relevant proceedings. It should also have reported that the principal informant was now abroad and had even appeared before the Group to present his case.

85. However, in connexion with that case, to which so many pages were devoted, the Group had omitted something which, if it had been acting in good faith, it would have included in the presentation of the material, as he had expressly requested at Geneva. There was a statement by Mr. Muñoz Muñoz - he believed that was the name - included in an annex that ought to have been included in the body of the report. In that statement, which had not been denied by Mr. Muñoz Muñoz, he had affirmed that he manufactured bombs, that he had associates engaged in making bombs and that he had placed bombs in a bank and a supermarket in Santiago. The statement bearing the signature of Muñoz Muñoz, which signature had not been denied by Muñoz Muñoz, confirmed that he had tried to take his life with fragments of a light bulb. The Group nevertheless regarded as credible the witness's assertion that he had no recollection of the occasion on which he had signed that statement.

86. He (Mr. Diez) did not consider ill-treatment and torture justifiable in any

/...

(Mr. Diez, Chile)

circumstances. He believed that it was never possible to do good by using evil means and he upheld that principle. The Working Group, in bringing information to the attention of the General Assembly, should have given all of it the same treatment, because, owing to the confusing variety of problems currently before the General Assembly, quite a number of readers who did not have time to read the report carefully might gain the impression from reading it that the man who had been questioned was a politician, a student or an intellectual. He was who he was, a man who had proudly confessed that he was a terrorist and that he had placed bombs in two places in Santiago. That should have been recorded in those terms by the Working Group so that everyone would be in a position to judge the moral attitude of the police in the matter. Something had occurred between the police and that individual that had enabled the police to discover two bombs in public places that could have resulted in great loss of life. That should have been put before the Assembly by the Group just as he (Mr. Diez) was telling it, together with all the relevant information it had at its disposal. Instead, the terrorist's statements about ill-treatment had been included in the body of the report and the statement that individualized and characterized him as a terrorist had been relegated to an annex.

87. His Government considered that it had fulfilled its obligation to the United Nations. It was following its own path. Measures were being taken not as a result of the actions of international bodies, but on the basis of the mandate of the Chilean people itself and its authorities.

88. The Chairman of the Working Group had said that student elections were prohibited, whereas the fact was that the Student Centre of the Catholic University had been elected by direct student vote prior to the Working Group's visit. The Student Organization of the University of Chile, which had between 50,000 and 60,000 students, had also been elected.

89. The Group said that there was no trade union freedom in his country and that the same union leaders had either remained in their posts or been appointed to those posts by the Government. Following the Group's visit to Chile and completion of the report, and without international pressure from any quarter - because Chile, like all other States Members of the United Nations, was guided by its own criteria - there had been, to the surprise of the Group, which said that there would not be elections in Chile for 15 years, individual, secret and impartial elections in 2,400 private trade unions in which approximately 500,000 workers had voted and as a result of which over 7,000 new trade union leaders had been elected and had taken up their posts. He was sure that the Group was going to receive a complaint, since it had not been possible for the former leaders to be re-elected because the sole restriction imposed in that election had been that the former leader of a given union could not be re-elected. His Government had no knowledge of the political affiliation of the persons elected. Attempts were now being made to depict the former leaders, whose representativity had been challenged year after year in the International Labour Organisation, as more genuine union leaders in a contradiction worthy of a Chesterton paradox. Chileans were quite accustomed to such contradictions.

/...

(Mr. Diez, Chile)

90. The truth was that in Chile events were quietly continuing to take their course. Student and union elections had already been held there, and in 1979 a plebiscite would be held so that the Chilean people might state its position with regard to the new Institutional Charter, the new Charter that concerned only Chileans. With regard to that question, the Working Group had, in one way or another, passed judgement on Chilean political reality and encroached upon something that was a matter of the organization of the State, which no internationalist could describe as anything but the most genuine, intrinsic exercise of internal sovereignty. That constituted undue interference in the internal affairs of the State and an incursion that violated and disregarded the right of peoples to self-determination.

91. Countries that, like Chile, had at one time not been free were highly sensitive not only with respect to the dependence of other countries, whether political or economic, but also with respect to the dependence that international organizations tried to impose on them by means of groups, reports or resolutions.

92. He regretted that he had been obliged to speak in that tone; largely because of the way in which the report was worded and because of the paragraphs of that report which had been stressed by the Chairman-Rapporteur. However, he could not fail to express the indignation that any Chilean must feel at the repetition of so many exaggerations and absurdities in a report of a group that had spent two weeks in Chile and had had an opportunity to talk with and see for itself the reality of its people.

93. His country had fulfilled its obligation to the United Nations, and that had been recognized by the Group itself. Now he hoped that the United Nations would fulfil its obligation to the United Nations. It was there that Chile could not agree to the suggestion put forward by the Group. The United Nations had systems for studying human rights, systems that were of general application. His Government did not accept resolutions that applied to Chile alone. It did not accept the application to Chile, of what the Chairman, using modern terminology, had called "the tridimensional", when not even one dimension was applied to other countries. In his country's case, it was claimed that responsibility was "cubic" or "tridimensional", in the words of the Special Rapporteur.

94. He hoped the countries that had requested Chile to fulfil its obligations to the United Nations would in turn, in addition to recognizing that it had kept its word, fulfil their obligation to do what was essential for upholding human rights throughout the world, i.e. to apply general standards. He hoped that Member States would not accept those utterly bureaucratic "tridimensional" formulations according to which a group, as if by magic, died and then immediately proceeded to divide itself into three parts and concern itself with three different matters, while one country alone continued to follow its solitary course in the history of human rights in the contemporary world.

95. Meanwhile, there were reports in the press every day of refugees who sank and were drowned, refugee boats that were turned away, shooting in response to unrest, hundreds of dead in the streets of so many countries and numberless missing

/...

(Mr. Diez, Chile)

persons whose names were unknown, yet the international community felt it must concern itself with a single country, a country where everything was known, to which there was free access, where investigations were permitted, where the Working Group's report, even before delegations had had an opportunity to acquaint themselves with its contents, had already been published virtually in full in the Santiago press, where Chileans were fully informed of what was happening, as should be the case in a modern, well-informed country. He wished to cite the Director of the Division of Human Rights, who had just attended a seminar marking the anniversary of human rights in Chile, as a witness to how much freedom, openness and publicity there was in Chile in dealing with those matters.

96. In conclusion, he wondered in what country it was easier to find out what was happening than in Chile. Instead of focusing on that country and ignoring the rest of the world, it would be logical to decide once and for all to implement general standards and not to continue creating discriminatory and unjust situations in the case of a country that had, as the Chairman had said, demonstrated a will to co-operate with the United Nations which was exemplary.

97. Mr. BOZA (Peru) said that the statement made by the representative of Chile called into question the procedures applied by the Working Group and the very content of the report introduced by Mr. Allana. In view of the usefulness of having available all the information required for an assessment of the situation of human rights in Chile, he wished to request that the statement made by the representative of Chile should be reproduced in extenso. Given the importance of the question, he hoped that the financial implications would not be an obstacle to compliance with that request.

98. Mr. PAPADEMAS (Secretary of the Committee) said that the cost of reproducing the statement made by the representative of Chile in extenso would be approximately \$300 per page if there was a written text, to which the cost of transcription from the recording tapes would have to be added if there was no written text. He therefore suggested that the statement should be given full coverage in the summary record of the meeting.

99. Mr. MERKEL (Federal Republic of Germany) said that on similar occasions in the past it had been decided that a text should be given full coverage in the summary records and he proposed that the same thing should be done in the case in question.

100. He noted that in document A/C.33/33/L.31, containing the calendar of conferences and meetings, mention of the sessions of the Commission on Human Rights and the Commission on Narcotic Drugs, which should be included in the list made available to members of the Committee, had been omitted. He had the impression that the persons who had drawn up the list had not paid due attention to the meetings of bodies of a humanitarian character.

101. The CHAIRMAN requested the Committee Secretary to take note of the statement made by the representative of the Federal Republic of Germany with regard to the calendar of conferences and meetings, and suggested that the Committee should also

adopt the suggestion that the statement made by the representative of Chile should be reproduced in extenso in the summary record.

102. It was so decided.

103. Mrs. ISA (Pakistan) said she believed that the representative of Chile had made a number of remarks concerning her country. She therefore reserved the right to reply to those remarks once she had studied the statement made by the Chilean representative.

104. Mr. DIEZ (Chile) explained that he had referred to Pakistan simply because of the way in which Mr. Allana had described the prevailing situation in Chile. However, he welcomed the fact that the representative of Pakistan had reacted in that way, because that would help to make the members of the Committee understand how sensitive a country could become to criticism levelled at it when it had been subjected to a campaign of defamation for five years.

105. The CHAIRMAN announced that Mr. Antonio Cassese, the Rapporteur entrusted with preparation of the study of the impact of foreign economic aid and assistance on respect for human rights in Chile (E/CN.4/Sub.2/412), was present in the conference room and could reply to questions from delegations.

106. Mrs. WARZAZI (Morocco) said that in resolution 12 (XXXIV) of the Commission on Human Rights the Rapporteur entrusted with preparing a study on the consequences of the various forms of aid extended to the Chilean authorities was invited to submit his report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-first session and the Sub-Commission was requested to transmit that report to the General Assembly at its thirty-third session. She therefore did not understand on what terms Mr. Cassese could address the Committee.

107. Mr. DIEZ (Chile) endorsed the remarks made by the representative of Morocco.

108. The CHAIRMAN proposed that consultations should be held with regard to that question.

AGENDA ITEM 89: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (A/33/160; A/C.3/33/L.54)

109. Mr. MERKEL (Federal Republic of Germany) said that religious intolerance, often connected with racial prejudice, remained a principal cause of numerous conflicts and of the suppression of ethnic and religious minorities. It thus constituted a permanent danger to world peace. His Government considered that all States should work towards achieving genuine religious tolerance and it gave high priority to the adoption of a declaration and to the drafting of a convention on the elimination of religious intolerance.

110. One of the fundamental aims of the United Nations, according to Article 1, paragraph 3, of the Charter, was to achieve international co-operation in

(Mr. Merkel, Federal Republic of Germany)

promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. Article 18 of the International Covenant on Civil and Political Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the ILO Convention concerning Discrimination in respect of Employment and Occupation and the UNESCO Convention against Discrimination in Education also sought to protect the right to practise and manifest one's religion or belief. However, the United Nations had not yet adopted an instrument that laid down rules for the enforcement of that already accepted principle, although it was more than a decade since work on such an instrument had begun.

111. The study on discrimination in matters of religious rights and practices prepared in 1959 by Mr. Krishnawami had formed the basis for draft principles on freedom of religion and non-discrimination in matters of religious rights and practices and, in 1962, the General Assembly had decided, in its resolution 1780 (XVII) and 1781 (XVII), that a draft declaration and a draft convention on the elimination of all forms of racial discrimination and a draft declaration and a draft convention on the elimination of all forms of religious intolerance would be prepared. Although the Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination had been adopted in 1963 and 1965 respectively, work with regard to the question of religious intolerance had not yet been completed. Currently, in accordance with the mandate given to it by the General Assembly, the Commission on Human Rights was preparing a draft declaration and it had set up an informal working group that had already completed work on the preamble and had started deliberations on the operative part during the Commission's thirty-third session.

112. One critical point was how to define the limits of that freedom, which was recognized in article 18 of the International Covenant on Civil and Political Rights, paragraph 3 of which, moreover, stated that freedom to manifest one's religion or beliefs might be subject only to such limitations as were prescribed by law and were necessary to protect public safety, order, health, or morals, or the fundamental rights and freedoms of others. His country believed that any other restrictions would constitute a violation of the internationally binding provisions of that article. The declaration that was to be drafted must not contradict the spirit and the letter of that article.

113. The co-operation of representatives from different parts of the world and with different religious backgrounds was necessary for the drafting of the declaration, and the findings of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities regarding the rights of persons belonging to ethnic, religious or linguistic minorities should be made available to the working group of the Commission on Human Rights.

114. He regretted that, in contrast to the progress achieved by the Commission on Human Rights with regard to other questions, the informal working group that was preparing the draft declaration had not reached agreement on the basic guidelines to which he had referred. It was to be hoped that both in the Committee and in the future work of the Commission on Human Rights more progress would be made in



(Mr. Merkel, Federal Republic of Germany)

the preparation of a declaration acceptable to all and that a convention would be prepared subsequently with a view to implementing the rights proclaimed in the declaration.

115. Archbishop CHELI (Holy See) said that, although the problem of religious discrimination and intolerance had been under discussion at the United Nations for almost one third of a century and although there appeared to be a consensus regarding the necessity for and desirability of adopting a declaration on the elimination of all forms of religious intolerance, almost no progress had been achieved.

116. It was evident that certain forces were trying to prevent that declaration from becoming a reality. His delegation was not referring to any particular State, as it considered that religious intolerance was not confined to a specific régime or ideology. Both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights affirmed the right of everyone to freedom of thought, conscience and religion, which meant that any form of religious intolerance constituted a violation of that right. However, what was guaranteed by almost all constitutions in the world was often not implemented in practice. It was therefore clear that those who recognized freedom of religion and conscience were not eager to define clearly the specific rights to which individuals, groups and religious associations were entitled.

117. There were still prejudices against religion and believers that were totally unjustified. Religion, if understood and practised correctly, could only be beneficial because it led people to respect justice and love their neighbours and it was also a factor of unity. A sincere believer must strive to make his society more human and more just and to achieve respect for the freedom of all.

118. That year it was expected that the General Assembly would consider an item relating to the preparation of societies for life in peace, which was of particular interest to the Holy See. It sufficed to recall the numerous declarations of the Holy See in that respect and the theme assigned by Pope Paul VI for the next World Day of Peace: "To reach peace, teach peace". However, education for peace could not accept religious intolerance. A good way of celebrating the thirtieth anniversary of the Universal Declaration of Human Rights would be to decide to complete the draft Declaration on the Elimination of All Forms of Religious Intolerance during the next session of the Commission on Human Rights.

#### OTHER MATTERS

119. The CHAIRMAN announced that the delegations of Jamaica and Peru had joined the sponsors of draft resolution A/C.3/33/L.46, on item 86, and the delegations of Botswana and the Dominican Republic had joined the sponsors of draft resolution A/C.3/33/L.49, on item 12.

The meeting rose at 6.20 p.m.