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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1499th MEETING

held at the Palais des Nations, Geneva,
on Wednesday, 28 February 1979, at 10.00 a.m.

Chairman: Mr. BEAULNE (Canada)
later: Mr. GARVALOV (Bulgaria)

COMMENTS

Question of credentials

Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment (continued)

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The meeting was called to order at 10.30 a.m.

QUESTION OF CREDENTIALS

1. Mr. ZORIN (Union of Soviet Socialist Republics) requested an explanation of the presence in the meeting room of a plate bearing the name of Democratic Kampuchea, since it was common knowledge that no such Government or State existed at the present time. There was only the People's Republic of Kampuchea, whose Government held sway over the entire territory of the country, had been recognized by a number of States and was active in the international arena.
2. The CHAIRMAN said that he had made inquiries about the matter raised by the Soviet representative. He had been informed that it was not within the competence of United Nations organs to take a decision on the credentials of Governments represented at their meetings as members or observers. In such cases, subsidiary bodies must conform to the decisions of the General Assembly. Since the General Assembly had accepted the credentials of the representatives of Democratic Kampuchea and since there had been no change in that respect since its thirty-third session, the Government recognized by the United Nations was that of Democratic Kampuchea.
3. Mr. van BOVEN (Director, Division of Human Rights) said that the Secretariat had received a note from the Ministry of Foreign Affairs of Democratic Kampuchea stating that a delegation would participate in the work of the Commission as an observer, and giving the names of the members of that delegation. The Soviet delegation had just made a statement to the effect that the Government of Democratic Kampuchea was no longer to be regarded as the Government actually in power in the country and that it should therefore not be given the opportunity to attend the session as an observer. The situation could be described as a dispute as to which Government was legally entitled to represent the country and, in such cases, General Assembly resolution 396 (V) of 14 December 1950 would appear to apply.
4. The same question had been raised earlier in the year in the Security Council. On that occasion, it had been stated on behalf of the Secretary-General that the General Assembly at its thirty-third session had accepted the credentials of the delegation of Democratic Kampuchea, which emanated from the authority that had announced participation in the current session.
5. The question arose whether the Commission should conform to the attitude and decisions of the Security Council or take a different course. In the light of General Assembly resolution 396 (V) and the practice followed by other United Nations organs, including the Security Council, it seemed to him that the Commission had no option but to accept the credentials presented to it.
6. Mr. ZORIN (Union of Soviet Socialist Republics) said that he did not intend to enter into a detailed discussion of the matter at the present time. However, he felt it necessary to state that the explanations given by the Chairman and the Director of the Division of Human Rights were not satisfactory either to his delegation or, presumably, to the Commission as a whole. The latter could not have dealings with the phantoms of former régimes; it had to deal only with actually existing States and effectively operating Governments. People who claimed to represent a Government that had been overthrown by the Kampuchean people could not in any capacity represent that people and State, whose only legitimate representatives were those accredited by the People's Republic of Kampuchea.

7. The CHAIRMAN said that he had received a request to speak from the delegation of Democratic Kampuchea. However, he did not consider that it would be appropriate to prolong the discussion in view of the Soviet representative's statement that he was prepared not to pursue the matter further at the present time.

STUDY OF REPORTED VIOLATIONS OF HUMAN RIGHTS IN CHILE WITH PARTICULAR REFERENCE TO TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (agenda item 5) (continued) (E/CN.4/1310; E/CN.4/NGO/235; E/CN.4/NGO/239; E/CN.4/NGO/248; A/33/293; A/33/331)

8. Mr. POUYOUROS (Cyprus) said that a higher price had been put on human rights as a result of the untold suffering caused to peoples by the gross and mass violation of such rights all over the world. The peoples of the world had placed their legitimate hopes and expectations in the United Nations and its organs, which had a duty to promote concerted action aimed at the immediate and final cessation of such violations. Mankind's increasing demand for a life in which the inherent dignity of the human person was respected and protected made it all the more imperative for the Commission to devote due attention to human rights violations wherever they occurred. To deny human beings their rights was to set the stage for political and social unrest and for wars and hostility. Human rights were neither abstract nor academic; they affected the daily lives of every human being.

9. His delegation had been astonished and disappointed to learn from the report of the Ad Hoc Working Group to the General Assembly (A/33/331) that in Chile the constitutional, legislative and executive powers were concentrated in the hands of the President and the Government Junta, which had the authority to modify the Constitution. It was indeed appalling that such violations of the fundamental principles of democracy should still occur at the end of the twentieth century. The report also observed that the state of emergency legally differed very little from the state of siege and commented, inter alia, on the continuation of ill-treatment and torture during interrogation, the tragic humanitarian problem of missing persons and the limitation of a number of basic human rights such as freedom of association and trade union rights.

10. His delegation fully endorsed the Group's conclusion that its visit to Chile had proved to be useful and that it was a precedent in carrying out successfully on-the-spot inquiries by working groups in situations where human rights were seriously at stake. In order to save succeeding generations from the scourge of war, the Commission had a duty to promote the observance of human rights and fundamental freedoms for all peoples and nations, and it should not hesitate to take appropriate action whenever such rights were violated as a consequence of either government action or foreign aggression, occupation and domination. In that connexion, the most powerful weapon available to the Commission and to the United Nations as a whole was their ability publicly to expose all those who grossly violated basic human rights. No Government or State had the right to subjugate other peoples and to create conditions that were reminiscent of the Middle Ages.

11. He commended the Chairman and members of the Ad Hoc Working Group for their objectivity and impartiality. As had been stated by the President of the Republic of Cyprus in a press interview, the suffering of the people of Chile under the present dictatorial régime was a matter of serious concern for freedom-loving peoples all over the world. The President had gone on to express the hope that the struggle of the Chilean people and world solidarity would put an end to that régime and enable the people of Chile to elect their Government in a democratic way.

12. Mr. ROKOSZEWSKI (Poland) commended the Ad Hoc Working Group for its objectivity and impartiality in producing a report (E/CN.4/1310) which again provided ample evidence of human rights violations in Chile. The Group had found that the human rights situation in that country was still the same as that described in its report to the thirty-third session of the General Assembly (A/33/331). Indeed, the Group noted that the number of reported cases of intimidation and arrests for political and so-called national security reasons had increased and that detainees continued to be subjected to torture and ill-treatment. The problem of missing persons, including the recent discovery of unidentified bodies in a mass grave in Chile, should also continue to be of the greatest concern to the Commission and the international community as a whole.

13. The continued and unjustified application of the state of emergency and the state of siege in Chile severely limited the enjoyment of basic human rights there and made it possible for the Chilean authorities to violate such rights even more grossly. Despite the efforts of the United Nations and the pressure of public opinion, the people of Chile had not enjoyed the most basic human rights and fundamental freedoms since 1973. Accordingly, his delegation considered that the Commission should continue to devote the necessary attention to the matter until genuine improvements had been achieved, and fully supported the conclusions reached by the General Assembly in its resolution 33/175. It would also welcome the appointment of a Special Rapporteur on the human rights situation in Chile and was quite ready to discuss the question of his mandate.

14. Mr. LECHUGA (Cuba) said that the Chilean military leaders had continued to apply their system of terror, which had given rise to a wave of international disgust and condemnation. The international community had been profoundly shocked by the Junta's policy of delivering Chile into the hands of foreign capitalists, the plundering of the resources which the State had recovered, and the deliberate granting of privileges and wealth to a tiny minority of exploiters with the result that the people were undernourished, unemployed, and lacked medical care and educational opportunities. Not only had many people been killed in torture chambers, disappeared and suffered ill-treatment, but millions had been subjected to hunger and sickness, and could not continue their studies not to mention the millions who were suffering from the uncertainty of the present and the future.

15. The report prepared by Mr. Cassese (E/CN.4/Sub.2/412) reflected the radical reduction of government expenditure on social services, particularly health, housing and education. Chilean fascism was the faithful servant of imperialism and therefore opened the doors wide to foreign capital, strangled any popular movement, froze salaries and handed over the natural resources of the country, providing all kinds of guarantees to large-scale investors and transnational corporations. The Chilean people suffered not only from torture and murder but also from the systematic impoverishment of their country to swell the bank accounts of the Junta's foreign accomplices. In the 21 months following the coup d'état the price of bread had risen from 11.5 to 1,420 escudos per kilo. Expenditure on health services had been 60 per cent lower and expenditure on housing 80 per cent lower in 1977 than in 1971. Official support for the universities had also been

drastically reduced. Consumer prices had rocketed and the main results of the Junta's economic policy had been a reduction in income for the majority of the population and a loss in purchasing power, while the income of the minority exploiting the people had increased accordingly. Millions of Chileans were living in dire poverty as a result of the policy of total surrender to foreign capital. Unemployment, malnutrition, hunger and despair were the results of the régime's economic policy. Those violations of the Chilean people's economic, social and cultural rights should be condemned together with the violations of the right to life and freedom.

16. The report in document E/CN.4/Sub.2/412 clearly showed the hypocrisy of the foreign supporters of the régime. Although official assistance to the régime had decreased as a result of universal condemnation, private assistance from banks, transnational corporations and financial institutions dominated by the United States and other imperialist Powers had increased. Private loans had risen to an unprecedented \$800 million in 1977. It should also be remembered that immediately after the coup d'état, when human rights in Chile were being brutally suppressed, loans and credits from the World Bank, the International Monetary Fund and the United States had shot up compared with previous years. He did not think it was necessary to cite further examples of economic assistance which served to prop up the régime, thereby enabling it to exploit the Chilean people and their wealth.

17. The violation of human rights in Chile had not ceased. Arrests and torture continued, trade union rights were violated and the missing had not reappeared, with the exception of the bodies of persons who had been tied up and shot, found in an abandoned mine. The Ad Hoc Working Group stated that it would probably never be known how many detainees had disappeared. The military Junta had lied and contradicted itself shamelessly concerning the missing persons. The case of Juan Chacón Olivares was but one example among many. He had been arrested on 15 July 1974 but the Minister of the Interior had informed the Court of Appeals on several occasions that he was not under detention. In January 1975, the Directorate of Investigations had stated that he was in fact being detained. Recently the Minister of the Interior had stated that the person concerned had been granted amnesty in August 1974.

18. He recalled the case of the 26 persons who had gone missing following the air attack on the Palacio de la Moneda at the time of the military coup. Five of those were recorded on the list of missing persons of the Vicaría de la Solidaridad and one had subsequently been found by his wife in a morgue with his feet cut and burned with cigarettes. But nothing was known about the fate of the others. Some had been members of President Allende's bodyguard and others had held other posts and defended the democratic and constitutional régime. Those people should be added to the lists of missing persons. His delegation had a list of 11 persons who had been in the Palacio de la Moneda at the time and who could give evidence about who had been there. The families of the countless missing persons should at least have the right to bury their dead.

19. The international community should demand that those guilty of torture and murder should be brought to trial. Three criminals had been declared guilty of the murder of Letelier and three former leaders of DINA were awaiting the results of extradition proceedings in Chile. However, it was clear that those principally responsible had not yet been touched by the courts. The international community had a duty to continue denouncing the situation in Chile until the Chilean people obtained justice.

20. Mr. ARMALIE (Observer, Palestine Liberation Organization) said that the Palestinian Arab people, which had been subjected for over 50 years to the most systematic violations of its human rights, was fully sympathetic to the plight of the Chilean people. Like the peoples of Viet Nam, the indigenous peoples of southern Africa, the Indian population of the United States and the people of Iran, the Chilean population had the full support of the Palestinians in its struggle against the ruling military Junta. The Arab population was regularly informed about the situation of human rights in Chile and was aware of the Junta's inhuman practices. In that connexion, the Ad Hoc Working Group's report (E/CN.4/1310) sadly confirmed what the international community already knew about the state of affairs in that country. The number of arrests continued to grow; exiled Chileans were still denied the right of return to their country; and many missing persons had never been traced. In attempting to justify such violations of human rights, the Chilean rulers used the same pretext as that used by the Zionist and apartheid régimes - namely, security requirements and the need to combat so-called terrorists and subversive elements.

21. Those régimes too pursued a racist policy to the detriment of the indigenous populations. In Chile the Mapuche Indians, the country's largest indigenous group, had suffered expropriation of land and property, disregard of their ethnic identity, loss of life and other gross violations of their human rights - as the Working Group had noted in its report.

22. The international community could not be hoodwinked by the Chilean Government's claims regarding progress in the field of human rights - although that Government had finally allowed the Working Group to visit Chile. In that connexion, he acknowledged the Group's efforts and wished the future Special Rapporteur on Chile every success in his work. With regard to recent changes made in Chile, it was important to know whether the methods and practices formerly used, and not just the system itself, had been improved. For instance, the Working Group had noted, in paragraph 43 of its report, that, in practice, the effective powers of the security agencies, and particularly of CNI, appeared to exceed those conferred upon them by law.

23. The situation endured by the Chilean people since the overthrow of the democratic régime of President Allende continued to alarm world public opinion. The international community should not slacken its efforts to expose and condemn the military régime responsible for that situation and to draw attention to the military and other forms of aid it was receiving from Zionist and other sources. It was to be hoped that the Commission would continue to assume its responsibilities in that connexion.

24. The Chilean people could count on the friendship and solidarity of the Arab peoples, and in particular the Palestinian people, in its struggle for the exercise of its human rights.

25. Mr. ERMACORA (Austria) said that the Chilean Government's co-operation with the United Nations in allowing the Ad Hoc Working Group to visit Chile marked a considerable step forward and might become a model for human rights investigations of that kind. The Working Group's success had been due to the Secretary-General's efforts, the help of the Economic Commission for Latin America in providing the necessary facilities to enable the investigating team to operate independently, and, most importantly, the courage shown by those who had come forward with relevant information. In his country's view, conditions in Chile had changed somewhat for the better. In particular, mass and systematic violations of human rights seemed to have ceased. However, as the representative of the International Commission of Jurists had noted, the means for possible large-scale interference with human rights remained. For example, the state of emergency was still in force; CNI, which had replaced DINA, appeared in effect to exercise powers in excess of those conferred upon it by law and there was evidence that it was responsible for at least one instance of torture. Likewise, Constitutional Act No.3 contained provisions which made it possible to interpret human rights arbitrarily. At the same time, international instruments relating to human rights received scant regard. State security considerations seemed paramount in all judicial and administrative practices. It was clear that the judiciary, although claimed by the Government to be independent, always tended to side with the Government's position, most noticeably in relation to the return of exiles. The Group had witnessed certain court decisions which could not have been arrived at had relevant international human rights instruments been applied.

26. With regard to implementation of the International Covenant on Economic, Social and Cultural Rights, it was difficult to discern the true economic situation of the mass of the population; but it was clear that, without the efforts of the Catholic Church, the people's economic plight would be worse than it was. He believed that the Chilean trade union organizations were no longer in a position to give effective support to the workers; in that connexion, paragraphs 168 to 251 of document E/CN.4/1310 gave an analysis of the labour code and the trade union system, and made it clear that trade union freedom in Chile was narrower in scope than had been alleged in some sections of the European press.

27. The most pressing humanitarian problem was that of missing persons. As he himself had pointed out to the Chilean Minister of the Interior, no Government of a civilized country could fail to make exhaustive investigations into cases of missing persons. The problem might indeed have occurred on a larger scale elsewhere in the world; however, the very fact that human beings, in whatever numbers, could disappear gave cause for the utmost alarm. From first-hand experience, including meetings with relatives, he was convinced that the reports about missing persons were not mere propaganda. Nor was the problem merely historical; no Government currently in power could avoid responsibility for looking into alleged disappearances in the recent past. It was essential that the Chilean Government should establish adequate machinery to investigate reports about missing persons. There seemed to be a consensus in the Commission in favour of setting up international machinery to assist the Chilean authorities for that purpose. The General Assembly had recognized that the problem was a world-wide one, and the Austrian Government firmly believed that the United Nations should

take effective steps, objectively and not for propaganda purposes, with a view to carrying out appropriate inquiries. To study the matter simply from abroad could not produce any useful results, since careful appraisal of individual cases was required. The Chilean Government had initiated some measures, but they were inadequate. It should co-operate with the United Nations, therefore, in establishing contact with all suitable sources of information and assistance: the Catholic Church, Red Cross representatives, and relatives in particular. Measures should include on-the-spot inspections in cases of reported mass graves. Only the most exhaustive steps and the utmost collaboration could provide the necessary assurance that the fullest possible investigations were being made.

28. The Austrian Government hoped that the Chilean authorities would not only restore the people's human rights but would strengthen the present weak framework for upholding them. It hoped that the Chilean Government would allow exiles to return, would thoroughly investigate the fate of persons reported missing and would clarify the responsibilities of the judicial and administrative authorities. In that connexion, two matters still gave him cause for misgivings. Firstly, the case of Mr. Letelier was disturbing on account of the implication that a very important Chilean official had been prepared to order the killing of a citizen overseas. Secondly, the Decree-Law concerning amnesty seemed ambiguous with regard to the protection of those who might have been responsible for the disappearance of persons reported missing.

29. The measures he had mentioned must be taken if peace was to be restored and the nation reunified. Although reunification was an internal affair, it could not be achieved without the full restoration of human rights, which was a matter of international concern and a task in which the United Nations must share.

30. Mr. Garvalov (Bulgaria) took the Chair.

31. Mr. ZÁPOTOCKÝ (Observer for Czechoslovakia) said that the economic basis of the Chilean régime, which persisted in its gross violation of human rights despite the protests of the international community, had become a firm part of the world imperialist economic system which had reduced the Chilean people to poverty. Even those who had assisted in the establishment of the régime had now been obliged to pretend to object to its non-democratic and ultra-reactionary character. Although the details of its violations were now well documented, the Junta still denied the facts. It tried to mask its actions with unfounded allegations about the policies of other States while failing to explain the disappearance of hundreds of patriots and the operations of the new secret police organ, CNI.

32. His country fully supported the heroic struggle of the Chilean people for freedom, national independence and human dignity and appreciated efforts by the United Nations to unmask and condemn the crimes being perpetrated there. It supported the continuation of attempts by the appropriate bodies to investigate the situation there, in spite of efforts by the Junta to prevent the entry of United Nations representatives. Indeed, the reaction of the Junta to the results of such investigations would indicate that the situation was even worse than United Nations representatives had been able to ascertain. His country was convinced that increased world pressure could obtain the isolation of that régime and thereby assist internal forces to re-establish democracy and freedom. The situation as it was could not last for long and all Member States had a responsibility to ensure the earliest possible restoration of human rights and freedoms in Chile. His country was prepared to join all such efforts.

33. Mr. VARGA (Observer for Hungary) said that the report of the Ad Hoc Working Group (E/CN.4/1310) showed that repressive measures against the Chilean people continued to be an integral part of the policy of the Junta, in spite of numerous United Nations resolutions. The report provided complete and reliable evidence of the denial of civil and other rights. He drew attention to paragraph 320, which noted an increase in the number of reported cases of intimidation and of arrests for political or national security reasons, the continuation of torture and ill-treatment of detainees and the fact that Government toleration of free expression did not extend to all parts of society. The Junta continued to apply the state of siege without justification, as illustrated by the Chuquicamata case, and, since coming into power, had prevented the participation of the Chilean people in the government of the country. The report also showed that State security agencies continued to exercise wide powers without regard for existing Chilean legislation. In particular, it was evident that, despite the Junta's denials, CNI used methods including false arrest, illegal detention, torture and ill-treatment. Even more seriously, the Chilean courts continued to refuse to use the powers given them to protect Chilean citizens from such practices. It was therefore high time for the international community to renew its appeal for the identification, prosecution and punishment of those responsible.

34. The report made it clear that the economic, social and cultural rights of the Chilean people were also being systematically violated, especially in the areas of education, employment and health. His delegation was in full agreement with the conclusions in paragraph 333 and the recommendation regarding respect for freedom of association and trade union rights. He then drew attention to paragraph 335, which made it clear that the need for a serious investigation of the whereabouts of the missing persons had increased rather than diminished.

35. Turning to the question of civil and political rights and the draft constitution, he drew attention to chapter I, section D, of the report, particularly paragraphs 72 and 74. The fact that the new Constitution would not enter into force in the immediate future and that political elections were not envisaged until 1985 made it clear that the Junta was not prepared to introduce basic changes with respect to human rights. In connexion with the matter of freedom of expression, he drew attention to the case of Mr. Rogelio Correa mentioned in paragraph 100 of the report, Mr. Correa had been arrested following the discovery in his vehicle of a non-confidential United Nations document, namely the Universal Declaration of Human Rights.

36. Finally, he agreed with the Working Group that, until such time as national means of protecting human rights were operating adequately in Chile, the international community should keep the matter under attention; he therefore considered that the item on Chile should not be removed from the Commission's agenda until the people of Chile could genuinely exercise their fundamental human rights.

37. Mr. Beaulne (Canada) resumed the Chair.

38. Mr. TOSEVSKI (Yugoslavia) said that the Working Group's report (E/CN.4/1310) showed that there had been no significant improvement in the human rights situation in Chile, in spite of strong pressure by United Nations and the entire international community. The present policy of the Junta was directed especially against the working class and the poorest strata of the population, as the dissolution of trade unions and its attendant consequences showed. The failure of the Junta to clarify the fate of over 600 missing persons also gave rise to deep concern.

39. Under the circumstances, his delegation supported the proposal to appoint a Special Rapporteur, as contained in General Assembly resolution 33/175, although it still believed that the extension of the mandate of the Ad Hoc Working Group would better serve the interests of the Chilean people and the protection of their human rights. It also agreed that adequate steps should be taken by the Commission to clarify the whereabouts and fate of missing persons in Chile.

40. As for General Assembly resolution 33/176, he stressed that the violation of human rights in Chile was being treated by the United Nations as a special case and could not be generalized and used as a precedent in the Organization's future actions in the field of human rights.

41. Ms. NAUREIRA MUÑOZ (World Peace Council) said that she was Chilean and lived in a small country town near Santiago. On the night of 7 October 1973, her father and four of her brothers had been arrested by the police. Since then her family had sought their whereabouts without success. The police had said that they had been taken to the National Stadium, which had been used as a detention centre following the coup d'état. Her family had gone daily to the National Stadium until the last group of detainees had been transferred to the Chacabuco concentration camp in the north of Chile. However, her father and brothers had not been among the prisoners. Her family had visited hospitals, assistance centres, the Institute of Forensic Medicine, and various military and detention compounds without obtaining any information on their whereabouts. Subsequently, the military Government authorities had refused to admit that they had been arrested. Much later, she had discovered that the representative of Chile to the thirtieth session of the General Assembly, in discussing the case of various detainees who had gone missing, had denied that her father existed and had stated that three of her brothers had died and their bodies had been sent to the Institute of Forensic Medicine; he had even given the date and time when their bodies had supposedly arrived there.

42. However, none of that was true. Recently various bodies had been found in an abandoned mine near Lonquén hidden in a kiln. They had been mutilated, gagged, bound with electric cables and shot. Her sister had been summoned by the special investigating judge, Adolfo Bafiados Cuadra, to identify her father and four brothers from the clothing they had worn on the day of their arrest. Subsequently, that identification had been corroborated by forensic experts with the help of the dentist who treated her family. All the people found in the kiln had been executed following their detention.

43. Her family's case was similar to many others. Thousands of people did not know whether their relatives, who had been detained by the police and then disappeared without trace, were still alive. There were at least six other families in the same situation in her town alone, and it only had about 2,000 inhabitants. The families of the missing detainees were striving to find their loved ones, some of whom were in secret prisons while others had been murdered. However, their families had a right to know whether they were still alive or were dead.

44. In addition to the anguish caused by the years of uncertainty, the members of her family had suffered material difficulties. They had been evicted from the house in which they lived and the children had had to leave school and go to work in the fields in order to survive. Her family was Catholic and her father and brothers were honest, hard-working people. Her father had been a farmworkers' leader and had been highly thought of by all the neighbours.

45. On behalf of her mother and the families of all the missing detainees in Chile, she thanked the Commission for giving her the opportunity to speak on a matter of great concern to Chileans.

The meeting rose at 12.45 p.m.