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SUMMARY RECORD OF THE 56th MEETING

Chairman: Mr. MADAR (Somalia)

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The meeting was called to order at 11.05 a.m.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/39/3 (Parts I and II), 81, 128, 168 and Add.1 and 2, 174 and Add.1, 180 and Corr.1, 185, 193, 407, 414, 443, 444, 445, 446, 447, 477, 496, 568, 570, 581 and Corr.1, 590, 631, 635, 636, 694; A/C.3/39/1, A/C.3/39/4 and Corr.1, A/C.3/39/9; A.C.3/39/WG.1/WP.1; A/C.3/39/L.32, L.34, L.41/Rev.1, L.42/Rev.1, L.43, L.45, L.47, L.54)

1. Viscount COLVILLE (Special Rapporteur on the situation of human rights in Guatemala), introducing and updating his report (A/39/635), said that he had stated in paragraph 83 that the cases of persons charged before the Special Tribunals (Tribunales de Fuero Especial) would be expedited by the normal criminal courts. That was incorrect: their cases were to have been dismissed, not expedited, and therefore those persons should by now be at liberty. In paragraphs 61 and 192 (c), he had asked for the exact number, names and fate of individuals arrested for crimes within the jurisdiction of the Tribunals: the Government had recently provided that information, and he recommended that it be published in Guatemala. According to his calculations, 733 people were involved, 670 men and 63 women. The Tribunals had dealt with 328 defendants: 3 had been acquitted, proceedings had been stayed in 187 cases and the accused had been freed, 30 had been given a suspended sentence, 39 had been given sentences other than imprisonment, 54 had been sentenced to prison for periods ranging from a few months to 30 years, 15 had been sentenced to death and executed and the cases of the remaining 405 had been transferred to the normal criminal courts. It followed that 718 persons were at liberty. The 15 who had been shot were all men and some probably had dependent families. Accordingly, the Government might wish to consider their family circumstances and determine whether some assistance or recompense should be offered.
2. He had just been given full information about the 117 arrests mentioned in paragraphs 78 and 192 (c) of the report, but had had no opportunity to analyse it as yet.
3. Various types of violence had continued: the Guatemalan Commission of Human Rights had published detailed lists of violent crimes committed in July and August 1984 and indicated that they were far from exhaustive. Sixty-two murders had been committed in July and 59 in August, in addition to numerous kidnappings, shootings and assaults. More recent incidents included the shooting of Senator Santos Hernández, a Deputy of the National Constituent Assembly, together with his two bodyguards: police were reported to have arrested two people and to be searching for others. A professor at the University of San Carlos had been murdered and another professor, the Dean of the Faculty of Economics, had been shot while on his way to attend his late colleague's funeral. A United States Peace Corps worker had been killed, but the man said to be responsible, who claimed to have acted in self-defence, had been turned in to the police by his mother.
4. The police appeared to be meeting with some success in their efforts to control the violence, and prominent figures were taking steps to protect themselves. An American citizen had been kidnapped and a ransom of \$45,000

(Viscount Colville)

demand; he had been released by the police, and the five men responsible had been arrested. A court martial conviction of a woman army specialist for murder and the eight-year sentence imposed had been upheld by the Court of Appeal. The President of the Assembly himself had been able to foil a kidnapping attempt on 6 November.

5. The Head of State had promised the group of relatives of the disappeared referred to in paragraph 69 of the report that he would investigate such cases, even if they had occurred before he took office. Five such cases had recently been cleared up, although tragically, by the discovery of a secret grave in the department of Sololá.

6. The Special Rapporteur had only visited Guatemala once in 1984, and the additional information which he was providing was derived from written material from various sources. If the budget allowed, he hoped to revisit Guatemala in 1985. Two matters seemed to need further investigation: the extent of success achieved by the police in preventing and solving violent crimes, and the process of democratization of the political system. The present Government had announced that it was prepared to call elections for President, Congress and the municipal councils in 1985; a draft of a new electoral law had been sent to the Supreme Electoral Tribunal for comment, although the exact nature of the preferred system remained in dispute; a draft of a new Constitution had been prepared and might be ready for enactment by mid-February 1985; a draft law setting up a non-political electoral college to choose the president and judges of the Supreme Court was under discussion, and he hoped it would also contain safeguards relating to the removal of those individuals from office.

7. With regard to refugees, the report indicated that 16,000 to 18,000 had been relocated in the state of Campeche in Mexico, well away from the border; the number might by now be higher. In Mexico and Honduras, Guatemalan refugees were under the jurisdiction of the Office of the United Nations High Commissioner for Refugees, and they might soon come under that jurisdiction in Belize. If the Special Rapporteur's mandate was renewed, it would be helpful to specify to what extent, if at all, he was intended to make inquiries about refugees in neighbouring countries. Since a number of agencies were now concerned with that problem, they might be able to provide reliable information, thus leaving the Special Rapporteur more time to attend to important issues within the country itself.

8. Opinions were deeply divided about the programme for rural development referred to in paragraphs 86-88 and 138-166 of the report. The interpretation of the policy and the implementation of the programme were highly controversial, and it was too early to make a definitive judgement. Since the most important point was how it was perceived by the rural population directly concerned, he had tried to include a great deal of first-hand information on the latter's views in his report.

9. He was deeply grateful to the Centre for Human Rights and to his team for all their help; to the authorities in Honduras, Mexico and Belize; and to the Government of Guatemala, which had continued at all times to provide every facility he had requested.

10. Mr. LALLAH (Special Rapporteur on the situation of human rights in Chile) said that for purposes of preparing his report (A/39/631), he had again sought the collaboration of the Government of Chile. However, that Government had reiterated its decision to withhold collaboration as a matter of principle: the relevant negotiations were described in paragraphs 5 to 8 of the report. In the circumstances, his information had been gleaned from official and other published documents available in Chile, administrative and legislative provisions and, particularly, court decisions or the records of proceedings of major significance. A number of governmental and non-governmental organizations and institutions had provided useful and valuable material, and many individuals who had direct knowledge of the human rights situation had given testimony. The situation had been assessed only on the basis of the human rights norms contained in the international conventions to which Chile had subscribed.

11. The report covered the situation from December 1983 through June 1984: specific issues were summarized in paragraphs 358 to 392. In addition, some events up to August 1984 had been included and he would now outline significant developments which had occurred since August.

12. On 4 and 5 September, there had been a nation-wide protest demanding the re-establishment of a democratic order. Nine persons had been killed, approximately 10 injured and more than 500 arrests had been reported. The Worker's National Command (CNT), which grouped a number of industrial unions, had called for a national strike on 30 October. The authorities had quickly countered with an application to the courts for the arrest of the leaders of a broad spectrum of political alliances and of the CNT on the grounds that they were organizing protests likely to disturb public order. Seven trade union and political leaders had been arrested but had been released the following day and charges against them were not pressed.

13. On 29 and 30 October there had been nation-wide demonstrations and strikes in which not all but many of the industrial sectors had taken part. Seven or eight deaths, dozens of injuries to both law enforcement officials and civilians and hundreds of arrests had been reported. A curfew had been imposed and the media had been subjected to a blackout on news about the protests and similar events. A number of electrical installations and buildings had been bombed, and in early November, some civilians and law enforcement officers were reported to have been killed or injured. The Cabinet had resigned, but the President had declined to accept the resignations. The state of siege, which had been imposed after the overthrow of the President in 1973 and lifted in 1978, had been restored on 6 November 1984.

14. Under a state of siege, the Executive was vested with wide powers relating, inter alia, to relegation, house arrest, detention in places which were not prisons, expulsions, restriction of the rights of association and assembly, censorship of information and correspondence and suspension of recourse to amparo and the remedy of protection. The immediate practical consequences of the declaration of the state of siege had been the imposition of a curfew in Santiago and other towns as from 6 November; the promulgation of Decree No. 1216 outlawing

(Mr. Lallah)

all public gatherings without prior authorization from the military regional governors and of Decree No. 1217 banning six magazines critical of the present régime, imposing censorship on a seventh publication and restricting reporting and comments in all the media to official communiqués. The accreditation of foreign journalists was also reportedly under review. There had been massive round-ups of the inhabitants of shanty-towns, searches of their homes for arms or what the authorities considered subversive material, the exile of several hundred to distant villages and the detention of a number of leaders. Many political, trade union and community leaders were being sought for arrest and the head of the Santiago Archbishopric's human rights office had been prevented from re-entering the country.

15. At present, the legal order in Chile was characterized by three levels of derogations from the fundamental norms by which Chile had bound itself. First, inalienable political rights were denied within the framework of an exceptional legal order designed to last until 1989; second, there were three levels of states of emergency which could be declared; and third, there was by virtue of those various states of emergency and the transitional powers which suspended important provisions of the Constitution, an integrated system of legislative, executive and administrative measures which were virtually beyond traditional supervision and control. Those legislative measures emanated not from a representative parliamentary institution but from the Executive itself: their main objective was to deny political rights, and they had adverse consequences for other fundamental rights and freedoms, including the rights to life, physical and moral integrity and security, freedom of movement, thought, opinion, expression and association, inter alia.

16. The report detailed serious violations of specific rights in the chapters assigned to them: the figures quoted referred to the period ending June 1984, but after recent events, the figures should be revised heavily upward. Judicial decisions in the first half of the year had confirmed that the remedies of protection and amparo were not available under the states of emergency and the "state of danger of disturbance of internal peace".

17. To sum up, he said that as demands for the re-establishment of a democratic order and for the protection of human rights became more insistent the legal and administrative machinery designed to preserve the present legal order became more refined and the adverse consequences for human rights were exacerbated. The determination of the authorities to maintain the present legal order until its scheduled end had hardened, and none of the organic laws on political parties and the electoral process that had been in preparation had been enacted. Some individuals appeared to have lost hope in peaceful and collective protest and had resorted to violence against persons and property. There had also been violence by gangs unsympathetic to those who were striving for a change to a democratic order. Fortunately, resort to violence had been random and isolated: the mainstream of opinion still advocated an orderly transition with a view to resolving the increasingly grave political, social and economic crisis in Chile.

(Mr. Lallah)

18. It was more important than ever that the Government of Chile adopt urgent measures to restore democracy and to promote and protect human rights: in that connection, he drew particular attention to the conclusions and recommendations contained in paragraphs 391 to 393.

19. There was serious danger that the situation would become far worse unless early and appropriate measures were taken. He was convinced that the Chilean leadership did have regard for the country's commitments undertaken under international human rights instruments, and that the international community would find the means of persuading and encouraging Chile to put an end to the present situation. It was imperative to do now what would inevitably be done later, at the cost of needless human suffering, anguish and bitterness.

AGENDA ITEM 95: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued)  
(A/C.3/39/L.51)

AGENDA ITEM 96: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS  
(continued) (A/C.3/39/L.46, L.55 and L.65)

AGENDA ITEM 97: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued)  
(A/C.3/39/L.57)

AGENDA ITEM 98: INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)  
(A/C.3/39/L.48, L.69 and L.70)

AGENDA ITEM 99: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT: REPORTS OF THE SECRETARY-GENERAL (continued) (A/C.3/39/L.40, L.49, L.50, L.62, L.63, L.64, L.66, L.67 and L.68)

20. Ms. COLL (Ireland), introducing draft resolution A/C.3/39/L.51, of which Canada and the Ivory Coast had become additional sponsors, said that the specific measures it called for were the preparation of a study, the outline of which had been approved by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights, and the holding of a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief. Unless the problem of religious intolerance was tackled at its roots, it would continue to be manifested in discrimination which legislative action alone could not eliminate. The sponsors hoped that the Committee would adopt the draft resolution by consensus as it had done since 1981, when the General Assembly had proclaimed the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

21. Mr. FURLAND (United Kingdom), introducing draft resolution A/C.3/39/L.46, said that its purpose was to encourage the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities to expedite the work on the elaboration of the draft body of guidelines, principles and guarantees for the protection of people detained on grounds of mental ill health. Those people could not protect themselves and it therefore fell to the



(Mr. Fursland, United Kingdom)

international community to agree on a set of standards to protect their interests. The broad range of sponsors showed that that concern was widely felt throughout the international community. The draft was almost identical to the one adopted in 1983 and the sponsors therefore expected that it would not cause difficulty to any delegation.

22. Mrs. KAFAROVA (Union of Soviet Socialist Republics), introducing draft resolution A/C.3/39/L.55, said that the purpose of the draft was to increase United Nations efforts to guarantee a basic inalienable right, namely, the right to life. The draft was based on the Charter of the United Nations and other basic documents. In view of the threat of nuclear war, the draft resolution sought to preserve peace, the fundamental pre-condition for ensuring the right to life. Scientific and technological progress had great potential as an instrument for solving the problems of hunger and illiteracy and ensuring social and economic progress. United Nations bodies could continue to make a noble contribution to that cause and adoption of the draft would go a long way towards that end.

23. Mr. ORGUTSOV (Byelorussian Soviet Socialist Republic), introducing draft resolution A/C.3/39/L.65, said that the sponsors wished to draw the attention of all States to the need to use scientific and technological progress for the benefit of all mankind. Implementation of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind would foster international peace and security and promote the economic and social advancement of all peoples. The sponsors had taken the views of several delegations into account in preparing the draft. As a result, the draft was balanced and the increase in the number of sponsors showed the broad support which it enjoyed in the Committee. The sponsors therefore hoped that it would be adopted without a vote.

24. Mr. KALINOWSKI (Poland), introducing draft resolution A/C.3/39/57, of which the Ivory Coast and Venezuela had become sponsors, said that the main purpose of the draft was to note the progress in the elaboration of a draft convention on the rights of the child made by the Open-ended Working Group of the Commission on Human Rights and to encourage that body's efforts to complete the convention in 1985 and to submit it to the General Assembly at its fortieth session through the Economic and Social Council. There was a widespread feeling among members of the Third Committee that adoption by the United Nations in the year of its fortieth anniversary of a draft convention on the rights of the child would be a significant achievement. The sponsors therefore hoped that the Committee would unanimously adopt the draft resolution.

25. Mr. BORCHARD (Federal Republic of Germany), introducing draft resolution A/C.3/39/L.48, said that the sponsors were proposing further consideration of the idea of elaborating an optional instrument for those countries wishing to abolish capital punishment or not to reintroduce it and to make their conviction known in an internationally binding manner. In proposing such an approach, the sponsors of the draft did not intend to pass judgement on countries which had not abolished capital punishment or to imply any legal commitment on their part to do so. They respected other appraisals of the issue and the different historical, philosophical and religious backgrounds from which they derived.

/...

(Mr. Borchard, Federal Republic of Germany)

26. The proposed draft was the outcome of extensive consultations with a large number of delegations from all regional groups. The sponsors were still studying suggestions made by some delegations in order to facilitate the adoption of the draft without a vote. It was therefore their intention to submit a revised draft at the conclusion of those consultations.

27. Mr. BERGTHUN (Norway), introducing draft resolution A/C.3/39/L.69 on behalf of the sponsors, drew attention to its provisions and said it was assumed that the Secretariat could discharge the tasks requested of it in the text within existing resources. He expressed the hope that the draft resolution could be adopted without a vote.

28. Ms. CAO-PINNA (Italy), introducing draft resolution A/C.3/39/L.70 on behalf of the sponsors, who had been joined by the delegations of Belgium and the Federal Republic of Germany, pointed out that the word "harmonize" in the seventh preambular paragraph should be replaced by the word "improve".

29. The draft resolution applied not only to the international human rights Covenants, but also to other human rights instruments which were already in force or the texts of which had just been, or were about to be, completed. She reviewed the background of the draft resolution and expressed the hope that, since the views of many delegations had been accommodated in the text, it would be possible to adopt it without a vote.

30. Mr. van der STOEL (Netherlands) introduced draft resolution A/C.3/39/L.40 on behalf of the sponsors, who had been joined by the delegations of Belgium, the Dominican Republic, Greece, Iceland, Panama, Portugal, Singapore and Spain. The annex to the text contained the draft convention against torture and other cruel, inhuman or degrading treatment or punishment included in the report of the Working Group of the Human Rights Commission (E/CN.4/1984/72), without the square brackets around article 19, paragraphs 3 and 4, and article 20. The square brackets had been omitted because the sponsors felt that the provisions in those articles were of prime importance for the effective implementation of the convention. The mechanism provided in article 20 was a major step forward in the struggle against torture and at the same time contained an elaborate system of checks and balances. The sponsors were willing in principle to meet a number of the concerns expressed by delegations which had participated in informal consultations on the draft convention, and the changes would be submitted either as a revised text or orally before action was taken on the draft resolution.

31. He stressed the urgency, in the interest of the victims of torture, of adopting the draft convention at the current session and said that no effort should be spared to bring about the widest possible support for the draft resolution and the draft convention.

32. Mr. YAKOVLEV (Union of Soviet Socialist Republics), introducing his delegation's amendments to the draft convention annexed to draft resolution A/C.3/39/L.40 (A/C.3/39/L.63 and A/C.3/39/L.64), said that the purpose of the



(Mr. Yakovlev, USSR)

amendments was to avoid ambiguity and strengthen articles 1 and 4 by broadening their scope. The amendments were consistent with the legislation of the Soviet Union and other States. He thanked those delegations which had indicated support for the amendments.

33. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) introduced documents A/C.3/39/L.66 and A/C.3/39/L.67, which contained his delegation's amendments to the draft convention comprising the annex to draft resolution A/C.3/39/L.40. The amendments sought to ensure that as many States as possible would accede to the draft convention, and that the implementation machinery would not permit the convention to be used for political ends or for the purpose of interfering in the internal affairs of States. They were also intended to bring the text into line with international law. His delegation considered it essential that the implementation machinery should operate on the basis of a consensus.

34. Mr. LEBAKIN (Ukrainian Soviet Socialist Republic), introducing documents A/C.3/39/L.49 and A/C.3/39/L.50, containing his delegation's amendments to the draft convention annexed to draft resolution A/C.3/39/L.40, said that the objective of the amendments was to ensure that the draft convention received the broadest possible support of the members of the international community and to bring the language of the articles into line with existing international law, in particular, with the procedures followed with regard to the International Covenant on Civil and Political Rights, which had been vindicated in practice. He was pleased that many delegations had already supported the amendments and hoped that others would also support them.

35. Mr. RAJAIE-KHORASSANI (Islamic Republic of Iran), introducing draft resolution A/C.3/39/L.68, said that blame in connection with the use of torture was usually placed on the tyrannical régimes which resorted to torture by using a number of effective devices. The purpose of his delegation's draft resolution was to facilitate an end to torture by calling upon those who produced, exported and imported means of torture to cease their activities.

The meeting rose at 1.15 p.m.