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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1506th MEETING

held at the Palais des Nations, Geneva,
on Monday, 5 March 1979, at 3 p.m.

Chairman: Mr. BEAULNE (Canada)

later: Mr. GARVALOV (Bulgaria)

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The meeting was called to order at 3.15 p.m.:

IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 20 (b)) (continued) (E/CN.4/1430/Rev.1; E/CN.4/L.1436, L.1438, L.1443 and L.1445)

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Draft resolution E/CN.4/L.1445 (agenda item 20 (b))

1. Sir James MURRAY (Observer for the United Kingdom), speaking at the invitation of the Chairman, said he wished to reply to the criticisms of his Government's immigration practices made by the Indian delegation during the consideration of agenda item 20 (b).
2. Under the relevant United Kingdom legislation, everybody who wished to come to the United Kingdom for a long stay was liable for a general medical examination on entering the country, and some 24,000 citizens of Commonwealth countries and 17,000 people from other countries had undergone such an examination in 1978. Applicants for certain types of admission to the United Kingdom were required to have medical examinations abroad before their departure. No element of racial discrimination was involved.
3. His Government understood the indignation felt by the people and Government of India about the case of the Indian lady referred to by the Indian representative. It had expressed deep regret to the Indian High Commissioner in London and to the Indian Government in Delhi. As soon as the incident had come to the notice of the Home Secretary of the United Kingdom, through a United Kingdom newspaper, he had given instructions to prevent similar cases occurring in the future and had explained in Parliament how the incident had come about, without attempting to excuse what had happened. He had expressed deep regret at the distress experienced by the lady concerned: he had ordered an inquiry into the objects and nature of all medical examinations carried out in connexion with immigration control, including the use of X-rays, and would report the results to the House of Commons. The Prime Minister of the United Kingdom would shortly reply to the letter he had received from the Prime Minister of India.

4. The two Governments were thus in close touch on the matter. He was therefore surprised that an incident which had been condemned by Parliament and by public opinion in the United Kingdom had been brought before the Commission. The incident should not have taken place, but it did not constitute a systematic abuse of human rights by the United Kingdom Government and could not be compared with the massive violations of human rights which the Commission was at present considering, with the evils of apartheid, with the slaughter of countless numbers of people in Cambodia or with the torture perpetrated by certain régimes.
5. During 1977, more than 12 million people subject to control under the Immigration Act had been screened by the United Kingdom immigration service and less than 1 per cent had been turned back. Of those immigrants, 144,000 had been Indians and again less than 1 per cent had been refused leave to enter the United Kingdom. In addition, immigration officers were expressly instructed under the immigration rules to "carry out their duties without regard to the race, colour or religion of people seeking to enter the United Kingdom".
6. The United Kingdom took very seriously its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and had submitted five reports in pursuance of article 8 of that Convention. In the course of the examination of those reports, it had been happy to answer detailed questions on United Kingdom immigration practices and procedures.
7. He hoped that the Indian Government would recognize that there had never been any practice of systematic racial discrimination and that the matter would be considered closed.
8. Mr. DANELIUS (Sweden), introducing draft resolution E/CN.4/L.1445 relating to agenda item 20 (b), said he had tried to devise a text which would be acceptable to all the parties directly concerned and could be adopted by consensus.
9. Mr. EL-FATTAL (Syrian Arab Republic) said he was not sure what was meant by the term "non-white immigrants" in the second line of the first preambular paragraph.
10. Mr. GHAREKHAN (India) said he thought that the term had been used in the draft resolution because the discrimination to which the Indian delegation had referred in its statement had been exercised against all people not belonging to the white race, namely, people coming from Asia, Africa, the Caribbean area and Latin America, but not people coming from Australia, New Zealand or Canada, who in principle belonged to the white race.
11. The CHAIRMAN said that, if there was no objection, he would take it that the Commission adopted draft resolution E/CN.4/L.1445 by consensus.
12. It was so decided.

13. Mr. GHAREKHAN (India) said that the draft resolution which had just been adopted and to which the Indian delegation, in a spirit of conciliation, had raised no objection in no way reflected the indignation felt by the Indian people and Government at the incident which had prompted the Indian delegation to raise in the Commission the question of the treatment inflicted on immigrants by the competent British authorities.
14. The problem was not a specifically Indian one, since it affected the peoples of the whole world, and the Commission could not solve it simply by expressing its deep concern.
15. The observer for the United Kingdom had tried to represent the incident as an isolated case, but in fact it was symptomatic of a more profound malaise and a reflection of the arrogance which the former colonial Power still showed from time to time. Incidents of that kind had occurred since 1968, despite assurances by the United Kingdom authorities that they would never be repeated.
16. The observer for the United Kingdom had tried to prove that the incident was not a manifestation of a policy of racial discrimination, but there could be no doubt that its origins lay in the doctrine of racial superiority, as could be seen from the following extract from a statement made on 19 February by Miss Richardson, a Labour Member of Parliament: "Many tourists come to this country - Americans, Canadians, New Zealanders, Australians and so on. If they are white, they come in properly as visitors. They are not questioned. They are not rounded up after staying here for a month and shoved into Pentonville prison. But if they are black, they often are".
17. The observer for the United Kingdom had tried to minimize the importance of the incident by referring to the massive violations of human rights perpetrated in certain countries and, in particular, to apartheid. Of course, there could be no comparison, but one wrong did not justify another.
18. Although it was not satisfied with the draft resolution, his delegation attached great importance to the final paragraph; the Indian Government was fully prepared to engage immediately in an exchange of information and factual data with the United Kingdom Government. In the course of those contacts, the Indian Government would try to find out what secret instructions had been issued to the immigration authorities, and his delegation reserved the right to report on the matter to the Commission at its thirty-sixth session.
19. His delegation shared the hope that a satisfactory solution would be found for that problem, about which, incidentally, only non-white delegations had expressed concern at the current session.
20. Mr. SADI (Observer for Jordan) said he had some reservations concerning the draft resolution that had just been adopted.

21. He shared the doubts expressed by the representative of the Syrian Arab Republic concerning the use of the term "non-white" in the preamble, since the issue was one of nationality rather than colour. The problem was general in scope and it was to be hoped that the fact that it had been raised would bring to light any distressing experiences to which foreign visitors might have been subjected, not only in the United Kingdom but also in other countries.

22. Finally, the draft resolution seemed to have been based on the term "immigrants", which was unduly restrictive, since other groups of visitors were subjected to ordeals similar to that experienced by the Indian lady whose case had been reported.

Draft resolution E/CN.4/L.1437 (agenda item 5)

23. Mr. NORDENFELT (Sweden), introducing draft resolution E/CN.4/L.1437 relating to agenda item 5, said that the question of violations of human rights in Chile had been on the Commission's agenda ever since the freely-elected Government of Chile had been overthrown by a military coup.

24. The establishment of an Ad Hoc Working Group to examine that situation had proved to be justified and had set a valuable precedent. The Group's visit to Chile, the improvements it had observed there - such as the expression in the press of a relatively wide range of opinion and the organization of meetings at which criticism of government policies had been permitted - and the co-operation extended by the Chilean authorities were all encouraging signs, but the following aspects of the situation nevertheless gave cause for concern: an increase in the number of cases of intimidation and arrest for political or national security reasons, the torture and ill-treatment of detainees, a state of emergency under which violations of human rights and fundamental freedoms were permitted, curtailment of trade-union rights and the continued refusal by the Chilean authorities to allow investigation of the cases of more than 600 people reported missing for political reasons - a refusal which made the recent discovery of a mass grave at Lonquén all the more disquieting.

25. The international community therefore should not relax its vigilance, and it was in that spirit that his delegation had submitted draft resolution E/CN.4/L.1437, to which the following amendments should be made: (i) the word "unidentified" should be deleted from the first line of operative paragraph 2, and (ii) the name of Mr. Héctor Charry Samper should be deleted from the third line of operative paragraph 6 (b).

26. His delegation hoped that the report which the Special Rapporteur was to submit to the Commission at its thirty-sixth session would show appreciable improvements in the situation of human rights in Chile and that the question of the persons reported missing would be clarified by the experts.

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

28. Mr. CHARRY SAMPER (Colombia) said he wished to express his gratitude to the Swedish delegation for the great honour it had done him in inviting him, together with other experts, to examine the question of the fate of people reported to be missing or to have disappeared in Chile. He had been obliged to refuse that invitation for various reasons.

29. Mr. MEZVINSKY (United States of America) said that his Government was prepared to agree to the disbandment of the Ad Hoc Working Group now that it had been able to pay its long-awaited visit to Chile. That visit would remain a landmark in the praiseworthy mission which the Group had carried out objectively and impartially since 1975, with the valuable support of the Secretary-General and the Division of Human Rights.

30. In its most recent report, the Group, while reporting some improvements in the situation of human rights in Chile, nevertheless noted continuing serious violations of those rights, such as the state of emergency throughout the country, the failure of the Chilean courts to protect Chilean citizens from arbitrary arrest, illegal detention, torture and ill-treatment by the security agencies, and the refusal of the Chilean authorities to allow exiled Chileans who wished to do so to return to their country.

31. His delegation appealed for the restoration of democratic institutions and constitutional safeguards, the restoration of full trade-union rights, the right of the Chilean people to take part freely in the conduct of public affairs and the safeguarding of the rights of minorities in Chile. It was awaiting with interest word concerning the date on which the new constitution would be submitted to the Chilean people.

32. His delegation was particularly concerned about the serious problem of missing persons and the recent discovery of mass graves in Chile, which bore witness to the fact that summary executions had taken place. Unfortunately, the problem of missing persons was not specific to Chile, and the General Assembly at its most recent session had requested the Commission to examine the problem on a world-wide basis. The Commission must therefore pay the problem all the attention it deserved and should take measures to solve it.

33. Mr. Beaulne resumed the Chair.

34. Mr. AL-KAISI (Iraq) reminded the Commission that the mandate of the Ad Hoc Working Group to inquire into the situation of human rights in Chile had been renewed three times since its establishment in 1975. The report before the Commission at its present session (E/CN.4/1310) was the eighth produced by the Group. It described in great detail the new constitutional and legal developments affecting human rights, and dealt with the right to life and security of person in Chile, devoting one chapter to missing persons in particular. Lastly, the Group made a number of recommendations aimed at ensuring respect for human rights in Chile.

35. The mandate given to the Group at the time of its establishment had provided for a visit to Chile. The Group was to have travelled to Chile in July 1975, but the visit had been postponed since the Chilean authorities had wished it to take place on a more favourable occasion. After the closure of the thirty-fourth session of the Commission on Human Rights, the Group had again contacted the Chilean Government and it had been agreed that the Group should go to Chile in July 1978.

36. In resolution 33/175, the General Assembly had taken note of the Group's visit to Chile and had expressed concern at the Group's conclusion that grave violations of human rights continued to take place in Chile; it had concluded that the human rights situation in that country justified the continued concern and involvement of the international community and that the Commission should give special attention to that situation.

37. In its various reports, the Group had drawn the attention of the international community to two major subjects of concern: the repercussions of foreign economic assistance on respect for human rights in Chile and the need to provide humanitarian, legal and financial assistance to the victims of human rights violations and their families. In resolution 33/174, the General Assembly had decided to establish a voluntary fund and had appealed to Member States to respond favourably to requests for contributions to the Fund.

38. The Chilean people must be given constant support. Such solidarity must take material form, through financial assistance, which for the moment was essential, and also through other more decisive measures. His delegation was convinced that all justice-loving peoples would help the Chilean people to regain their liberty and to determine their future. It wished to pay a tribute to the excellent work done by the Chairman of the Group, Mr. Allana, who had depicted in a clear and detailed manner the situation of the Chilean people since the fall of Allende and the establishment of a fascist military régime.

39. Referring to the statements made at a previous meeting by the representative of the World Peace Council, he said that the distressing case which she had described was unfortunately not unique. In its report, the Group cited terrible examples of disappearance and torture. Such information had aroused no reaction on the part of the Chilean Government or the representative of Chile in the Commission.

40. History would show what steps the Commission had taken to remedy the present situation, for which the Government of the United States bore a large measure of responsibility. The enormous sums of money which that Government had expended on bribes to the generals who had overthrown Allende could not be forgotten. It was not enough to condemn the United States Government and its ally, the Chilean military junta. Very strong economic and political pressure must be brought to bear on the present rulers of Chile.

41. Iraq had consistently defended respect for human rights in all parts of the world and would continue to support the cause of the Chilean people. It hoped that the struggle of that people and world solidarity would put an end to the present régime and enable Chile to elect a new government by democratic means. In countless decisions, the General Assembly, the Economic and Social Council, the Commission on Human Rights and other international bodies had expressed concern at the systematic violations of human rights in Chile and had urged the present régime to restore human rights and fundamental freedom, taking into account the reports on the situation in Chile. For those various reasons his delegation requested that the mandate of the Ad Hoc Working Group should be renewed in order to enable it to continue its inquiry with the ultimate objective of ending the state of emergency and restoring human rights and fundamental freedoms in Chile.

42. Mr. GIAMBRUNO (Uruguay) said that the Commission had reached the end of a long process of discussion on the situation of human rights in Chile. The Ad Hoc Working Group had produced eight reports on the question. His country, which had followed all the Group's activities, considered that, before taking a decision, it was essential to know more about the nature of the Chilean people. Through its sense of right and its love of justice, the Republic of Chile had assisted in the development of the other Latin American countries. One could thus appreciate how those countries were now affected by the crisis which Chile was experiencing.

43. He had listened with great interest to the introduction of the report of the Ad Hoc Working Group (E/CN.4/1310), whose integrity he had been glad to recognize. The statements made by Mr. Allana, Chairman of the Group, and by Mr. Ermacora, another member of the Group, showed that the situation in Chile had unquestionably improved and that the Chilean Government's co-operation at the time of the Group's inquiry had been exemplary.

44. His country could not, however, associate itself with certain passages of the report and, in particular, paragraph 13 of the introduction, in which it was stated that, in resolution 33/176, the General Assembly had drawn the attention of the Commission on Human Rights to the importance of the experience of the Ad Hoc Working Group on Chile in view of the Commission's future action when dealing with consistent patterns of gross violations of human rights. The Group appeared to consider that its experience should be repeated in the case of the Commission's other work. He reminded the Commission that the text originally submitted at the thirty-third session of the General Assembly had contained a paragraph proposed by the Italian delegation, inviting the Commission to consider the possibility of more frequent recourse to the establishment of working groups or other investigating bodies in cases of serious violations of human rights. However, all delegations had opposed that proposal, which had been rejected - a course of action which clearly indicated that the experience of the Group must not be repeated.

45. It might be wondered why, solely in the case of Chile, there were public hearings of various testimonies, including those of non-governmental organizations and of groups inspired by totalitarian philosophies. Some of those bodies would even like to teach the Commission how the process of restoring the constitution in Chile should be conducted. If the Commission intervened in that area, it would be guilty of

unwarranted interference in Chilean affairs. The Group itself had not always taken account of the limits that should be observed in its activities. In its description of the situation in Chile, it touched on all aspects of the organization of the Chilean State: the economy, education, health policy, employment policy, wage scales and planning. Yet the right to development, which was an item on the agenda at the present session, had been defined as an autonomous right, and the right of peoples to self-determination implied respect for national sovereignty.

46. The Group was coming to the end of its mandate. The Commission knew the results of the Group's inquiry and was aware of the co-operation which had been extended to the Group by the Chilean Government. The Commission now had before it a draft resolution condemning Chile without that country having been given a hearing. It should be reminded of the conclusions of the Chilean Government concerning the period covered by the Group's eighth report: in 1978, no death had occurred at the time of, or in connexion with, a political event; there had been no death sentence, no expulsion from the national territory and no loss of Chilean nationality; there had been no case of missing persons whose fate was unknown or of persons detained without trial. It might well be asked whether in the world today there were many countries which would be able to describe the situation of human rights in their territory with the same impartiality.

47. In view of the failure to recognize the progress achieved in Chile and the co-operation extended by the Chilean Government, he would vote against the draft resolution submitted by Sweden. He hoped that, in future, such excesses would be avoided and objectivity would be exercised.

48. Mr. DIEZ (Observer for Chile) said that, in response to draft resolution E/CN.4/L.1437 submitted by Sweden, he wished to remind the Commission of a number of facts. In 1978 in Chile, there had been no death on the occasion of, or in connexion with, a political event, no death sentence, no expulsion from the national territory and no loss of Chilean nationality; no person had been detained without trial and no complaint had been received concerning a person whose fate was unknown. The country enjoyed freedom of the press. Institutional reform was the subject of broad public discussion in which the Chilean people would have the final say by means of a referendum. New labour legislation was in the course of preparation. The International Labour Organisation had welcomed with interest the news of the promulgation by the Chilean Government, on 9 February 1979, of two decree-laws guaranteeing the right to hold trade-union meetings, and had expressed satisfaction at the abolition of restrictions on trade-union elections.

49. As to the fate of detainees, the Ad Hoc Working Group claimed, despite the statements by the Chilean Government and without furnishing any proof of its own, that the number of persons arrested by the security services in 1978 had been 378. That figure was false. The Group had received a list of arrested persons, which

appeared in annex V to the report. That list gave not only the names of 59 persons who had been provisionally detained before committal to the competent court, but also the date of, and reasons for, their arrest and the circumstances in which they had been brought to justice or released. A limited number of persons to whom the provisions of the state of siege declared in the province of El Loa had been applied for only a few days were not included in that list. The state of siege had, in fact, ended on 28 February 1979.

50. Replying to the allegations made by a non-governmental organization concerning the arrest of a person by the name of Illanes, he stated that a person of that name had been arrested on 26 January 1979 on a charge of having written and distributed subversive propaganda, which had been seized. The detainee had been committed to the judge in charge of the case. There had therefore been no arbitrary arrest and the person in question had not gone missing. As to the "Lonquén case", his Government could not for the moment take any initiative or express any judgement in the matter. The case was in the hands of the judicial authorities, in whose activities the Government could not interfere; not until those authorities had completed their work on the case could measures be taken in accordance with the law. It had been stated that, at the 1975 session of the General Assembly of the United Nations, his delegation had made observations on the subject of persons whose corpses were reported to have been identified. All that could be said was that, in a document submitted to the General Assembly, there was a list of persons who had been killed, among whom were members of the Maureira family. In its statement in the General Assembly, however, his delegation had confined itself to referring to the list without mentioning any name. In looking through the documents of the Third Committee, his delegation had noted that the Group had attached to annex XVIII to its report A/31/253, prepared in 1976, a photograph of a certain Sergio Adrián Maureira Muñoz, of whose existence it claimed to have reliable evidence. In document A/C.3/316 published in the same year, his Government had replied that, according to the register of births, marriages and deaths, there was no one by the name of Sergio Adrián Maureira Muñoz but there was a Sergio Miguel Maureira Muñoz; in support of its statement, it had produced an extract from that person's birth certificate.

51. With regard to the allegations concerning the assassination of Mr. Letelier, he wished to state the following: first, on the very day of the assassination, the Chilean Government, through its ambassador in Washington, had requested the United States authorities to conduct an inquiry; for that purpose, the ambassador had even waived his privilege of diplomatic immunity and had offered all necessary co-operation. Chilean co-operation had assumed practical form: thus, a United States national who was suspected of having participated in the assassination had been turned over to the United States police. The State Department of the United States had itself described that co-operation as effective and timely. In addition, at the request of the United States Government, the Chilean Government had extradited three persons, in conformity with the extradition treaty in force between the two countries. The President of the Chilean Republic had stated that the guilty persons would be

punished, regardless of their rank or position. Chile's co-operation, which had been effective and publicly acknowledged, therefore constituted the most eloquent refutation of the political speculation, slander and abuse which had occurred.

52. The Ad Hoc Working Group considered that the judicial authorities obeyed the dictates of the Government. However, in the two most important cases at present under discussion - the Letelier case and the Lonquén case - the Chilean judiciary had obviously acted with complete independence; the procedures followed were now being analysed in detail by the detractors of those judicial authorities.

53. With regard to the enjoyment of human rights in Chile, he first wished to emphasize freedom of the press: the main source of information of the Group itself had been Chilean newspapers, magazines and other publications. There were 177 references to such publications in the foot-notes of the Group's report (E/CN.4/1310). Political analysts and anyone with common sense had to admit that information was being provided in a normal manner; the testimony of the Group was clear in that respect. It was well known that freedom of the press was the first means of protecting human rights. In addition, the Group drew attention to the exiles who wished to return to Chile: their desire to return showed that there was no terrorism or persecution in that country. The Chilean Government had acceded to hundreds of requests for permission to return and would continue to consider such requests on the basis of criteria which it had already described in writing. A representative of the United Nations High Commissioner for Refugees had held consultations on that subject with the Chilean authorities the previous week in Santiago.

54. The Chilean Government, following a long tradition of international co-operation in the promotion of human rights, had endorsed the establishment of the Group in February 1975, and its subsequent visit to Chile in 1978. There had been a delay because the Group had not laid down the minimum rules of procedure that were necessary if a sovereign country was to be able to co-operate in the manner provided for in Article 5 of the Charter. In Chile, the Group had had the benefit of the broadest possible co-operation and complete freedom and guarantees, as it had acknowledged in its reports. Various United Nations resolutions concerning Chile, and many Member States, had emphasized the historic precedent set by the Chilean Government. However, that precedent had been followed by an absurd decision on the part of the General Assembly: by 53 votes to 52, with 34 abstentions, it had rejected a proposal by Italy, submitted in connexion with resolution 33/175, that the Commission should consider establishing ad hoc working groups or similar investigating bodies in cases where the existence of persistent situations of flagrant violations of human rights was recognized. Many delegations had considered that vote regrettable. It was the most obvious proof of the bias and hypocrisy which marred United Nations activities in the field of human rights and irrefutably confirmed what his delegation had been saying on the subject for four years.

55. Today, one could no longer talk of persistent, massive and systematic violations of human rights in Chile; that was apparent from the report of the Group and from the statement made in the Commission by Mr. Ermacora, a member of the Group who had gone to Chile.

56. He therefore regretted the fact that the General Assembly had thus adhered to a selective, politically-oriented and fruitless practice. He also regretted that the Assembly had asked the Commission to appoint a special rapporteur without consulting his Government. Generally speaking, his Government opposed resolution 33/175 on the grounds that it was unlawful, discriminatory, unbalanced and unjust.

57. The Commission's mandate was to deal in general with missing persons throughout the world, but in fact it had adopted a procedure under which it concerned itself exclusively with missing persons in Chile, instead of considering means of action of a universal character. Draft resolution E/CN.4/L.1437 proposed the establishment of a commission of experts of three persons who would concern themselves solely with the problem of missing persons in Chile. Together with the special rapporteur mentioned earlier in the draft resolution and the five members of the United Nations Trust Fund for Chile, and without counting Mr. Cassese, that would make nine representatives of nine different countries who were dealing exclusively with the situation of human rights in Chile. He wondered what world public opinion would think about that. On the other hand, the Commission was not reacting to situations which were affecting millions of persons in all parts of the world; its political and ideological concerns excluded concerns of a humanitarian character. There had been no special rapporteur or commission of experts to deal with the violations of the rights of enormous numbers of persons, or their detention and assassination for political reasons, or to consider the right to leave certain countries or respect for freedom of religion or expression.

58. In that context, there was a danger that draft resolution E/CN.4/L.1437 might seriously jeopardize the prestige of the Commission. His country rejected the special procedure which was proposed; in its relations with the various international organizations it would adhere to the commitments which it had undertaken in accordance with the Universal Declaration of Human Rights and the international covenants, and within the framework of the Organization of American States. It would continue to co-operate with the United Nations in accordance with the general provisions in force and with those which would be adopted in the future.

59. The present century was the century of human rights. Universal concern in that respect was expressed day after day in the international press, in spite of political influences. In addition, in that area the Catholic Church was constantly exerting an influence which had recently been strengthened by the statements of His Holiness Pope John Paul II. Many States were attaching to human rights the importance which they deserved, and that great moral cause must not be abandoned

because of bias, injustice and omissions. It was essential to overcome mental reservations and to follow cautious paths, even if they were less spectacular, in order to ensure that human beings in our time would not remain unprotected against activities which, in one way or other, threatened, disregarded or destroyed the inherent rights of the human person. Unfortunately, it must be admitted that the United Nations had failed to respond to that requirement.

60. Mr. DIEYE (Senegal) said that, since the adoption of Commission resolution 8 (XXXI), by which the Ad Hoc Working Group, to investigate the situation of human rights in Chile, had been established, four years rich in events and information had elapsed. At the end of that period it was possible to form a precise idea of the situation in Chile. After the establishment of the Group, there had been difficulties with regard to the "sacrosanct" rule of geographical distribution; following discussions which would be remembered by all, the Chilean Government had finally agreed to a group composed of five persons representing all regions except one. That Government had shown some reluctance in other respects, asserting, inter alia, that the Group had not respected the rules of procedure set forth at the time of its establishment: in his opinion, that assertion had been incorrect, for the Group had never departed from the rules originating from resolution 8 (XXXI). The Chilean Government had also expressed objections of a political nature, describing the Group as marxist, and it had adduced all kinds of specious arguments. Finally, however, for the first time, a working group had gone to a sovereign country to investigate the situation of human rights in co-operation with the Government of that country. When the Group had gone to Chile (on 12 July 1978), it had been able to move about freely. There had, however, been two exceptions: it had been unable to visit Colonia Dignidad, an obscure place where torture was alleged to have been practised, or to meet General Contreras, who had played a serious role in the operation of DINA. Generally speaking, the visit had been fruitful and had set an example for the future. Nevertheless, it would have been better if the Chilean Government had not been so slow in admitting the Group and if it had authorized the Group to stay longer in Chile: 15 days were not very much in which to prepare an exhaustive report; the Group should have had twice or three times as much time. Since then, certain States had seemed to question some aspects of the Group's work - an attitude which surprised him. In particular, there were good reasons for the fact that two members of the Group had not travelled to Chile: reasons of health in the case of Mr. Benites, who had produced a medical certificate, and legitimate personal reasons in the case of Mr. Allana, the Chairman.

61. The report in document A/33/331 faithfully described the situation which the Group had observed in Chile. It noted a definite improvement, but not in all fields. In some fields there were still violations, to which the international community and the Commission should continue to pay attention. Freedom of the press existed to a relative extent, no person had gone missing in 1978 and the use of torture had declined. On the other hand, trade-union freedom, freedom of association and political freedoms received no protection whatsoever. After seizing power and exercising it over a long period, the present régime was not offering the population any prospect of participating in public affairs. Being a judge himself, he particularly regretted the lack of independence of the judiciary. Many judges had left the country; those who remained were trying to exercise a semblance of independence, but the ubiquitous presence of certain organs such as the National Information Agency, which had replaced DINA, made the judicial authority non-existent. And yet that authority had been independent before the coup d'état. Other important rights were being violated, especially the right of every person to return to his country.

62. The General Assembly had decided to continue to keep the question under review and had asked the Commission to take decisions about new structures. At present, it might seem excessive, as the observer for Chile had pointed out, to wish to appoint nine persons to deal with the human rights situation in that country. In fact, however, the United Nations Trust Fund for Chile would be merely a fund to assist the victims, and only the future special rapporteur would have to concern himself with the overall situation. It had been asked whether it was necessary to change the Ad Hoc Working Group; for his part, he would gladly accept a new assignment, provided it was not of a political nature, for in that case he would prefer to decline. However, if the mission envisaged in draft resolution E/CN.4/L.1437 could encourage respect for human rights, it was to be hoped that the Commission would endorse it.

63. He concluded by expressing the hope that the co-operation which had hitherto existed between the Chilean Government and the Commission would be further strengthened within the framework of the new structures to be established. Since the Ad Hoc Working Group had so far acted in an independent manner, he was convinced that the Chilean Government would co-operate with those structures.

64. Mr. ALLANA (Pakistan), Chairman-Rapporteur of the Ad Hoc Working Group to inquire into the situation of human rights in Chile, observed that 28 delegations and representatives of non-governmental organizations had spoken on item 5; that fact reflected the world-wide interest in the question. All the speakers, with the exception of the observer for Chile, had praised the Group's report and had complimented its members. He thanked them for the kind words they had addressed to the Group and to himself.

65. The new structures which were now proposed were suited to a new era which, it was hoped, would be a period of co-operation with a view to the full restoration of human rights in Chile.

66. Referring to a request made in document A/33/531, he appealed to the Chilean Government to reconsider the question of restoring Mr. Letelier's nationality and to take a favourable decision on the matter.
67. The Under-Secretary-General for Political and General Assembly Affairs had stated that the Ad Hoc Working Group's visit to Chile had been an historic event and set an example. His statement was encouraging as far as the setting up of subsequent groups of experts was concerned. He had acknowledged that the United Nations should shoulder its responsibilities in respect of the establishment of new services and the approval of new expenditure. His words were heartening in view of the additional expenses which would be incurred as a result of the adoption of draft resolution E/CN.4/L.1437. He (Mr. Allana) read out paragraph 11 of that document, and expressed satisfaction at the fact that the Under-Secretary-General was present at a time when well-known practical difficulties were being discussed.
68. He had listened attentively to the objections expressed by the observer for Chile, but asked the Government of that country to try to understand that the task of restoring human rights was a sacred trust, and that the Commission's decisions were prompted by the highest idealism. The Commission's sole concern was to protect suffering humanity; whatever the difficulties, it would continue to advance towards the objective of the universal enjoyment of human rights.
69. Mr. van BOVEN (Director, Division of Human Rights) said that the Division of Human Rights was not yet in a position to indicate the financial implications of draft resolution E/CN.4/L.1437, which could not, therefore, be put to the vote immediately.
70. Since the establishment of the Ad Hoc Working Group in 1975, the Division of Human Rights had striven to provide the services necessary for its activities, and he was gratified that the Chairman-Rapporteur had expressed appreciation for the assistance furnished by the Secretariat. However, the Division of Human Rights was finding it difficult to cope with its workload, and he viewed the future with concern. Indubitably, there was ground for satisfaction at all the energetic measures taken in the field of human rights, provided, however, the Division of Human Rights received the financial resources necessary in order to implement those measures. That was why the financial implications of draft resolutions must be calculated with care. He reminded the Commission of his statement at the opening of the session in which he had pointed out that, while the workload of the Division of Human Rights had increased considerably, the resources available to it had increased at a much slower pace. He hoped that budgetary action would be taken to remedy that situation, for otherwise, the Division of Human Rights might find it impossible to discharge the new tasks assigned to it by the bodies dealing with human rights. If that situation arose, those bodies would have to determine the priority ratings of the new tasks and those of the tasks already assigned.
71. The CHAIRMAN declared closed the discussion on agenda item 5

72. Mr. EL-SHAFFI (Egypt) said that he would like to make some comments on draft resolution E/CN.4/L.1437.

73. The CHAIRMAN drew attention to the provisions of rule 28 of the rules of procedure and expressed the view that it would be preferable to make those comments after the Commission had been informed of the financial implications of the draft resolution.

74. Mr. MEZVINSKY (United States of America) pointed out that the draft resolution had been submitted several days before. He would like to know when the statement of financial implications would be ready.

75. Mr. van BOVEN (Director, Division of Human Rights) said that it would be ready at the morning meeting on the following day.

Draft resolution E/CN.4/L.1432/Rev.1 (agenda item 6)

76. The CHAIRMAN reminded the Commission that the representative of Senegal had requested a roll-call vote on draft resolution E/CN.4/L.1432/Rev.1, which related to agenda item 6.

77. Mr. SADI (Observer for Jordan) said he was not sure whether draft resolution E/CN.4/L.1432/Rev.1 was sufficiently action-oriented. The Iranian Government's decision to ban all oil exports to South Africa was a measure of such significance that it should have been taken into account in the draft resolution, together with the measures adopted by other Governments, including the Canadian Government.

78. The word "Recommends" was used in operative paragraph 8. In view of the seriousness of the violations of human rights in southern Africa, it might be asked whether that word should not be replaced by the word "Urges".

79. Operative paragraph 8 dealt with the question of making a study of the legitimacy of the South African Government. However, since a consensus appeared to be emerging among the members of the Commission on the illegitimacy of the South African Government, the last part of operative paragraph 8 (b) should be reworded, since it implied that the Commission was not sure about that Government's illegitimacy.

80. Lastly, operative paragraph 17 did not specify what action the Chairman of the Commission must take if the Ad Hoc Working Group of Experts brought particularly serious violations of human rights to his attention.

81. Mr. O'DONOVAN (Observer for Ireland), pointed out that the English text of operative paragraph 10 of draft resolution E/CN.4/L.1432/Rev.1 was not consistent with the original French text. In order to bring it into line, the words "as intermediaries" should be inserted after the words "through their nationals" in the English text.

82. Mr. ADENIJI (Nigeria) said that in operative paragraph 18 of the English text of the draft resolution under consideration, the "Special Committee on Apartheid" should be given its correct name - the Special Committee against Apartheid.

83. In order to take account of the statements made in the Commission by the Chairman of the Special Committee against Apartheid, the Commission might request the Ad Hoc Working Group of Experts on southern Africa to study, in co-operation with the Special Committee against Apartheid, the cases cited in the document submitted by the Chairman of the Special Committee against Apartheid, and to report to the Commission at its thirty-sixth session. The Commission might adopt the following draft resolution:

"The Commission on Human Rights decides:

1. That the report on some cases of torture and murder of detainees in South Africa, giving particulars of the persons, officers of the security police and magistrates in South Africa responsible for the crimes, drawn up by the Special Committee against Apartheid and communicated to the Commission on Human Rights be investigated by the Ad Hoc Working Group of Experts on southern Africa in co-operation with the Special Committee against Apartheid:

2. That a special report on the investigations be made to the Commission on Human Rights at its thirty-sixth session."

84. The CHAIRMAN observed that the proposal had been made somewhat late and that the members of the Commission might need time to consider it before taking a decision.

85. Mr. EL-FATTAL (Syrian Arab Republic) urged the sponsors of draft resolution E/CN.4/L.1432/Rev.1 to take into account the comments made by the observer for Jordan on the measures adopted by Iran in respect of South Africa. They should perhaps be allowed time to submit an appropriate amendment.

86. The CHAIRMAN observed that the vote on the draft resolution had already been postponed three times.

87. Mrs. RAADI-AZARAKHCHI (Iran) thanked the observer for Jordan and the representative of Syria for their comments and proposals, and requested the sponsors of draft resolution E/CN.4/L.1432/Rev.1 to take them into account.

88. Mr. M'BAYE (Senegal) said that he supported the Nigerian proposal but considered it preferable to incorporate it within draft resolution E/CN.4/L.1432/Rev.1, so that the mandate of the Ad Hoc Working Group of Experts might be set forth in its entirety in a single resolution. However, the Group's task would become extremely heavy. It would therefore be appropriate to schedule a second week of work, which would make it necessary to recalculate the financial implications.

89. The proposal by the representative of Syria concerning Iran, which his delegation supported unreservedly, should be the subject of a separate text, since it concerned a special case and might be inappropriate in a resolution of a general nature.

90. The CHAIRMAN invited the Syrian representative to submit a text concerning the decisions taken by Iran which could be adopted by the Commission.

91. Mr. M'BAYE (Senegal) asked whether the financial implications of the proposal he had just made could be worked out rapidly, since the cost of a week's work in London by the Ad Hoc Working Group of Experts was already known.

92. Mr. van BOVEN (Director, Division of Human Rights) pointed out that, in order to calculate the financial implications of the proposal by the Senegalese representative, it would be necessary to know whether or not the second week of work would follow the first immediately. If the second week was to be a separate session, a second set of travel expenses would have to be taken into account. It would also be necessary to know whether the second week of work would take place in London or in Geneva and whether it would require additional staff. The financial implications could be worked out only after those questions had been answered.

Draft resolution E/CN.4/L.1433 (agenda item 7)

93. Mr. EL-FATTAL (Syrian Arab Republic) reminded the Commission that he had proposed the addition, in operative paragraph 2 of draft resolution E/CN.4/L.1433, of the word "financial" after the word "economic", and of the words "including nuclear aid" after the words "and other forms of assistance". He had the impression that those proposals had been accepted by the sponsors of the draft resolution.

94. Draft resolution E/CN.4/L.1433, as amended, was adopted by 23 votes to 3, with 6 abstentions.

Draft resolution E/CN.4/L.1434/Rev.1 (agenda item 16)

95. The CHAIRMAN invited the members of the Commission to vote on draft resolution E/CN.4/L.1434/Rev.1.

96. Draft resolution E/CN.4/L.1434/Rev.1 was adopted by 22 votes to none, with 9 abstentions.

Draft resolution E/CN.4/L.1436 (agenda item 20 (b))

97. The CHAIRMAN invited the members of the Commission to vote on draft resolution E/CN.4/L.1436, in which the amendments contained in document E/CN.4/L.1438 had been incorporated.

98. Miss EMARA (Egypt) said that the sponsors of draft resolution E/CN.4/L.1436 had accepted the amendments submitted by Iraq and the Syrian Arab Republic in document E/CN.4/L.1438, but nevertheless proposed the addition, in the second line of the proposed new preambular paragraph, of the words "violation of territorial integrity" after the words "self-determination," and the insertion, in the fourth line, of the word "among" before the words "root causes."

99. The CHAIRMAN put to the vote draft resolution E/CN.4/L.1436, as amended by document E/CN.4/L.1438 and as orally amended by the Egyptian representative.

100. Draft resolution E/CN.4/L.1436, as amended, was adopted by 24 votes to none, with 7 abstentions.

Draft resolution E/CN.4/L.1432/Rev.1 (agenda item 6)

101. The CHAIRMAN said that the Commission was unable to vote on draft resolution E/CN.4/L.1432/Rev.1 since it was not possible, for the moment, to calculate the financial implications arising from the draft decision just submitted by the Nigerian delegation. He asked the representative of the Syrian Arab Republic whether he was in a position to submit the text of his draft decision concerning Iran.

102. Mr. EL-PATTAL (Syrian Arab Republic) read out the following proposed text:

"The Commission expresses its deepest appreciation to the Government of Iran for having severed all relations with the racist régime of South Africa and especially for having cut off all oil supply to that régime, thus contributing enormously to the struggle against apartheid and racism."

103. Mr. CHAVEZ-GODOY (Peru) said that, although he supported the draft decision in principle, he would like to see the Spanish text before voting on it. If it adopted that draft decision, the Commission might perhaps be unfair on the other Governments which, although they did not have any oil, maintained no relations with South Africa: in his opinion, a more general text might be preferable.

104. Mr. SOYER (France) endorsed the Peruvian representative's observation. The text in question had only just been submitted and the Commission should be allowed some time for reflection.

105. Mr. GHAREKHAN (India) said that, while he did not underestimate the difficulties faced by non-English-speaking delegations, he himself fully supported the draft decision.

106. Mr. ADENIJI (Nigeria) considered that there was some point in the Peruvian suggestion concerning the possibility of mentioning other Governments. However, it should not be forgotten that pressure had been exerted on Iran for some time already to halt its oil shipments to South Africa. It was therefore appropriate to welcome the fact that Iran was now in a position to do what the United Nations requested of it. For that reason, the case of Iran deserved special mention.

107. The CHAIRMAN proposed that the vote on the draft decision should be postponed until the Commission voted on draft resolution E/CN.4/L.1432/Rev.1.

108. It was so decided.

109. Mr. BARROMI (Observer for Israel) asked whether, on the following day, he might make some observations concerning the resolutions that had been adopted.

110. The CHAIRMAN pointed out that the Commission was due to resume consideration of agenda item 12 on the following day.

111. Mr. EL-FATTAL (Syrian Arab Republic) said that it was not for the representative of Israel, who as an observer did not have the right to vote, to speak on the resolutions adopted by the Commission.

112. Mr. SOYER (France), speaking in explanation of vote, reaffirmed with regard to draft resolution E/CN.4/L.1436, the position that France had stated on several occasions. France had consistently supported the Programme for the Decade for Action to Combat Racism and Racial Discrimination. However, it had been unable to vote in favour of draft resolution E/CN.4/L.1436 because of its well-known position with regard to the final acts of the World Conference to Combat Racism and Racial Discrimination. It had been obliged to abstain because of the reference in the draft resolution to General Assembly resolution 33/99.

113. Mr. ALMEIDA RIBEIRO (Portugal) said that Portugal had been obliged to abstain in the vote on draft resolution E/CN.4/L.1434/Rev.1. Portugal could not actually become a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid until it had signed that Convention - a step which posed problems with regard to Portuguese municipal law. Nevertheless, the traditional policy of Portugal, which was free from any racial prejudice and could be cited as an example in that respect, was well known.

114. His delegation had been unable to vote in favour of draft resolution E/CN.4/L.1436 because of the reservations it had expressed concerning the final acts of the World Conference to Combat Racism and Racial Discrimination, and in particular paragraphs 18 and 19 of the Programme of Action, on which it had abstained.

115. Mr. LENNOX DAVIS (Australia) said that his delegation had abstained in the vote on draft resolution E/CN.4/L.1434/Rev.1 because certain legal and constitutional problems prevented Australia from becoming a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid. However, that in no way affected Australia's commitment to the struggle against apartheid.

116. Mr. RANTZAU (Federal Republic of Germany) said that his delegation had been unable to support draft resolutions E/CN.4/L.1433 and L.1434 since it considered that the procedure adopted was not consistent with the provisions of the International Covenant on Civil and Political Rights. With regard to draft resolution E/CN.4/L.1436, his delegation had abstained for the same reasons as the delegation of France.

117. Mrs. ABELE-EMICH (Austria), referring to draft resolution E/CN.4/L.1436, reminded the Commission that Austria had voted against the Declaration adopted at the World Conference to Combat Racism and Racial Discrimination, and against General Assembly resolution 33/99 which was mentioned in the preamble of the draft resolution.

118. Mr. DANELIUS (Sweden) said that his delegation had abstained in the vote on draft resolution E/CN.4/L.1436. His delegation had consistently adopted a negative position with regard to the final acts of the World Conference to Combat Racism and Racial Discrimination.

119. Mr. HOYT (United States of America) said that his delegation had not taken part in the vote on draft resolution E/CN.4/L.1436 concerning implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination for reasons which it had explained on numerous occasions in the Commission. It regretted that the results of the World Conference to Combat Racism and Racial Discrimination had been so disappointing and that it had not been possible to arrive at a consensus.

120. His delegation had voted against draft resolution E/CN.4/L.1433 relating to the progress report of Mr. Khalifa and to General Assembly resolution 33/23. As his delegation had stated on numerous occasions, the report was biased. It criticized certain industrialized countries because of their relations with South Africa. It had taken four years to prepare the report, which relied on information readily available from public sources. Countries from all regions of the world traded with South Africa. If Mr. Khalifa wished to present an objective report, he should begin by giving a more complete list of the companies and countries which maintained economic relations with the South African régime. Draft resolution E/CN.4/L.1433 merely repeated a judgement made before the study had begun and was unacceptable to the United States delegation.

121. Mr. TRAORE (Ivory Coast) explained that his delegation had abstained in the vote on draft resolution E/CN.4/L.1436 since the preamble contained a reference to General Assembly resolution 33/99, on which his delegation had abstained, in particular because it had not supported paragraphs 18 and 19 of the Declaration.

The meeting rose at 7.15 p.m.