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President: Mr. Ismat T. KITTANI (Iraq).

In the absence of the President, Mr. Anderson (Australia), Vice-President, took the Chair.

AGENDA ITEM 12

Report of the Economic and Social Council
(*continued*)

REPORT OF THE THIRD COMMITTEE (A/36/792)

1. The PRESIDENT: Under agenda item 12, a draft resolution entitled "Question of human rights relating to the case of Mr. Ziad Abu Eain", has been submitted in document A/36/L.58, which I intend to put before the Assembly after the Assembly has taken action on draft resolutions I to XX and draft decisions I and II, recommended by the Third Committee in paragraphs 84 and 85 of its report [A/36/792].

2. I shall now call upon those representatives who wish to speak in explanation of vote before the vote.

3. Mr. ORTIZ SANZ (Bolivia) (*interpretation from Spanish*): I should like to explain in one statement Bolivia's vote on the following texts recommended by the Third Committee: draft resolution V, concerning human rights in El Salvador; draft resolution VII, concerning human rights in Chile; and draft resolution II, concerning human rights in Guatemala.

4. We voted against those texts in the Third Committee and intend to repeat that vote in plenary meeting.

5. It is not acceptable on the pretext of defending freedom and the right to self-determination to seek in fact to institutionalize armed subversion. We consider reprehensible the position of those who, shielded by a seeming defence of human rights, are attempting to clear the way for international terrorism.

6. It is intolerable that certain European colonialist, exploiting nations of the past, socialist nations of today, should interfere in the affairs of Latin America, a world

whose drama and hopes they cannot understand. Those nations attempt to prolong their historic decline by advocating humanitarian causes while they profit from the sale of arms to insurgents and Governments alike.

7. It is not just that the General Assembly, forgetting the contribution made by Latin America in this very Hall to the independence of 70 new States, should permit year after year accusations against Latin American republics while it is silent in the face of the mental torture, armed invasions, mass exoduses, executions without trial and sectarian murders which plague the daily history of other regions of the world where the socialist paradises hold sway.

8. Although allegedly seeking to help out peoples, these texts actually aim at something quite different and are certainly not good. They aim at creating divisions in Latin America, which unfortunately are beginning to occur, in order to facilitate extremist penetration.

9. For those reasons our delegation will vote against the three texts that I have mentioned.

10. Mr. ASANTE (Ghana): I should like to explain the vote of the Ghanaian delegation on draft resolution V, on the situation of human rights and fundamental freedoms in El Salvador.

11. The Ghanaian delegation will cast an affirmative vote on that draft resolution. It will do so out of its firm belief that human rights and fundamental freedoms should be enjoyed by peoples everywhere and that continuing efforts should be made and measures adopted to ensure their promotion and enjoyment. The situation in El Salvador has been and continues to be a tragic story of suffering and denial of basic freedoms. Like other situations it requires a political solution involving all parties, and we hope that the draft resolution will be adopted.

12. In our view, that draft resolution seeks to encourage the adoption of those measures which will ensure respect for and promotion of the human rights of the people of El Salvador.

13. The delegation of Ghana will vote for the draft resolution in the confident belief that the problems facing the Salvadorian people will not be seen in the context of East-West considerations but rather in terms of the basic interest of the people of El Salvador themselves.

14. Mr. de PINIÉS (Spain) (*interpretation from Spanish*): My delegation has given due attention to the draft resolution concerning Mr. Abu Eain contained in document A/36/L.58, in connection with which we wish to make the following explanation of vote.

15. In general, my delegation did not find in the debate that took place on this question the background information needed to take a stand for or against the draft resolution which is now before us. We have listened to contra-

dictory allegations concerning a judicial decision—allegations that are difficult to verify in a political forum such as ours, because it is not really in a position to evaluate judicial cases. The draft resolution describes the detention of Mr. Abu Eain as illegal; this seems to call into question the judicial system of the United States.

16. In these circumstances, we shall be obliged to abstain in the vote on the draft resolution.

17. Mr. ROSALES-RIVERA (El Salvador) (*interpretation from Spanish*): The delegation of El Salvador wishes to record once again on this occasion—using a statement in explanation of vote to do so—its very vigorous rejection of and objection to draft resolution V entitled “Situation of human rights and fundamental freedoms in El Salvador”.

18. That draft resolution not only oversteps the humanitarian sphere, in a way which is in itself distorted, but also includes considerations which are highly political in nature and which in essence fall exclusively under the internal jurisdiction of the State of El Salvador.

19. The failings of this draft resolution are threefold in nature: it is biased, it is false, and it is interventionist.

20. We have stated and state again that the text is biased because it corresponds basically to the views of extremist organizations in opposition to the revolutionary Government of El Salvador.

21. We have stated and state again that the text is false because it presents the situation of the country out of context and because it includes specific elements that are not in keeping with the facts.

22. We have stated and state again that the text is interventionist because it contains views and terms that violate the sovereign action of the State, seeking to impose decisions that are solely exclusively within the purview of the Government and people of El Salvador.

23. That the draft resolution goes beyond humanitarian concerns can be seen when, under the pretext of the human rights situation, a global political approach is taken to the El Salvador phenomenon. In this sense, the draft resolution considers the national situation not from the humanitarian standpoint but, rather, from the standpoint of intervention in internal affairs, reflecting efforts to internationalize a domestic situation, as part of the expansionist aims of a well-known hegemonistic super-Power, whose game other countries are playing, consciously or unconsciously.

24. The draft resolution also has an antecedent—although an attempt has been made to eliminate the first-degree relationship—in a clumsy document which will remain a sad entry in the annals of inter-American history, the so-called Franco-Mexican declaration on El Salvador.¹ In it is found the motivation of two of the sponsors of the draft resolution.

25. Mexico, which had suffered under the boot and bayonet of the Emperor Maximilian, has strangely enough invited France, still a colonialist Power, to intervene in Latin American affairs. If our Latin American countries rejected the Monroe Doctrine because of its intention to establish a sort of excuse to intervene in the young American republics—although it emerged also as a reaction to the interventionist policy of the Holy Alliance and to the

threat that European States might wish to reconquer American lands that had already achieved independence—how can a call to these Powers outside our continent to interfere in our internal affairs not arouse condemnation and indignation?

26. Thus, all at once, it is sought to erase a whole tradition of struggle for the principle of non-intervention, the pride of our American international law.

27. The Franco-Mexican declaration was immediately rejected by the Salvadorian Government. That was followed by many statements by Latin American Governments, among which we would like to highlight the one issued at Caracas in which nine governments recorded their concern and bewilderment at what they described as the decision of those two countries to intervene in the internal affairs of El Salvador and criticized, *inter alia*, their invitation to foreign entities to speak in favour of extremist elements, pointing out that that Franco-Mexican declaration, far from contributing to a solution to the problem, by trying to internationalize it, aggravated it. The Ministers who signed that statement recalled that Latin America had on various occasions suffered the painful and bitter experience of foreign intervention from within and outside the region. They reiterated their Governments' support for the efforts of the people of El Salvador and its democratic civilian and military leaders to achieve peace and social justice within a pluralist and democratic system. They affirmed that it is up to the Salvadorians alone to find a political and democratic solution to the conflict, without foreign intervention, direct or indirect.

28. Latin American intellectuals have also spoken out in this respect. Thus, the well-known writer, Germán Arciniegas, whose article in a Bogota newspaper was reprinted in *La Prensa*, New York, on 4 December 1981, stated his view, *inter alia*, that

“French intervention in internal Latin American affairs has not always been fortunate. At one time Empress Eugénie encouraged her relations in Europe to establish in Mexico an Austrian empire, and we know the consequences. The Indian Juárez understood better than La Montijo the internal affairs of his people and shot Maximilian and thus fortunately the story ended—terrible but true! This little fable served to fashion a new doctrine which found its best and most polished expression in the concise words of Juárez, whose wisdom all European science in a century of legal efforts has been incapable of surpassing. Juárez stated: ‘Respect for the rights of others is peace.’ That is the meaning of non-intervention. Why is Mitterrand harking back to the days of La Montijo?”

29. The draft resolution which we have before us contrasts dramatically with the resolution adopted on 10 December at the eleventh session of the General Assembly of the Organization of American States [OAS], held in Saint Lucia.² That was adopted with the votes of more than 20 Latin American countries. Mexico, Nicaragua and Grenada voted against—countries that have devoted themselves to promoting action against El Salvador.

30. The text of the resolution on the situation in El Salvador, which received the support of the vast majority of countries, was submitted by the other Central American countries, including El Salvador, and its contents are as follows:

“The General Assembly [of the Organization of American States],

“Having seen:

“The provisions of articles 3 and 16 of the Charter of the OAS, which refer to the principle of solidarity of American States with a political organization on the basis of the effective exercise of representative democracy, to respect for the fundamental rights of the individual, and to the principle of free determination of the peoples; and

“Resolution AG/RES.510(X-0/80), which provides that the democratic system is the basis for the establishment of a political society where human values can be fully realized;

“Having heard:

“The statements made by the heads of delegations in the course of the debate of the General Assembly; and

“Considering:

“That the Government of El Salvador has expressed its intention to find, through the democratic process, the political solution to the violence affecting its country and that, to that end, it has scheduled the election of a Constituent National Assembly for March 1982;

“That the Government of El Salvador has announced that the political electoral process of El Salvador is in progress; and

“That the Government of El Salvador has invited other Governments to observe the elections;

“Resolves:

“1. To express the wish that the people of El Salvador attain peace, social justice and democracy within a pluralist system that will enable its citizens to exercise their inalienable rights;

“2. To express the hope that all Salvadorians will attain an atmosphere of peace and harmony through a truly democratic electoral process;

“3. To suggest to the Governments that wish to do so to consider the possibility of accepting the invitation extended by the Government of El Salvador to observe its election proceedings;

“4. To repudiate violence and terrorism and any act that constitutes a violation of the principle of non-intervention;

“5. To reiterate that, in accordance with the principle of non-intervention, it is up to the Salvadorian people alone to settle their internal affairs.”

31. From a reading of the text recently approved by the OAS, the highest regional body, and of the text submitted by the Third Committee, we can see that the former is realistic and constructive and respects the principle of non-intervention, while draft resolution V is demagogic, interventionist and a polarizing force, even though it is disguised as something innocuous. This text, if adopted, would become one more piece of paper without any pragmatic content.

32. El Salvador seeks a nationalist, pluralist, open and democratic response to its problems. It has confidence in

the wisdom, nobility and spirit of conciliation of its people, who hope that the process of structuring Salvadorian society to meet the needs of the great majority, (using the democratic course of action—which has one of its pillars the free electoral process, in which all parties participate without ideological distinction, over the whole political spectrum, as opposed to situations in which a single official party virtually imposes its views—the cause and effect of false democracy) and eliminating harmful outside factors, will restore harmony, with the support of the children of El Salvador, those who venerate the blue and white of our flag and do not bend to any other emblem or flag. The solution is fundamentally in the hands of the Salvadorians themselves, and they, with renewed faith, express their trust in the future.

33. For all these reasons and for the other reasons which in the debate in the Third Committee we put forward at greater length, including the selective, discriminatory way in which human rights are dealt with, using a hypocritical dual scale of values which has given rise to disenchantment in broad sectors of the international community . . .

34. The PRESIDENT: The representative of El Salvador has now spoken for 10 minutes.

35. I apologize for the order in which we are taking statements this afternoon. However, as delegations know, a new draft resolution was introduced after the Third Committee had completed its work and I think we should now proceed in the most logical way possible so that delegations can deal with this item expeditiously.

36. Accordingly, I shall call first on the representative of Japan as Rapporteur of the Third Committee for the formal introduction of the report on agenda item 12. We will then hear the representative of Kuwait to introduce the new draft resolution, relating to the human rights of Mr. Abu Eain, before the debate on this question.

37. Mr. FUJII (Japan), Rapporteur of the Third Committee: I have the honour to present to the General Assembly the report of the Third Committee on agenda item 12 [A/36/792].

38. The Third Committee recommends that the General Assembly adopt the 20 draft resolutions and two draft decisions contained in paragraphs 84 and 85 of the report.

39. Draft resolution I, relating to the United Nations voluntary fund for victims of torture, has been recommended by the Economic and Social Council for adoption by the General Assembly and was adopted by the Committee by a vote.

40. Draft resolution II, relating to the right to education, was adopted by the Committee without a vote.

41. Draft resolutions III, VI, VIII and XI on refugees and displaced persons in Somalia, Djibouti, the Sudan and Ethiopia were adopted by the Committee also without a vote.

42. Draft resolution IV, relating to regional arrangements for the promotion and protection of human rights, was adopted by the Committee without a vote.

43. Draft resolution V, relating to the situation of human rights and fundamental freedoms in El Salvador, was adopted by the Committee by a vote.

44. Draft resolution VII, relating to the protection of human rights in Chile, was also adopted by the Committee by a vote.
45. Draft resolution IX, relating to social aspects of the development activities of the United Nations, was adopted without a vote.
46. During the current session of the General Assembly, the Third Committee had two open-ended working groups on the drafting of an international convention on the protection of the rights of all migrant workers and their families and on the elaboration of a draft declaration on the human rights of individuals who are not citizens of the country in which they live.
47. Draft resolution X relates to the former working group; the draft resolution concerning the latter working group is draft resolution XV. Both these draft resolutions were adopted by the Committee without a vote.
48. Draft resolution XII, relating to measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror, was adopted by the Committee by a vote.
49. Draft resolution XIII, relating to questions of involuntary or enforced disappearances, was adopted without a vote.
50. Draft resolution XIV, relating to missing persons in Cyprus, was adopted by a vote.
51. Draft resolution XVI, relating to the exchange of information on banned hazardous chemicals and unsafe pharmaceutical products, draft resolution XVII, concerning the draft declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally, draft resolution XVIII, relating to the International Drug Abuse Control Strategy, draft resolution XIX, relating to the observance of the thirty-fifth anniversary of the Universal Declaration of Human Rights, and draft resolution XX, relating to assistance to student refugees in southern Africa, were adopted without a vote.
52. Draft decision I, relating to the welfare of migrant workers and their families, was adopted without a vote.
53. Draft decision II, relating to the situation of human rights and fundamental freedoms in Guatemala, was adopted by a vote.
54. I hope the consideration of these draft resolutions and draft decisions this afternoon will not present any problems.
55. Finally, I should like to take this opportunity to express my sincere appreciation to all the members of the Third Committee for the understanding and co-operation they extended to the work of the officers of the Committee. I believe that the Committee accomplished a tremendous amount of work in the social and humanitarian field during this session of the General Assembly, as it has done in the previous sessions. This is due entirely to the co-operation and understanding of its members.
56. The PRESIDENT: I now invite the representative of Kuwait to introduce the draft resolution in document A/36/L.58.
57. Mr. RAZZOOQI (Kuwait): My delegation would like to introduce on behalf of the group of Arab States the draft resolution entitled "Question of human rights relating to the case of Mr. Ziad Abu Eain" [A/36/L.58].
58. In the first preambular paragraph the General Assembly recalls the Charter of the United Nations and the Universal Declaration of Human Rights.
59. In the second preambular paragraph the General Assembly recalls resolution 32/14 and other pertinent resolutions in which, *inter alia*, it reaffirmed the legitimacy of the struggle for independence, territorial integrity, national unity and liberation from colonial and foreign domination and alien subjugation by all available means.
60. In operative paragraph 1 the General Assembly would strongly deplore the action of the Government of the United States of America in extraditing Mr. Ziad Abu Eain to Israel, the occupying Power.
61. In operative paragraph 2 it would demand that Mr. Ziad Abu Eain be immediately released and that the Government of the United States, being responsible for his safety, should facilitate his safe transfer to the country of his choice.
62. In operative paragraph 3 it would request the Secretary-General to report to the General Assembly on the implementation of the resolution no later than 31 December 1981.
63. In the last operative paragraph, operative paragraph 4, it would decide to retain item 12 on the agenda of its thirty-sixth session for the sole purpose of further considering the question of human rights relating to the case of Mr. Ziad Abu Eain.
64. The PRESIDENT: Since we are now dealing with a draft resolution which was not considered in Committee and since no decision was taken under rule 66 that the report in question not be considered, we shall now hear statements in discussion of this item.
65. Mr. ADELMAN (United States of America): The United States Government is vigorously opposed to draft resolution A/36/L.58, which "strongly deplores" the United States extradition of Mr. Ziad Abu Eain to stand trial in Israel for an alleged act of terrorism. The draft resolution is an unwarranted and misguided disparagement of the American judicial system. It disregards completely the procedural rights of due process which were accorded Abu Eain, charging instead that this detention pending a final determination of the case was illegal. It also misrepresents the nature of the evidence upon which the United States judiciary and the Department of State independently found probable cause to believe that Abu Eain committed the crimes for which extradition was requested. In addition, the draft resolution takes a cavalier attitude towards the international consequences of treating acts of terrorism as "political" and hence non-extraditable crimes.
66. The draft resolution makes no mention of the nature of Abu Eain's alleged offence, namely, murder, attempted murder and inflicting grievous bodily harm. Abu Eain is charged by an Israeli civilian court with placing a bomb on 14 May 1979 in a crowded market area in Tiberias where youths had gathered to celebrate Israeli Independence Day. The bomb had a delayed time fuse attached. The explosion killed two boys and injured 36 people sufficiently for each of them to require hospital treatment.

67. The United States Government presented Israel's extradition request to a United States magistrate in fulfillment of its international treaty obligations. The extradition treaty which entered into force between Israel and the United States in 1963 is similar in form and substance to numerous existing treaties between the United States and other States. It provides that persons shall be delivered up according to the provisions of the present Convention for prosecution when they have been charged with, or to undergo sentencing when they have been convicted of, any of the following offences: murder; manslaughter; malicious wounding—inflicting grievous bodily harm.

68. Let me state unequivocally that Mr. Abu Eain received a fully independent and impartial judicial review of the extradition request. The United States magistrate, after hearing all of the evidence presented by the prosecutor and by Abu Eain, found him extraditable under the terms of the United States-Israel extradition treaty.

69. The findings and the conclusions of the magistrate were challenged by petition for a writ of habeas corpus. In denying the petition, the United States District Court judge reviewed the magistrate's findings at length. The United States Court of Appeals for the Seventh Circuit affirmed the order of denial, again reviewing the findings and conclusions of the magistrate.

70. Following judgement by the United States Court of Appeals, the defendant petitioned the United States Supreme Court for writ of *certiorari*. Representing him as one of his attorneys, both in the Court of Appeals proceedings and before the United States Supreme Court, was a former United States Attorney-General. The Supreme Court, after considering full briefs on the issues, decided that the case did not merit further review and denied the request for *certiorari*. There can be no doubt that the defendant was adequately represented and accorded all due process rights guaranteed in such proceedings and that the United States judiciary, on all three levels, accorded the defendant full, independent and impartial review.

71. Under United States law the record of the proceedings in the lower court must be certified by the Secretary of State. William Clark, the Deputy Secretary, gave full and fair consideration to all pertinent information properly before him, including a careful review of the judicial record and the arguments made by Abu Eain's attorneys. He also met on several occasions with diplomats who requested the opportunity to address the question of extradition.

72. Deputy Secretary Clark concluded that our treaty with Israel and compelling law required the conclusion that Abu Eain should be extradited. It must be emphasized that this decision is not a statement on whether Abu Eain is guilty or innocent. That issue can only be decided at his trial. The United States intends to follow the course of his trial in Israel closely to see that Abu Eain continues to receive due process of law, in accordance with the assurances we have received from the Government of Israel.

73. In contesting extradition Abu Eain raised three basic contentions: first, that the evidence is insufficient to sustain the magistrate's findings that there is probable cause to believe that Abu Eain committed the crimes for which extradition was requested; secondly, that the crimes charged against him are political offences and thus not extraditable crimes; and, thirdly, that if extradited he would not receive a fair trial. All three contentions raise

legal issues, and no contentions other than legal contentions were considered by Deputy Secretary Clark in arriving at the decision to extradite.

74. As the Deputy Secretary pointed out in his Memorandum of Decision on the case, the magistrate's finding of probable cause was based in large part on a statement of confession of an accomplice, Jamal Hasan Ahmad Yasin, which implicated Abu Eain in the crime. This statement described the nature of the crime and Abu Eain's involvement in it. Along with another statement by Yasin's cousin, it also indicated that Abu Eain, upon learning that others had been captured and that he himself was in danger of being apprehended, decided to flee to the United States via Jordan.

75. In his Memorandum of Decision, Deputy Secretary Clark responded in some detail to the six contentions made by Abu Eain when considering Yasin's statement. I will not repeat here all of the arguments in the Deputy Secretary's Memorandum, which has been made available to various delegations and can be made available to any delegation so requesting. I do, however, want to respond to three of those contentions, which are all contained in the fourth preambular paragraph of the draft resolution now before us.

76. The first contention, involving the alleged recantation of Yasin's statement, is no more cognizable now than it was in the courts. In upholding the magistrate's refusal to admit evidence of the alleged recantation, the Court of Appeals stated the well-established rule that an accused in an extradition hearing has no right to contradict the demanding country's proof or to pose questions of credibility as in an ordinary trial, but only to offer evidence which explains or clarifies that proof. To do otherwise would convert an extradition hearing into a full-scale trial, which it is not intended to be. An extradition hearing is not a trial of the guilt or innocence of an accused but, instead, has the character of a preliminary examination in a criminal proceeding. Applying this rule, the Court of Appeals upheld the magistrate's ruling that the credibility of the facts implicating the defendant in the bombing should be resolved at his trial. The alleged recantations are matters to be considered at the trial, not at an extradition hearing. These considerations were as compelling for the Department of State as they were for the courts.

77. The second contention contained in the draft resolution is that Yasin's first statement was transcribed in Hebrew, rather than in his native Arabic. As Deputy Secretary Clark pointed out in his Memorandum, the significance of this fact is nullified in large part by evidence received during the District Court hearing. Such evidence discloses that Judge Shabtay of the Magistrate's Court in Jerusalem questioned Yasin in Arabic and determined that he understood his statement and had made it freely.

78. Finally, the draft resolution states that the statement was "extracted". This is similar to Abu Eain's assertion that Yasin's original statement was taken under inherently coercive circumstances. None the less, he admits that Yasin's treatment while detained prior to his confession is unknown. Indeed, the guarded manner in which this contention is stated by Abu Eain, namely, that Yasin's statement was made apparently without a prior opportunity to consult counsel, family or friend, and after an unknown but likely period of weeks of detention, reveals its own weakness. Moreover, when Yasin allegedly recanted his earlier statement, he did not claim that he had incrimi-

nated Abu Eain because he had been coerced in any respect, but rather claimed that he had done so because he thought Abu Eain was safely out of the country.

79. Abu Eain also contended that the crimes charged against him were political offences and thus not crimes for which he could be extradited. The United States courts and Deputy Secretary Clark fully considered this contention and held that the so-called political-offence exception is not applicable in the circumstances of this case. It is hoped that this would be the position of all nations. Anyone contemplating the murder of innocent civilians in a misguided effort to further a political cause must be on notice that he will not be permitted to take refuge under a political-offence exception. This is not to say that Eain is, in fact, such a person. In addressing the issue of whether the political offence exception applies, it was necessary to conclude only that the crimes charged, whether or not they were committed, are not political crimes. This was the conclusion reached by the judiciary and by the Department of State, which, under American law, is the final arbiter of this question.

80. It is the implicit contention of the draft resolution, in its second preambular paragraph, that the political-offence exception does apply in the case of Abu Eain. In particular, it claims that the struggle for "liberation" is justified in using "all available means" to achieve its goals. In addition to being an implicit endorsement of acts which involve the deliberate murder of innocent civilians, this paragraph would appear to be out of place in a draft resolution which contends that Abu Eain did not commit the acts with which he is charged. The sponsors of the draft resolution cannot have it both ways. They cannot deny "probable cause" for believing that Abu Eain committed the crimes for which extradition is requested, while at the same time offering a political rationale to justify the commission of such crimes.

81. The final contention of Abu Eain—that he would not receive a fair trial if extradited to Israel—was also considered fully by Judge Clark. This concern appears to be based in large part on an assumption that Abu Eain would be tried in a military court for security offences. But this assumption is simply without basis.

82. Our Government has been fully assured by the Government of Israel that the crimes charged against Abu Eain—murder, attempted murder and causing bodily harm with aggravating intent—are common criminal charges which will be tried in an ordinary civilian court. Moreover, we have been assured that the conditions of Abu Eain's confinement pending trial and the place of his detention will be the same as in the case of any other civilian detainee accused of similar crimes; that he will be entitled to a speedy public trial and to counsel of his choice; that he will be entitled to confidential interviews with his attorney on any workday during regular hours; that he will be entitled to weekly visits with family members and other persons; that normal rules of criminal procedure and evidence will prevail; and that the burden will be on the prosecution to establish guilt beyond a reasonable doubt. If convicted, Abu Eain would have the right to appeal the decision to the Israeli Supreme Court. Finally, the charges against Abu Eain do not subject him to the possibility of the death penalty. Abu Eain has stated that if he could be assured of a just trial in an open system, he would have nothing to fear. We believe he has those assurances.

83. This is the third time we have been called upon to address the Abu Eain issues in the United Nations. The issue came before the spring session of the Economic and Social Council and last month it was addressed in the Third Committee. The draft resolution before us determines that this issue will be retained on the agenda of the General Assembly.

84. Surely this is an instance of the harmful politicization of human rights issues here in the United Nations. Massive violations of human rights are utterly ignored, while great indignation is expressed over the treatment of an individual whose rights have been scrupulously respected. There is an enormous outpouring of concern over the fate of an individual who is accused of committing an act of violence, but no concern whatsoever for the fate of those innocent individuals—teenagers, I might add—who were killed or injured by this act. Not least, there is an apparent disregard of the whole system of laws and procedures which are designed both to protect those accused of crimes and to ensure that justice will be carried out.

85. More than the fate of Abu Eain hangs in the balance on this question. At stake, in fact, is the very political and moral integrity of the United Nations.

86. Mr. NUSEIBEH (Jordan): Before I make my statement in explanation of my vote on draft resolution A/36/L.58, I wish to make the following comment on the statement we have just heard from the representative of the United States.

87. The overall impression conveyed to the General Assembly is that Mr. Ziad Abu Eain is guilty. It almost pre-judges the issue to say that there is a reasonable doubt that Mr. Ziad Abu Eain placed a bomb in Tiberias when 11 live witnesses saw him in the hospital of Ramallah at the time of the incident, where his sister-in-law was giving birth. This is regrettable, because I am familiar with the American judicial system, which, as I said in my statement at the 33rd meeting of the Third Committee, has a reputation for being impeccable. That is all the more reason for us to feel so infuriated by the way the case of Mr. Ziad Abu Eain has been singled out as an exception to this general rule of the American judicial system—and on what basis? On the basis of a report by Israel's secret service, which, according to an article in *A/Hamishmar*—an Israeli newspaper, not an Arab newspaper—states categorically that it was shocked to learn that during the 14 years of Israeli occupation a quarter of a million Palestinians out of a total population of 1.2 million—that is, one in every five, which in terms of the United States population would amount to 45 million—have been in and out of gaols.

88. We all read the newspapers and listen to other media, but has anyone ever heard that a quarter of a million incidents have occurred during those 14 years of occupation? The Israelis make arrests pre-emptively. They simply collect people and declare them guilty until, after emerging from the flames of torture, both psychological and physical, they prove that they are innocent. I would have thought that the United States Government, more than any other in the world, was fully aware of the situation. As a matter of fact, its Vice-Consul in Jerusalem some two or three years ago gave an inkling of what was going on; and she was prepared to reveal far more devastating information, except that she chose the path of discretion and stopped talking about the entire business.

89. What did Mr. Ziad Abu Eain do? How did he enter the United States? Did he escape from the occupied territories—his homeland, his birthplace? He came to the

United States on the basis of a certificate of good conduct. The Israelis are very much interested in encouraging all young male or female Palestinians to leave their territory and go to the United States, or anywhere else. He was given a certificate of good conduct, on the strength of which the Government of the United States admitted him to the United States. He joined his sister and presumably was planning to enroll in one of the universities. He was not smuggled into the United States; he did not leave Israel on any false pretences. As a matter of fact he was given a certificate of good conduct. It was later, after one of the people who knew him and who wanted to save his own skin involved Mr. Ziad Abu Eain, that the Israeli occupation authorities requested his extradition from the United States.

90. Besides, what right has Israel to request the extradition of a citizen of the occupied territories? He is a Jordanian citizen, properly so called. Until Palestinian rights and the national identity of the Palestinians are restored, he is a Jordanian citizen.

91. As an Ambassador of Jordan it is my duty, not just my right, to do everything in my power to make sure that every Jordanian citizen is safe and sound. The entire episode reminds me that the Roman emperors felt they had a great deal to be proud of when they amused themselves by throwing people into arenas to be eaten by beasts.

92. I am not exaggerating when I tell the Assembly that, like a quarter of a million others, this young boy will be subjected to the fires to which I have just referred. I am sure that the United States Government is aware of what is happening inside the territories and has protested, perhaps quietly, about it on various occasions. It is therefore all the more surprising that we should be told that Mr. Ziad Abu Eain, a minor, should be extradited to Israel and that he will be tried before a civilian court.

93. I am sure that the representative of the United States is well aware that the Israelis do not recognize the occupied territories as occupied territories. In fact, the Security Council is now debating the annexation of the Syrian Golan Heights. Blatantly, openly, the Israelis annexed Jerusalem as far back as 1967 under the same provisions, and they then converted that *de facto* annexation into *de jure* annexation, which we condemned in the Security Council.

94. Does Israel recognize such a thing as occupied territories? On the contrary, they say Jordan was occupying the West Bank and Jerusalem. I was in occupation of myself because I happen to be from Jerusalem, and they accuse me of having been in occupation of Jerusalem. My family has been living in Jerusalem for 14 centuries, not occupying it.

95. How does the Prime Minister of Israel regard the occupied territories? He regards them not as the occupied West Bank and Jerusalem. He regards them as Judea, Samaria and Gaza. And now, of course, he regards the Golan Heights as an integral part of Israel. It is a question of a timetable, of when he begins implementing *de facto* and *de jure* arrangements.

96. In fact, the Camp David accords were designed to perpetuate Israeli occupation of the occupied territories and to keep the people in "bantustans", which we here in the General Assembly condemn categorically and forthrightly.

97. On the first day that we met, I believe it was in 1978, they wanted to be sure that those people were kept in reservations but had no entitlement to the land, to the water, to the resources; they had no entitlement to any political opinion. They are non-citizens; they are non-beings. The Israelis are hoping that by mortal attrition those who are left without resources, without land, without water will eventually pass away, as we all will, and then the Israelis will inherit whatever lands they have not already confiscated—and they have already confiscated 40 per cent of the occupied West Bank and Jerusalem. And in that sense Jerusalem forms one fifth of the occupied West Bank because they have expanded it to the point where it is now 20 per cent of the entire West Bank.

98. The representative of the United States has tried to convince the General Assembly that the case of Mr. Ziad Abu Eain was subjected to the full judicial process. I happen to have been fond of attending law courts since I was a child. I used to go to the Muscovite quarter, where we had the British mandatory system of law, and I know how meticulous its laws were. As a matter of fact, on one occasion, and in my presence, the judge said to an ordinary criminal, "I know that you have committed a crime, and yet because the prosecution failed to produce evidence I acquit you." This is judicial process as I understand it, and I believe it normally functions under the American judicial system. But not when it comes to the Arab world vis-à-vis Israel. Then there is a difference.

99. And why, may I ask, did the District Court and the Court of Appeals of the Seventh Circuit and the Supreme Court all refuse to hear the contrary evidence that this boy is innocent? We are dealing with the life of an innocent human being whose country was occupied when he was two and a half years old. They did not have the time to hear his attorneys and to judge whether he was innocent or guilty before they handed him over to his would-be butchers. And yet the representative of the United States has said that the United States has exhausted all the legal processes.

100. The representative of the United States also said—and this is ironic—that there will be no death penalty as far as Mr. Ziad Abu Eain is concerned. I will give my honest and frank opinion. If I had to make a choice between the death penalty and being kept in a cell in which I could hardly stand, sleep or lie down, I would prefer to be shot and finish with it. It is hardly a consolation that he is not going to be hanged, because he is going to spend 30 or 40 years in a little cell. I know many prisoners. There are probably 22,000 now. Some of them have spent most of their life in prison, the last 14 years. They graduated from elementary school in prison, they did their preparatory and secondary schooling in prison and, heaven alone knows, they might possibly be continuing their education by correspondence—14 years on end, without having done any injury to anyone. There was a resistance incident in which a tractor was damaged and they are still in jail. There is a little hole to use if you want to pass a cigarette to a prisoner; that hole is hardly big enough for the cigarette to pass through.

101. I should like to read a message which I received in Arabic from my Government immediately after I had learned of the abrupt, sudden and unexpected extradition of Mr. Ziad Abu Eain, contrary to all the discussions that had been going on for months on end. I was instructed by my Government not to present a draft resolution in the Third Committee because my Government thought that it could save the life of this innocent man by quiet diplo-

macy. Our ambassadors, four of them, from Saudi Arabia, Bahrain, Kuwait and Jordan, were told on Friday that the question was under discussion and that discussions would be resumed on 17 December, only to hear on Saturday that he had been taken by eight marshals, handed over here in New York to five or six Israeli secret agents and put on an El Al plane to go to meet his fate. This I am sure will lie on the conscience of whoever took this decision for the rest of his life.

102. I will read the message I received:

“The Government of Jordan has received with deep sorrow and concern the decision which was taken by the Government of the United States on 12 December 1981 and which provides for the extradition of Mr. Ziad Abu Eain to the Israeli authorities. This is a decision which Jordan—the King, Government and people—greatly regrets. It has been sorrowful news to millions of citizens of the Arab nation who have had and continue to have confidence in the integrity of the American judicial system. Jordan has discussed the case of Mr. Ziad Abu Eain on many levels to try and bring such a humanitarian case to an acceptable conclusion, within the framework of the mutual friendship and understanding which exists between States, and within the framework of international conventions and traditions. The Government of Jordan, at the highest level and inspired by its international obligations, has exerted persistent and continuous efforts to explain to the State Department the legal aspects relating to the justice of Mr. Ziad Abu Eain’s case, reiterating the illegality of handing over a Jordanian citizen to a third party, a party other than his own country, Jordan, and explaining that this case does not in any way contravene the political and legitimate framework for resistance to occupation.

“The Government of Jordan expresses its deep sorrow that all these efforts have proved of no avail. The extradition of Mr. Ziad Abu Eain to Israel for trial is indeed a matter which causes surprise, because the American Government and the international community know full well how the Israeli authorities are treating the elementary rights of the Arab citizens under occupation, totally ignoring all norms of accepted international conduct. They also know that the Israeli judicial system, in its various forms.”—let us not be deceived by civil and military courts, they are the same court—and practices, does not represent anything but an intensification of oppression and dispersal of the Palestinian Arabs from the occupied territories. The trial of Mr. Ziad Abu Eain will not only lead to the reinforcement of the cause for which he is being tried; it will add to it sanctity, justice and legitimacy. He, like thousands of other honourable prisoners who are shut up in Israeli prisons, is exercising his civil and political rights in resisting the occupation, in accordance with international principles and norms, in particular the fourth Geneva Convention of 12 August 1949.”

I have been making an impromptu translation from Arabic into English.

103. The tragedy and tribulations which have been the fate of Mr. Ziad Abu Eain—a child when Israeli occupation placed his homeland in chains—epitomize more pointedly than anything else the plight of our people under 14 years of occupation, even though we know how massive and pervasive violations of human rights and legality have been committed and continue to be committed every day. The question is not whether or not a young

boy is added to the other 22,000 Palestinian prisoners of conscience who are being decimated in gruesome gaol cells and torture chambers.

104. The case of Ziad Abu Eain is unique and unprecedented and deserves the closest attention and consideration by the General Assembly because of the substantive as well as the procedural aspects involved—indeed, the manner in which the entire episode was handled and which has characterized his victimization for two years and four or five months.

105. The least I can say in describing the treatment meted out to Ziad Abu Eain—and incidentally, to our Ambassadors in Washington—is that it is a disgrace to human rights, dignity, international law and moral imperatives. Many parts of the third world, including the Middle East, are often described by the media as insensitive and ignorant, knowing nothing about problems affecting human rights. And yet, it is an established tradition and a sacrosanct code of conduct that if an individual takes refuge in someone else’s home—even if that individual has killed the son of the man in whose house he takes refuge—he will immediately be pardoned and accepted as a guest. Those are our traditions, and yet we are described in every forum as knowing nothing about human rights.

106. This is a value system which I hope those who claim to espouse human rights give serious thought to and incorporate into their understanding of what delivering a guest to his tormentors means in ethical and moral terms. Ziad Abu Eain entered the United States legally and in good faith; he might otherwise have gone anywhere else in the world. But I wish that this had been the only travesty of justice meted out to Mr. Ziad Abu Eain. The story which I have had occasion to narrate at some length in the Third Committee constitutes a sordid and unconscionable act, in blatant violation of the accepted norms of international law and conventions.

107. Assuming that a national of a particular country had committed crimes—let us say he was a Nazi who committed crimes during the Second World War—to whom would he be extradited? Would he be extradited to Israel, or would he be extradited to the Federal Republic of Germany? Assuming he was a Yugoslav, he would be handed over to the Socialist Federal Republic of Yugoslavia. The same applies to every single country in the world, otherwise we would simply be bumping citizens from one country to whatever country we might choose, and worse, to their enemies, even though we know full well what their fate will be. There was a case which involved an Irishman who was accused of having done something in Ulster—I believe that was a year and a half ago—and the Court ruled that he should not be extradited.

108. My delegation submitted a draft decision in the course of discussing item 91 relating to torture, and other cruel, inhuman or degrading treatment or punishment [see A/36/685, para. 12], which we were convinced enjoyed wide-spread support and which was drafted in the mildest terms. The draft decision simply expressed the concern of the Assembly and made an appeal on behalf of the international community, which is dedicated to human rights. But even though it enjoyed the support of a vast majority of Member States, we decided that, since we should do nothing to prejudice the fate of the innocent Mr. Ziad Abu Eain, we would hold that text in abeyance in order to aid his case and in order not to prejudice the intensive diplomatic efforts which were being carried out, not only by

the Government of Jordan at the highest levels but also by the entire Arab diplomatic community in Washington. As a matter of fact, all public unions and organizations throughout the Arab world have sent petitions to United States embassies protesting the handing over of an Arab citizen—that is the first time in our history that this has happened—to his adversaries. But all those petitions must have been thrown into the wastepaper basket, because evidently an Arab citizen does not matter very much in the eyes of the United States.

109. All hopes were brutally and unprecedentedly dashed when, after individual meetings between Mr. William Clark—whose integrity as a lawyer I deeply respect, and who has already been mentioned by the representative of the United States—and four Arab ambassadors on Friday last, 11 December, during which they discussed the matter and Mr. Clark told them that the discussion would be resumed on the 17th, they then discovered on the following day that Mr. Ziad Abu Eain was already on an El Al plane, under extradition and deportation to Israel. What about the appointment on the 17th? What are they going to talk about? Is this how they deal with one another?

110. As I said, the entire episode is unique, even though 11 witnesses have testified—and they are still alive and are willing to testify before any court in the world—that Mr. Ziad Abu Eain was 128 miles away from the scene of the bomb explosion in the Tiberias area. Indeed, he was in Ramallah. The Israeli authorities would not have given him a certificate of good conduct if they had the slightest suspicion that he was implicated in that incident. It was on the basis of that good conduct that he was admitted into the United States.

111. What are the ramifications of handing over a citizen of another country? There are approximately 3 to 4 million Americans of Arab extraction. I am as proud as they are that they are Americans first and foremost and I would not want them, nor would they want, to be anything else. Now what would happen to any of those 3 or 4 million, second-generation or third-generation Americans, if they expressed sympathy with the justice of the Palestinian cause and then the Israelis retaliated by sending a secret report that that fellow was subversive? If delegations think that I am making up a fairy tale, perhaps some of them may have seen the American television program "60 minutes" in which Mike Wallace interviewed a gentleman from Nazareth, possibly a second-generation or third-generation American—in other words, an American citizen. He had gone to visit his relatives—everybody likes once in a while to go and see his country of origin, and in this case it happened to be the Holy City of Nazareth. As soon as he arrived there, he was arrested and interviewed by Israeli security agents. He told Mike Wallace: "They even knew at what restaurant I had my luncheon, with whom I had spoken the day before". In other words, every single move that he had made was observed, simply because on one occasion he had expressed his sympathy for the cause of his country of origin. And Mr. Mike Wallace immediately shifted the focus to a senior official in the Federal Bureau of Investigation [FBI] and said: "Do you realize the seriousness of what you have done? Are you telling me that you have been spying on an American citizen?" And the reply of that FBI man was a passive "no comment". He literally admitted that the FBI has been spying on the man and supplying the Israeli secret service with information about an American citizen, not a citizen who had immigrated after

the catastrophe of the Palestinians in 1948, but a second-generation or third-generation American.

112. This kind of deed will prejudice and endanger the fate of 3 or 4 million Americans of Arab origin. They know it, and have said so to me, in spite of the fact that they are one of the most loyal citizens of a country whose nationality they have adopted, that of the United States of America.

113. Having spoken for some time, I will try to confine myself to a few legal points which I believe are pertinent and relevant to our discussion. First, Mr. Ziad Abu Eain, a Palestinian from the occupied West Bank of the Jordan, has been and continues up to this point in time to be legally a citizen of Jordan. His nationality, therefore, is Jordanian, as recognized by the United Nations, pending a final settlement of the question of Palestine and the redemption of Palestinian rights and their national identity.

114. Secondly, the imprisonment of a national from a third, sovereign, independent country, namely, Jordan, is tantamount to taking a hostage from that country's citizenry. If he had committed a crime, he should have been handed over to his Government, to his own Jordanian Government, and not to the occupation authorities at the request of a second party, namely, Israel, on the basis of an extradition treaty between the United States and Israel, which should apply to the citizens of those countries. What has Jordan got to do with it? Why should it be victimized by a bilateral treaty between two States? Jordan's non-presence in the occupied West Bank of Jordan in consequence of Israeli occupation *ipso facto* denies Jordan the right and duty of ensuring that one of its citizens not be denied due process of law, a deprivation that by itself invalidates any legal grounds for extradition. Who is going to defend this man? It seems that four lawyers will be appointed locally, but we know the kind of pressures to which they are subjected.

115. Thirdly, Jordan has normal, often warm, relations with the United States. Such being the case, it is inconceivable that under any circumstances Jordan would ever extradite an American citizen to a third country which might happen to be in a state of hostility with the United States.

116. Fourthly, the entire international community represented by the United Nations has categorically and consistently regarded Arab Jerusalem, the rest of the West Bank, the Gaza Strip and the Golan Heights—which are being discussed right now in the Security Council—as occupied territories, and not annexed territories, since June 1967 and has consistently called upon Israel to withdraw from those territories forthwith. Israeli occupation of the territories from which Ziad Abu Eain hails is unequivocally unlawful and it would be a violation of human rights and of the fourth Geneva Convention³ if he were to be treated as being from an annexed territory and not an occupied territory whose citizens are afforded protection under that Convention.

117. The fourth Geneva Convention explicitly asserts that the laws of the State whose territory has been occupied shall be maintained. We are told that Ziad Abu Eain is not going to be tried in Jerusalem, even though Jerusalem is in occupied territory; he is not going to be tried in Ramallah; he is going to be tried in Tel Aviv. What difference does this make? The Israeli Government has made not the slightest attempt to deny that all these territories belong to it and that *de jure* annexation is a

matter of time. It seems that the Israeli Government, because of the present, tense situation, has found it appropriate to proclaim the annexation of an integral part of Syria, namely the occupied Golan Heights, and to apply all its laws there. So the talk about Tel Aviv, Ramallah or Jerusalem is just hogwash: it does not mean anything.

118. Such being the case the only State that has jurisdiction in any case involving extradition is Jordan. It is almost unprecedented in the annals of the United States judicial system—although I am told that there was one other case—for the national of any particular State to be extradited to a State other than his own, no matter what allegations may have been levelled against him. If this were done, it would be tantamount to abduction under national law, as well as international law. It is certainly not a friendly act against the State to which the victim belongs, and creates an extremely dangerous precedent in relations among nations.

119. I apologize if I have talked with some emotion on the case of Mr. Ziad Abu Eain. I have done so not only because I had been in touch with him by telephone many times and not only because I am convinced that he is innocent, but also because he epitomizes to me the fate of generations of a people victimized by Israeli aggression, occupation and colonization, with either the inability or the connivance of any Power in the world to bring the Israelis to their senses.

120. The PRESIDENT: I now call on the observer for the Palestine Liberation Organization, in accordance with General Assembly resolution 3237 (XXIX) of 22 November 1974.

121. Mr. TERZI (Palestine Liberation Organization): What the General Assembly is dealing with is not the fate of one individual; it is not the fate of Ziad Abu Eain, a Palestinian who was kidnapped and taken as hostage by the authorities of the United States and then abducted from his cell and delivered to the occupying Power for what it calls a "fair trial". The case we are dealing with is a matter of principle. Where do we draw the line between legitimate resistance and criminal action and who decides where to draw that line?

122. I am not dealing with this case of Ziad Abu Eain in particular, but it is incumbent upon us here to draw the line, because eventually this might prove to be a test case, for the racist régime in Pretoria may one day appear before the United States and say "We want Theo-Ben Gurirab, who represents the South West Africa People's Organization—he is a terrorist", or "We want John Makatini, who represents the African National Congress—he is a criminal". They may demand that he should be delivered to the "justice" of the Pretoria régime, or anyone else who is resisting foreign occupation or fighting racism. The question is much more serious than the fate of one individual. Whether he will be hanged or receive the death sentence is not the issue.

123. In its resolution 1981/42 of 8 May 1981, the Economic and Social Council issued an appeal—and I repeat, an appeal—to the Government of the United States of America to release Mr. Ziad Abu Eain from the United States prison in which he was being detained. The Government of the United States did not heed that appeal. The group of Arab States at the United Nations, in October 1981, sought the good offices of the Secretary-General in order to try to prevail on the American au-

thorities to release Ziad Abu Eain, but of course there was no response.

124. I shall not repeat the cloak-and-dagger methods used by the Government of the United States last Saturday, at 6 o'clock in the evening, when Ziad Abu Eain was removed from his cell in prison and delivered to the Israeli occupying authorities in order to receive "fair treatment".

125. Now the State Department has come up with different statements on the case of Ziad Abu Eain. The State Department claims that he had received every right accorded to him by United States laws. Now one must distinguish between procedural rights and substantive rights. Procedurally, Ziad Abu Eain was denied a fair hearing because the State Department testified in court, despite a long-standing State Department policy against such testimony in extradition cases. That is made clear in a paper written subsequent to the extradition hearing, which reveals that the offence with which Ziad Abu Eain was charged was regarded by the State Department as "a common crime" and not an offence of a political character. The pressure by the State Department was revealed in a letter from the Assistant Legal Adviser, Mr. Louis G. Fields, Jr., to Mr. Thomas P. Sullivan, United States Attorney, Northern District of Illinois, in which he states—please note the language that is used: "Dear Tom". Note the intimacy between the State Department and the United States Attorney. Here again the Department of State is interfering in the process of justice. Now what does Mr. Fields say to his friend Tom? He says: "Congratulations on achieving a significant decision by the U.S. Court of Appeals for the 7th Circuit in the Abu Eain case." That is as if he were telling him: "Rejoice, my friend—to hell with justice—the Attorney is in the service of the State Department." In the copy of this letter from the State Department some portion was omitted. Why, I really do not know. It could have been much more revealing with it. But let us satisfy ourselves with this letter. Mr. Fields continues:

"It would not be fair in acknowledging our gratitude without noting the tireless and highly professional assistance which you—Dear Tom—"had in this case from Jim Streicker and Kevin Sharkey. They both are exceptional lawyers and add luster not only to the Government service but our profession generally."

126. Now here is a case *a priori* of interference by the State Department in the judiciary and in the legal system, and that is why procedurally it is maintained that Ziad Abu Eain was denied a fair hearing. Mr. Fields might have said that the State Department had never before testified on the character of an offence for which extradition was sought and that it had always been determined solely on the basis of criteria established by judicial precedent. Mr. Fields also might have written that under the basic federal statutory treatment of extradition proceedings the State Department only determines if extradition should apply after a finding of extraditability has been made and any appeals exhausted. We all know that the findings of extraditability was not made after the hearing of the court—it was made before.

127. Of course I must admit at this juncture that I am not addressing a court of appeals but I am addressing the legislature of international opinion. By the very nature of the Charter we have to protect human rights and what we are talking about here are the human rights of a person who was resisting foreign occupation. With respect to

substantive rights—and I wish I were not compelled to refer to those matters, but since the representative of the Government of the United States, which delivered Ziad Abu Eain to the occupying Power, dealt with the substantive aspects—I should like to make some remarks on that subject.

128. The right to introduce competent evidence compiled by recognized international organizations and expert witnesses about the methods used by Israeli interrogators in obtaining inculpatory statements by persons in the custody of Israeli police and military authorities during interrogation, those are matters of substance that really should have been taken care of. Secondly, the magistrate who was dealing with Ziad Abu Eain refused—and I underline the word “refused”—to allow him to introduce evidence that would not only contradict but would obliterate the charges against him. Here again we see that due process of justice was not really observed. That same magistrate refused to grant defence counsel the right to ascertain, through written questions or depositions, the conditions and circumstances under which the confessions of alleged accomplices implicating Ziad Abu Eain were given.

129. The magistrate further refused to admit into evidence any expert testimony as to whether Abu Eain could get a fair trial in Israel. In its opinion, the Court of Appeals relied eight times on a *Law Review* article written by a legal adviser to the Israeli consul in Chicago, which was written and published after the Abu Eain extradition hearing. One can be sure that no court in the United States would ever bind an American defendant over for a trial in an American court on a third-party confession written weeks after the person was taken into custody in a language other than the one that the purported maker of the confession reads. I wonder how this would impress the American public?

130. The Government of the United States has not produced one case where that type of evidence was sustained in an American court, and it has not done so because no such case exists. I hope to God that the system in the United States would not reach a situation in which such a thing could exist. Furthermore, the United States courts have accepted recantation of purported accomplice confessions in extradition hearings as grounds to defeat extradition, but in the case of Abu Eain the magistrate refused to admit those recantations. According to the law in the United States, what obliterates the requesting State's evidence—in this case the recantations and alibi affidavits—must be admitted. Again, there has been a miscarriage of justice in this case.

131. My source of information is Mr. Ramsey Clark, at one time Attorney General of the United States. Mr. Clark also states that there was insufficient evidence to justify committal for trial under the laws of the United States, and he provides a lengthy dissertation in that connection in which he states that there was no corroboration of any material fact or act that constitutes an element of the offence. The extradition rests solely on Jamal's confession, on that of a man who signed a paper in Hebrew when he himself had no knowledge of that language and when he was in the custody of the Israelis.

132. The United States then brought forward the reaction of Zaid Abu Eain in Chicago. I should like to explain that Ziad's conduct in Chicago when he was caught by the FBI does not imply guilt. He knew that the authorities in Israel were looking for him because his father and his older brother had been arrested and were held for

questioning about Ziad's whereabouts for 24 days in July. Ziad told the FBI “I know the Israelis are looking for me”, not because he felt guilty: Ziad knew that his father was in prison and that the Israelis were trying to question him and were perhaps torturing him to discover his son's whereabouts.

133. But there is in the United States a principle that a magistrate cannot and should not try the issue of guilt or innocence in an extradition proceeding. Extradition involves an extreme deprivation of liberty, and Ziad Abu Eain was deprived of his human rights when he was deprived of his liberty and handed over to the forces of occupation. I am not a professor of United States law, but according to my information extradition is prohibited by article 6, paragraph 4, of the relevant law, if the offence is regarded as one of a political character under the law of the United States.

134. I should like to tell you why we consider that, whatever he was accused of, it was a political issue. According to the Court of Appeals, the magistrate held that simply noting membership in the PLO, but not tying the membership to the specific act alleged, was insufficient to satisfy the burden the petitioner must shoulder in order to involve the political-offence exception. Again, I should like to repeat that, legally, the United States did not provide Ziad Abu Eain with total justice. There was a miscarriage of justice. It was a test case, a case against all the freedom fighters in the world whose Fascist rulers and governors may seek their extradition. There is something odd about the United States. There are thousands of Nazi criminals thriving in the streets of the United States. Governments in Europe and victims of Nazism are seeking their extradition, and yet the Government of the United States is affording and according them all luxury and whatever facilities they want in order to remain in this prosperous country.

135. I mentioned freedom fighters. If we were to decide the fate of all those who went behind the enemy lines against the Fascists and foreign forces of occupation during the Second World War, there would be thousands of us here—not to mention those who have preceded us here and perhaps even the founding fathers of the Organization—who would end up being extradited. How many of them committed acts against the forces of occupation? How many dropped bombs or blew up bridges? It is unfortunate, but some civilians are, of course, the victims. However, we cannot permit fascism to breed under the cover of protecting civilians.

136. I should like to make it clear that we Palestinians are not going to die the slow death of Dachau. We will fight as did the fighters in the Warsaw Ghetto, and we will do whatever we can to attain our rights and to live in peace with dignity in our home. It was mentioned earlier by the representative of the United States that the case of Ziad Abu Eain concerns the rights of an individual. But I would tell the representative of the United States that the world community is made up of individuals, and if we do not defend the right of individuals we trespass on the rights of the international community. We are dealing with human rights, not with individuals.

137. Lastly, in what way was the FBI concerned? A certain John Schlum, a special agent of the FBI, wrote to an Arab in Chicago saying: “I would like to arrange a time we can get together so I can explain FBI jurisdiction and concerns and ask you some questions about possible reactions in the Arab community in the event Ziad is ex-

tradited." That shows very clearly that the matter was not a legal matter, but a political issue. If the FBI was concerned about how the Arab community in the United States would react, it knew that it was a political issue.

138. Finally, I should like to make an appeal to the conscience of all our brothers here, who became independent as a result of the valour of their freedom fighters, to defend the cause of Ziad Abu Eain, because they are thereby defending the cause of the legitimacy of the struggle for independence, territorial integrity, national unity, and for liberation from colonial and foreign domination and from alien subjugation by all available means.

139. The PRESIDENT: We have heard the last speaker in the debate on this question. We shall now resume the explanations of vote before the vote on the recommendations of the Third Committee. I understand that the representative of El Salvador, on a point of order, has asked to complete his explanation of vote. I would remind delegations that any statements made in explanation of vote are limited to 10 minutes.

140. Mr. ROSALES-RIVERA (El Salvador) (*interpretation from Spanish*): Sir, I also regret that there has been some confusion in the order in which the items should have been dealt with and that, due to that unfortunate confusion, my own delegation was virtually interrupted when it was about to conclude an explanation of vote.

141. I also asked that, pursuant to rule 79 of the rules of procedure of the General Assembly, I be allowed to raise a point of order. But, Sir, once you made the relevant explanation—though we are not completely satisfied—we understood that there was a change in the normal procedure. I shall therefore be very brief and try to complete my explanation of vote in order not to try the patience of representatives here.

142. I was saying that, just a few days ago, a resolution of the Organization of American States—the highest regional body—was adopted containing a text radically different from the one to be considered in draft resolution V, contained in paragraph 84 of the report of the Third Committee [A/36/792].

143. El Salvador seeks a nationalist, pluralist, open and democratic response to its problem. It has confidence in the wisdom, nobility and spirit of conciliation of its people, who hope that the process of structuring Salvadorian society to meet the needs of the great majority (using the democratic course of action—which has as one of its pillars the free electoral process, in which all parties participate without ideological distinction, over the whole political spectrum, as opposed to situations in which a single official party virtually imposes its views—the cause and effect of false democracy) and eliminating harmful outside factors, will restore harmony, with the support of the children of El Salvador, those who venerate the blue and white of our flag and do not bend to any other emblem or flag. The solution is fundamentally in the hands of the Salvadorians themselves, and they, with renewed faith, express their trust in the future.

144. For all these reasons and for the other reasons which in the debate in the Third Committee we put forward at greater length, including the selective, discriminatory way in which human rights are dealt with, using a hypocritical dual scale of values which has given rise to disenchantment in broad sectors of the international community, we are against any tendentious draft resolution

which overtly or covertly is interventionist in nature, such as the one now before us, draft resolution V. Needless to say, El Salvador will vote against it.

145. Mr. SINGH (India): My delegation intends to vote in favour of draft resolution A/36/L.58. We do not have the full facts of this individual case, nor have we been able to analyse all the legal implications. However, given Israel's record with regard to the treatment of Arab and Palestinian peoples in the occupied territories and its general attitude of not respecting international opinion and convention, we have reason to be concerned, on humanitarian grounds, about the treatment of Mr. Ziad Abu Eain. It is in that spirit that my delegation will vote in favour of the draft resolution.

146. Mr. LIÉVANO (Colombia) (*interpretation from Spanish*): I shall speak specifically on the draft resolution on human rights in El Salvador.

147. The debate on this draft resolution has shown how events that today are disrupting the political and social life of a country in Central America are stirring up great passion and arousing extraordinary interest in many far-flung parts of the world. It is worth looking into the causes and purposes of this exceptional interest, since greater abuses of humanity and human rights are being committed in other geographical regions without arousing such interest in those countries or entities in other continents and lands which today are so alarmed about events in El Salvador.

148. The Latin American countries are naturally waiting to see what will be the policy and the condemnatory draft resolutions submitted to the Assembly by those who actively accuse Latin American countries when the ideological area and region that have inspired these discriminatory accusations against Latin America are themselves—as is happening today—experiencing extremely serious events violating human rights, such as the subjection of an entire people to martial law, the gaoling of dissidents and those who oppose the régime, the persecution of trade-union leaders and the suppression of their organizations, the closing down or censoring of all means of communication and the abolition of all civil liberties by the prompt action of military forces and the drawing of a heavy curtain of obligatory silence over the whole nation.

149. We are waiting to see, because it is difficult to accept that international intervention in the internal affairs of Member States is legitimate when it is a question of supposedly protecting human rights in Latin American countries, but that it ceases to be so—and indeed is prohibited—when it is a question of the human rights and freedoms of peoples under certain ideological régimes of well-known dogmatic and authoritarian tradition.

150. Colombia is a country that traditionally respects human rights and it is interested in encouraging such respect. Its Government and institutions are duly elected, its press is totally free and it has ratified all the conventions, treaties and protocols on the protection of human rights, including the most recent ones. But I must say that we are concerned at the way in which during the last decade the defence of the extremely noble cause of human rights has become an instrument serving the political designs of a certain ideology. Those who are behind such political ventures do not really care very much about human rights; they do not respect those rights in their own societies; but they do consider the protection and assistance provided by the alleged defence of such rights extremely

useful in the efforts to introduce grave elements of subversion into States or regions of the world that they want to destabilize or where they want to prevent the strengthening of democratic institutions.

151. So we have seen that, whenever it proves difficult to infiltrate the Government of a country or the country itself with the propaganda of well-known ideological imperialism, no cost or effort is spared to create or increase sources of agitation in the territory. All kinds of economic and social problems, like those which now exist in every country in the world and which are being made worse by the impact of world-wide inflation, are cleverly exploited. Armed groups, terrorist gangs and subversive guerrilla armies are financed and organized from abroad. Their actions have particularly traumatic effects in societies that do not, like the democratic societies, have the necessary strict efficacy to deal with the impact of new modern techniques of terrorist violence. These are techniques designed to paralyse the democratic majority in a society by intimidating its population with spectacular acts of terrorism, physically liquidating legitimate leaders, particularly trade-union leaders, destroying public services and disturbing the orderly flow of civilian life with ambushes carried out by groups carefully trained in the key centres of world subversion. To this we must add the attempt to make of the United Nations not the representative entity of its Member States but rather an instrument that unconsciously co-operates in the task of introducing subversion into those Member States.

152. And just when the number of victims of that terrorist violence is increasing and the serious upheavals that that violence produces should be causing the international community to focus careful attention on it, for it affects peace in critical regions of the planet, we are surprised to see that because of the pressure of political forces the institutional machinery created to protect human rights falls silent in the face of kidnappings, terrorist attacks and subversive violence, as though the victims of that violence were not human beings and had no rights. In fact this machinery is activated only when by the logic of events the authors of violence become its victims, and then it becomes very active and indeed even partisan. It is sufficient that the possibilities of success of those subversive and terrorist movements be decreased for international mediation efforts suddenly to be initiated, placing subversion in a position of aberrant equality with legitimacy and the legal order. These efforts are accompanied by spectacular complaints to international bodies that protect human rights, which are suddenly bombarded by accusations zealously fabricated or collected by the well-financed public-relations and publishing machinery of international terrorism.

153. This is the origin of many of the resolutions condemning violations of human rights, resolutions that often originate in and are sponsored or defended by countries in which individual rights and public freedoms are not respected, by States in which those freedoms are prohibited, by States in which a one-party system has been institutionalized either openly or indirectly, in which the right to strike is forbidden, in which there is no freedom to work, in which all public opinion is regimented and a free press is banned, in which the opposition has no way of expressing itself with even a minimum of freedom.

154. This is the well-trodden path that, by all this deceitful action, leads to those dramatic political processes in which the alleged defence of human rights is simply a preliminary stage to facilitate the seizure of power by mi-

nority movements that, to the surprise of those that believed in them, impose authoritarian and despotic régimes on those societies which they claim to be liberating.

155. In addition to the reservations to which this dangerous trend in some international bodies give rise, for the reasons mentioned above, we must say that this trend causes an additional evil, for in many societies it weakens one of the most basic elements of their vitality: the creation of truly revolutionary leaders. I mean leaders who know how to risk something, who risk their lives when they deem it necessary, as have all the great revolutionaries of history, and who do not make strange demands that they be granted guarantees in order to kidnap, place bombs, blow up bridges, seize aircraft, murder civilians, interrupt communications and take up arms against institutions. Revolution is serious and respectable when it is not demeaned into some petty arrangement of committees designed to save supposed revolutionaries from all risks, hardships and sacrifices.

156. For all those reasons my delegation declares that it is totally opposed to the draft resolution we are now considering. My Government has the most serious reservations regarding its text as well as regarding the political declaration that inspires the philosophy of this draft resolution. Accordingly Colombia will vote against the draft resolution on human rights in El Salvador.

157. Mr. Van LIEROP (Vanuatu): My explanation of vote is with respect to draft resolutions V and VII and draft decision II of the Third Committee. On the instructions of the Government of Vanuatu my delegation will vote in favour of those draft resolutions and that draft decision. We have taken careful note of the assertion by some Members that those texts are inherently selective and discriminatory.

158. Although we do agree that there are other situations in which human rights violations merit the attention of the international community, we cannot in all conscience accept that as a reason not to vote for what we believe to be the principles of the Charter. We believe that to do so would mean that the actions of any possible wrongdoer could similarly escape scrutiny if he pointed to the fact that others have also committed similar acts of greater or lesser magnitude. Certainly such an argument would not be persuasive before any known tribunal and should not prevent this body from considering the tragic circumstances which lie at the heart of these draft resolutions and this draft decision.

159. We do, however, share with our friends from South and Central America a real concern that the southern part of the Western Hemisphere not be singled out in examining possible human rights violations. Certainly no thinking person could ever suggest that any portion of the globe enjoys a perfect record on this issue. If the international community has failed to raise its voice sufficiently in the past, let us not now or in the future acquiesce in what impartial observers and objective evidence suggest may be massive, systematic and violent denials of even the most elemental human rights with little or no prospect of change in the immediate future.

160. Even if we accepted, which we do not, the assertion that little or no attention has been paid to human rights violations in the past, it is our belief that it is well past the time for us to remember our responsibilities to humanity and to discharge them.

161. Accordingly, we will today and in the future vote for the universal application of the same standards and values with respect to human rights to all regions, countries and peoples.

162. Mr. TRUCCO (Chile) (*interpretation from Spanish*): I must first of all reiterate that the delegation of Chile is voting against draft resolution VII because it totally distorts the reality of the situation in my country and constitutes a flagrant, gross violation of the principle of non-intervention in the internal affairs of a sovereign State, a principle enshrined in the Charter of the United Nations, which we have all solemnly pledged to respect.

163. I must declare once more that my country does not accept and will never accept the selective and discriminatory treatment which the majority wishes to apply to it. We do not accept, nor will we ever accept, the maintenance of the *ad hoc* entity called the "special rapporteur".

164. We for ever reject the existence of that special entity for evident reasons of a juridical nature. It is contrary to the norms in force in the United Nations, which have general application. It has been imposed without the prior and indispensable consent of my Government. And its maintenance in order to consider exclusively the so-called protection of human rights in Chile also violates the juridical equality of sovereign States.

165. Our rejection has, at the same time, the moral significance of repudiating the politicization of a system which in the United Nations claims to defend respect for, and established safeguards for, human rights when, in effect, what is being sought is action which conceals behind the political propaganda directed against Chile, massive crimes which decimate humanity and leave the real criminals unpunished and triumphant.

166. But in the case of Chile the campaign of attacks has a political objective which is beginning to be well recognized. It is also the product of hatred difficult to control. Upon the initiation of the latest manoeuvre against the Polish people, the Soviet Army newspaper *Krasnaya Zvezda* compared the situation in Poland to that which existed in Chile shortly before the fall of Allende. According to a despatch of the Latin-Reuter news agency, datelined Moscow, 8 December 1981, *Krasnaya Zvezda* described the Polish independent labour union Solidarity as a refuge for the counter-revolutionaries who are destroying the Polish economy in order to weaken and finally destroy a Communist system. These elements in Poland, continued *Krasnaya Zvezda*, were obviously guided by the experience of the Chilean counter-revolutionaries who based their hopes on the fact that the greater the discontent the easier it would be to utilize it in the fight against power. Could there be a clearer and more cynical admission of what was being plotted in Chile in the ominous months between November 1970 and 11 September 1973?

167. Chile in 1973 escaped from the type of situation which unfortunately has been the precursor of the annexation or occupation of other countries less fortunate than mine. Chile was able to do so thanks to the overwhelming majority reaction of its people and perhaps thanks to the fortunate geographical fact that it is so far removed from the Soviet frontiers and therefore from its tank-divisions of such merited ominous reputation.

168. Since then, the people of Chile and its Government, in an immense undertaking of eight years, have reconstructed the country. This is a fact that has been recognized by all competent international bodies and one which has been appropriately echoed in highly respected specialized publications. In view of this reality we understand perfectly well that Chile's experience strongly pains a super-Power and the groups and movements for which it serves as the munificent patron. It is right that this should grieve them, because we succeeded in escaping from their yoke now and for ever.

169. But if, as a result, it is easy for us to ignore the attacks emanating from that orbit, it is less easy to accept the silent, passive attitude which other nations assume, when frequently they are so sensitive to anything that might threaten or affect the independence they gained at great cost.

170. A few days ago, at the 70th meeting of the Third Committee, a former President of the General Assembly, Mr. Indalecio Liévano of Colombia, called attention to the strange fact that the countries of the European Community presumably felt morally obliged to support draft resolutions such as the one we are voting on today which serve interests quite different from those apparently served. Why, in fact, did some of the Community nations, in the Third Committee consideration of the draft resolution concerning the protection of human rights in Chile, voice serious reservations on the text and yet end up by voting in favour of it?

171. The position of the countries of the European Community has forced us to wonder if the opinion reached by means of the so-called consensus will be just and fair when the latter is applied to the analysis of draft resolutions which deserve independent judgement and consideration. Matters of such a sensitive nature, involving accusations and frequently containing offensive phrases, false imputations and clearly undue interference in affairs which are subject to the sovereign competence of the country concerned, should not be conveniently wrapped up in the rule of consensus. Of course, the degree, intensity and importance of the relations, at different levels, that exist between the country affected by a draft resolution and the countries which vote on it, are necessarily very different and it would appear logical that those differences would make themselves felt.

172. That is why we are surprised that the countries of the European Community have adopted the formula of consensus in deciding on their positions and have acted in a similar manner in connection with draft resolutions affecting two other American republics. It is worth noting that these three draft resolutions—on El Salvador, Chile and Guatemala—are the only three that were presented to the Third Committee, so that the world public must consider itself notified from now on that, according to those draft resolutions, these are the only three nations on earth where violations of human rights are allegedly committed. I believe that the simple statement of such a lie should make the authors blush with shame.

173. While we express our amazement at the way in which the countries of the European Community, which traditionally have been our friends, have ended up accepting a draft resolution which they themselves regard as excessive, selective and discriminatory, we must say that there is nothing which surprises or affects us in the impassioned, damaging, political and opportunistic position adopted by the Government of the Netherlands. That

Government, under the leadership of its present Minister for Foreign Affairs, has maintained an aggressive policy of meddling interference in the affairs of some Latin American countries.

174. The PRESIDENT: I would ask the representative of Chile to conclude his statement.

175. Mr. TRUCCO (Chile) (*interpretation from Spanish*): Nothing and no one granted the Kingdom of the Netherlands the right to take such a sudden interest in the nations of Latin America, to the point that its delegation should become the author, sponsor and floor manager of the three draft resolutions designed to unload on three American nations the sum total of the violations of human rights which might be occurring in the world.

176. The Kingdom of the Netherlands has observer status at the OAS. Adequate consultations have not even been conducted by the Netherlands, consultations compatible with its observer status, which would have shown minimum respect for the countries which have accorded it that status.

177. Perhaps the vote of the 22 countries which recently rejected similar interference at the eleventh session of the General Assembly of the OAS, held in Saint Lucia, with only Mexico, Nicaragua and Grenada voting in favour, would serve as a useful guide in this case.

178. The PRESIDENT: I am obliged to interrupt the representative of Chile.

179. Mr. BLUM (Israel): Israel will vote against the draft resolution contained in document A/36/L.58.

180. We do not wish to go into the substance of the matter contained in that draft resolution. Since it is now *sub judice* in Israel, it would be improper for us to do so.

181. However, Israel cannot but express surprise that a certain group of States, in total disrespect for the General Assembly and its over-taxed time, should preoccupy the General Assembly and appropriate its time in the case of one single individual who has been accused of terrorist murder involving the violation of the most fundamental human right of two teen-age youngsters in Israel—their right to live, whose legal rights are fully guaranteed, and at a time when millions upon millions of individuals throughout the globe—including the nationals of virtually all of the States sponsoring this draft resolution—are systematically deprived of their human rights and have them massively violated day by day.

182. Needless to say, the draft resolution before us is also in clear violation of a fundamental principle of the Charter of the United Nations, enshrined in Article 2, paragraph 7, under which "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State".

183. In conclusion, let me only say this: the sponsors of this draft resolution would do well to emulate the standards of the Israeli judiciary, which has established for itself an enviable reputation. This would certainly be preferable to the farcical performance to which the sponsors, including such well-known champions of human rights as Iraq, Syria, Libya and Saudi Arabia, have treated the General Assembly this afternoon.

184. Mr. CASTILLO-ARRIOLA (Guatemala) (*interpretation from Spanish*): The delegation of Guatemala voted, in the Third Committee, against draft resolution V, relating to human rights in El Salvador, draft resolution VII, relating to Chile, and draft decision II, relating to Guatemala.

185. In the General Assembly, we shall repeat our votes against those texts with the same enthusiasm, and I shall give three fundamental reasons to justify that position.

186. The three draft resolutions have an absolutely discriminatory content, which is unacceptable to Latin America. We are not prepared to continue being the target of groups of countries which subscribe to certain political interests. We do not recognize their right to make accusations in matters of human rights when they, within their own territories, are permanently violating such rights in a deplorable manner.

187. Secondly, although they use supposedly philosophical reasoning, the three texts, and particularly those in regard to Central America, constitute unacceptable interference in the internal affairs of other States, in contravention of the most elementary rules of the international community of States.

188. Thirdly, it is our view that in no case and under no legal system is it possible for a single subject of the law to come under two different and mutually exclusive jurisdictions. The inter-American system which, under the rules of the universal system of the United Nations itself, functions as a regional system, takes into account human rights in Chile, in El Salvador and in Guatemala. Latin America, some few days ago, categorically rejected those interventionist doctrines and abusive interventions in the internal affairs of three Latin American countries, disregarding the grave violations that occur in other parts of the world and in other States.

189. In this respect, it should be noted in the General Assembly that with regard to Chile, a country with a long-standing and consolidated democratic tradition, there has been an evident improvement in respect for human rights. It should be clear that with regard to El Salvador it is up to the Salvadorian people alone to decide on its own fate, and that only the electoral process, which is disregarded by many of the accusing parties, will give that people a full opportunity to surmount its grave situation in a democratic fashion.

190. With regard to the draft decision, we reiterate our rejection of it by virtue of the fact that it is not appropriate in this forum. The only appropriate decision would be a purely procedural one, which is in no way the case for the draft decision adopted by the Third Committee, because it includes conditions and prejudices, which reveal an anticipated intention to condemn, while the procedures which the Commission on Human Rights itself decided on in its resolution 33 (XXXVII)⁴ have not been fulfilled.

191. For all those reasons, the delegation of Guatemala firmly reiterates its opposition to the three texts in question and will vote against them.

192. Mr. PÍZA ESCALANTE (Costa Rica) (*interpretation from Spanish*): During the debate on item 12 in the Third Committee, I had an opportunity to put forward in general terms the position of the delegation of Costa Rica with regard to the human rights situation in Latin America and specifically with regard to the draft resolutions

and draft decision submitted at that time with respect to El Salvador, Chile and Guatemala—the same texts which are now before the Assembly in the report of the Committee, that is, draft resolutions V and VII and draft decision II.

193. It remains only for me to explain my delegation's vote, which will be against the two draft resolutions and the draft decision. I shall speak on the three together because the position of Costa Rica is based on general considerations which apply to all of those drafts, rather than on individual cases. Indeed, as I stated in the Committee, what has led us to vote against and in fact vehemently to oppose these three texts is our conviction that all three are in response to a selective, discriminatory and unwarranted trend towards transforming the Latin American region into an easy target for interests that have very little, if anything, to do with sincere concern for the human rights of our peoples and a great deal, if not everything, to do with an orchestrated campaign of destabilization and denigration of the region. To speak more specifically, this campaign is against those of its member countries which are resisting falling into the clutches of totalitarianism and subjugation, opposing the hegemonistic intentions of a certain political ideology which relies on circumstantial majorities formed of a few satellites and many fellow-travellers, acting out of complacency, interest or fear.

194. Let me repeat here once again that, with regard to violations of human rights, the nations of Latin America are not the only culpable ones, nor are they the worst, and Latin Americans are weary of always being the victims of double standards which have converted the noble cause of struggling for human rights in the United Nations into a one-way human rights policy. We are tired of seeing the accusing finger being pointed at us by those who speak a great deal about human rights but persistently refuse to be accountable themselves. We are tired of being given lessons about respect for human rights by those who disregard and flagrantly violate them, even as official doctrine. We are tired of accusations being levelled against friendly nations and brother Governments while judgement against yet others that are more guilty is systematically obstructed. I say this by the right that accrues to me as the representative of a nation and a Government which no one has ever dared accuse of human rights violations, which have been among the first to subscribe to and ratify all the international covenants in this field, have accepted all existing jurisdictions for investigation, judgement and condemnation, as the need arises, and have always been the first to be accountable for their acts.

195. With respect to draft resolution V, dealing with human rights and fundamental freedoms in El Salvador, my delegation will vote against it: first, because it is a reflection of that selective, one-sided human rights policy that is directed against Latin America in particular; secondly, because it does not take into account at all the complexity of the problems that that country is experiencing, a country that today has become a battleground not only for extreme forces of the right and left engaged in a senseless bloodbath in their attempts to prevent democracy from prevailing, but also for the hegemonistic interests of both camps, which are threatening to convert our region into a proving-ground for a third world war; thirdly, because it unwarrantedly ignores the efforts being exerted by the people and Government of that brother republic to attain peace and justice through the exercise of democracy; fourthly, because it contains a flagrant attempt at interventionism, which runs counter to what is pro-

claimed in other sections of the same draft resolution, by attempting to impose on the Salvadorian people negotiated political solutions that fall outside the exercise of its own democratic rights.

196. On this last point, I wish to stress here what has already been stated by other Latin American representatives in informing the General Assembly of the resolution adopted by the General Assembly of the OAS at its eleventh session, in Saint Lucia, with the favourable vote of 22 States, 21 of which were Latin American States, and only three votes against—a resolution which sets down the true situation in El Salvador, supports the only viable and appropriate solution that, in our judgement, exists for that situation and clearly rejects the interventionist aims which, on the other hand, underlie the proposal before the General Assembly.

197. In the case of draft resolution VII, relating to human rights in Chile, our vote will again be negative, because this draft resolution reflects the same inconsistent and selective human rights policy directed particularly against Latin America, because it is again the result of a mandate that was entirely outside the purview of the Special Rapporteur on the situation of human rights in Chile, because it does not take into account the process of institutionalization which that country has been attempting to carry out and because it is utterly lacking in objectivity, among other things, in attempting to accuse the Chilean Government of human rights violations which other parties, some of them sponsors of the draft, even commit officially. I refer to violations of democratic rights such as those concerning the free functioning and operation of pluralistic political parties, labour rights, the right to strike and to establish trade unions—all of which are being disregarded and violated in much more serious fashion in other parts of the world.

198. It is sufficient to cite one surprising example. We have not learned, nor does the Special Rapporteur on the situation of human rights in Chile tell us, that either in that country or in other Latin American countries strikers are condemned to death, as has just been decreed, according to press reports, by the Government of Poland. I will not express any judgements at this point on the Polish situation, which is still very confused, but I think it would be worthwhile for some of those delegations that are most actively interested in Latin American problems to bear in mind the categorical statements of the President of France to the effect that the situation in Poland falls within the exclusive jurisdiction of that country itself.

199. Finally, my delegation will also vote against draft decision II, concerning Guatemala, reiterating that we reject it precisely because of the innocuousness of its content, which makes it redundant, and consequently an unjust and isolated accusation of a single Latin American country that is not even being left in peace so that it can demonstrate its good faith by allowing the representative of the Secretary-General, in fulfilment of the mandate granted by the Commission on Human Rights, to visit that country and investigate on the spot the situation which is apparently of such great concern to the sponsor and is also of concern to us.

200. The PRESIDENT: I must ask the speaker to conclude; the 10 minutes allotted to him have expired.

201. Mr. PIZA ESCALANTE (Costa Rica) (*interpretation from Spanish*): I shall end by repeating the appeal I made, with great respect, in the Third Committee, for all

members of the Assembly to bear in mind the symptomatic fact that there has been a reaction from most Latin American delegations here and in the Committee, including the States that are almost unanimously recognized for their adherence to the democratic system and their support for the cause of human rights, a reaction of weariness and rejection of the growing tendency to make our region the scapegoat in an orchestrated external campaign.

202. Let me repeat that in my judgement the fact has already been made clear; Latin Americans claim and demand the right to resolve their own problems by their own means, without foreign interference.

203. Mr. AUGUSTE (Saint Lucia): With regard to draft resolution A/36/L.58, I should like to make the following comments.

204. The nature of extradition agreements in these matters is characterized by the application of an appropriate article, which is commonly known as the political article. It is present in every extradition agreement. Therein lies the salvation of those persons who, notwithstanding the crimes committed against the normal penal code applying within a country, are protected against extradition through any whimsical application of the law to further the political aims of the State against the individual.

205. On the other hand, we must jealously guard against the intrusion of third States into the internal affairs of a State, particularly when this applies to the operation of the judicial system. The corporate body of established law, giving evidence of practice throughout the common law countries, establishes beyond doubt the total independence of the judiciary. There is no ground, *prima facie*, and in consideration of the decision of the United States Supreme Court, to warrant any refutation of the extradition judgement based on an intimation that the Court may have acted less than scrupulously in determining that Ziad Abu Eain had a proper and legitimate case to answer before the Israeli courts within the term of the Penal Code of the State of Israel.

206. However, the nature of the act is not without political content. What is not clear is whether the act which appears to violate the law of Israel brings into consideration the application of the political clause within the extradition agreement and, if that is the case, whether the mere allusion did not stop the other legal aspects. Therein lies the dilemma.

207. Should it be considered that, where there is sufficient evidence to indicate that there must be political considerations in determining the case, his extradition must be refused; or that, notwithstanding the advancement of the political consideration, the violation of penal law is so well established and grave that those considerations are set aside? It is for each court to interpret the extradition agreement. There is no common interpretation in every country that is applied *ipso facto* to cases that give rise to the applicability of the political clause. The case must be heard within the framework of each court's jurisprudence. Therefore, each court has the duty to determine the weight to be placed on each article of the agreement and to arrive at a total assessment.

208. It appears on the evidence before my delegation that while the court has given the fullest consideration to the charges in respect of the Penal Code of Israel, sufficient consideration is not apparent which will lay aside

the doubt in relation to the applicability of the political clause in the extradition agreement. My delegation, in recognizing that the dilemma is apparent, is of the opinion that the United States has acted on proper grounds and honoured the agreement as it understands its clauses within the context of its judicial system. But that does not automatically negate the political nature of the circumstance.

209. There is a further question, which relates to the fact that in a matter of this concern the State that extradites guarantees that the eventual determining court will exercise its jurisdiction without political bias on a matter or an atmosphere that appears to be charged with political content. There is a moral judgement for which the extraditing country must answer.

210. My delegation, recognizing the probability of the political aspect and wishing to underline the importance of non-interference in the internal matters of a State and noting that the Assembly is not a court of law but, on the other hand, is the custodian of the legitimate rights and interests of all States and of their peoples, will abstain in the vote on this draft resolution.

211. With regard to draft resolution VII, as my delegation stated at La Paz, in 1979, and has reiterated wherever pertinent, Saint Lucia maintains its unequivocal support for the application and preservation of human rights. Human rights are embodied in our Constitution. We bow to none in our vigilance against violations of human rights, and we will support the work of every organization or agency that seeks to monitor the activities of States in this area.

212. However, we do not consider that there must be a numerical level of human rights violations before the monitoring agencies are called upon to comment on them. As long as the practice is that the violation is recorded in a resolution only after a certain quantum is surpassed, then my delegation will continue to abstain. Every violation of human rights by any country must be recorded and monitored. Our abstention will be applied until this principle is observed. The fact of the violation, not the quantum, is what is paramount. We must be careful not to be self-righteous or over-zealous in our efforts to defend the applicability of human rights.

Mr. Kittani (Iraq) took the Chair.

213. With regard to draft resolution V, our position regarding El Salvador's electoral process was well stated during the eleventh session of the General Assembly of the OAS on the relevant resolution,² on which we abstained. We abstained because we felt that, while we could support each element of that text on an overall basis, the total environment necessary for proper elections, in which each eligible citizen could exercise the franchise, was missing. I shall repeat my delegation's words at that time. We said:

"We wish to make it abundantly clear that, notwithstanding the absence of the total climate for elections, the movement towards elections in the framework set out is to be applauded. It is hoped that the Government of El Salvador will make every effort, and we know that they will, to ensure that the positions of all the parties will be met to ensure a favourable climate in which all citizens, whatever their political persuasion, will be able to exercise the franchise."

214. In draft resolution V, the germ of the proper atmosphere is based in operative paragraph 2, which refers to a negotiated political solution. This, we believe, will create the appropriate environment for free and proper elections. On that basis, we shall support the draft resolution.

215. Mr. MUÑOZ LEDO (Mexico) (*interpretation from Spanish*): I shall be very brief, since this is only an explanation of vote. I believe the Assembly is tired of hearing unsubstantial and grandiloquent speeches being made here under the guise of explanations of vote.

216. Since my Government's position is well known, I shall refer only to one or two points that have been argued here in the Assembly after the vote that took place in the Third Committee. First, there is the argument that we have heard frequently this afternoon concerning regionalism. Some delegations have suggested that the fact that a regional organization has turned its attention to this problem diminished the competence of the General Assembly. This is untrue for a number of reasons. First, although a regional organization has taken up . . .

217. The PRESIDENT: I call on the representative of El Salvador, who has asked to speak on a point of order.

218. Mr. ROSALES-RIVERA (El Salvador) (*interpretation from Spanish*): I should like to know whether the representative of Mexico is speaking in explanation of vote. That is what we have understood, and if such is the case, I would remind him that he is a sponsor of the draft resolution relating to the case of El Salvador and that he cannot, therefore, explain his vote.

219. The PRESIDENT: I would explain to the representative of El Salvador that there are no sponsors of the draft resolutions now before us. The draft resolutions are recommended by the Third Committee.

220. Mr. MUÑOZ LEDO (Mexico) (*interpretation from Spanish*): I thank you, Sir, for having shed some light on a confused mind.

221. I shall continue with my explanation of vote. The first argument is that of regionalism. This is a further example of a harmful trend in the United Nations which in economic matters would refer us to sectoral bodies and the specialized agencies, to the detriment of the universal forum; which in political matters would give competence to regional bodies over and above the universal forum; and which in political action in general would replace multilateral relations by exclusively bilateral relations. No one, I think, can cast doubt on the hierarchical position of the General Assembly as the uppermost body of the international community nor, I believe, can anyone cast doubt on the fact that such matters as human rights, which derive from a Declaration that is by definition universal, and such matters as decolonization and self-determination, have always been primary and priority questions within the competence of the General Assembly.

222. The second confused point that has been advanced is the idea of comparing this particular regional organization and the other regional organizations of Africa, Asia and Europe. They are different. In the first place, the regional organization to which I refer was created prior to the existence of the United Nations, and, in the second place, it does not practice the principle of universality in its full scope because it has expelled States for ideological reasons, as is the case with Cuba. It does not admit some of the region's States even though they are Members of

the United Nations, as is the case with Guyana and now Belize, and there are also other States of the Latin American continent that, for these and other reasons, are not members of the organization, as is the case with Canada. In the third place, this organization is unlike others because it is not a body that represents countries with like interests, with similar levels of development and with similar political and economic positions in the General Assembly. It is made up of countries which belong, here in the United Nations, to different regional groups, and it is characterized by an asymmetry of power.

223. The third argument put forward here is the suggestion that there is a tradition within the OAS of defending human rights. This is not true. We all know that on many occasions many countries in that organization have been more concerned with whitewashing and legitimizing Governments based on force, and that the Assembly of the OAS has in many cases not welcomed reports submitted by the Inter-American Commission on Human Rights.

224. Another equally groundless argument has to do with the confusion between the subject-matter and the intent of the two resolutions: the draft resolution we are about to vote upon here and the resolution that was adopted in Saint Lucia. The former responds to a legitimate concern to protect human rights. It opens the way for whatever democratic solution may emerge in El Salvador, and it does not prejudice what that solution might be. It merely recommends that it be achieved through dialogue and negotiation. That resolution is concerned with bringing an end to the suffering of the Salvadorian people. The OAS resolution, on the other hand, is clearly political and interventionist in intent. In that draft resolution, a group of States, most of which do not hold elections, recommends the specific recipe of elections to be held in March, which all of us know would be a fallacy. It is practically an order from that organization to a member State to resolve a political problem in a specific manner.

225. We see, therefore, that in the General Assembly the concern is to protect human rights, whereas in the OAS it is to support one of the parties to the conflict, namely, the one most responsible for mass violations of human rights.

226. Given the short time available to me, I shall not go into the argument concerning selectivity. I would say only that, in all of our work in the United Nations, we are of necessity selective. We submit to consideration and debate with regard to economic, political and social questions those topics that are of the most concern to the universal conscience of mankind. Unfortunately for certain Latin American dictatorships, violations of human rights are a topic of concern to the international community, and were we to succumb to the argument of selectivity, we would have to delete practically all the items on the agenda of the General Assembly. No one, however, forces the Assembly to deal with such items. They are selected democratically, by decision of the Member States themselves.

227. Mr. SORZANO (United States of America): Representatives are aware that in the debate on El Salvador in the Third Committee two basic approaches for peace emerged. Draft resolution V now before us represents one such approach, which denies the possibility for elections under any conditions foreseeable in practical terms and calls instead for a "negotiated political solution". That is to say, the draft resolution recommends that the existing

El Salvador Government begin talks for the purpose of sharing power with the violent Marxist-Leninist minority that is trying to overthrow it.

228. The draft resolution seems to assume that the FLNM-FDR [*Frente de Liberación Nacional Farabundo Martí—Frente Democrático Revolucionario*] has a popular following—contrary to the declarations of civic and professional organizations in El Salvador and contrary to the failure of the January 1981 offensive by the FLNM-FDR. We do not think that a group with a popular following would so obviously seek to thwart elections. No group should be permitted to win by violence what it cannot win by an appeal to the Salvadorian people.

229. The second approach holds that the people of El Salvador should express their will in March 1982 through the ballot box. This approach maintains that, while the conditions for elections are not perfect, delaying elections is more likely to cause deterioration in conditions than to improve them. Any party that abandons the pursuit of political power by violence is welcome to participate in the elections. Extensive discussions on the ground rules have already taken place and electoral campaigns are under way. International observers are invited.

230. My delegation considers it a fact of extraordinary importance that on 7 December the General Assembly of the OAS endorsed the second approach, that of elections. By an overwhelming margin—22 in favour, 3 against and 4 abstentions—the OAS adopted a resolution strongly supporting the plans of the existing El Salvador Government for elections in March 1982.²

231. The OAS also resoundingly condemned all outside interference in El Salvador's internal affairs. The General Assembly should clearly do likewise. The universality of the principle of non-interference is critical at this time, for the United Nations has been deeply engaged in considering ways to protect Member nations around the world from outside interference in their internal affairs—ways to protect their sovereignty and their independence. While the principle of non-interference is standard fare in the rhetoric of the United Nations, implementation of the rhetoric has been selective. Latin American countries have not benefited from the protection that the United Nations seeks to offer other countries. The same standards of non-interference should be applied to all nations, if they are to be credible.

232. The nations of the western hemisphere assembled in Saint Lucia implicitly rejected the draft resolution before us now because it denies the possibility for elections and is blatantly interventionist. The message of the OAS was in effect: do not focus narrowly and unsympathetically on the troubles of a beleaguered Latin American Government until you know the nature of the enemy trying to bring it down. Do not weaken a Government that is attempting to carry out the best test of democratic intent—free elections.

233. When the OAS spoke out for the self-determination of El Salvador in its resolution of 10 December, it very clearly specified elections, not negotiations forced at gunpoint. The OAS thereby asked all countries to align themselves with the Duarte Government's plans for elections, not with a violent minority bent on obstructing elections. The logical response of this body to the OAS should be to vote "no" on the draft resolution before us today. The United States stands with its friends in the OAS and will vote "no".

234. The PRESIDENT: The Assembly will now take a decision on draft resolutions I to XX recommended by the Third Committee in paragraph 84 of its report [A/36/792].

235. Draft resolution I deals with the "United Nations Voluntary Fund for Victims of Torture". A recorded vote has been requested.

A recorded vote was taken.

In favour: Australia, Austria, Bahamas, Barbados, Belgium, Benin, Bolivia, Botswana, Burundi, Canada, Chad, Chile, Colombia, Congo, Costa Rica, Cyprus, Democratic Yemen,⁵ Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Fiji, Finland, France, Gabon, Gambia, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, Iran, Iraq,⁵ Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lesotho, Liberia, Luxembourg, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Peru, Portugal, Qatar,⁵ Rwanda, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, Spain, Sudan, Sweden, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United Republic of Tanzania, United States of America, Upper Volta, Vanuatu, Venezuela, Zambia, Zimbabwe.

Against: Afghanistan, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Ethiopia, German Democratic Republic, Hungary, Lao People's Democratic Republic, Mongolia, Poland, Seychelles, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Viet Nam.

Abstaining: Algeria, Angola, Argentina, Bahrain, Bangladesh, Belize, Bhutan, Brazil, Burma, Cape Verde, Central African Republic, China, India, Indonesia, Jordan, Libyan Arab Jamahiriya, Madagascar, Malaysia, Mozambique, Nepal, Oman, Pakistan, Paraguay, Philippines, Romania, Singapore, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, Uruguay, Yugoslavia, Zaire.

Draft resolution I was adopted by 96 votes to 15, with 33 abstentions (resolution 36/151).

236. The PRESIDENT: We turn now to draft resolution II, entitled "The right to education." The Third Committee adopted that draft resolution without a vote. May I consider that the General Assembly wishes to do likewise?

Draft resolution II was adopted (resolution 36/152).

237. The PRESIDENT: Draft resolution III is entitled "Assistance to refugees in Somalia". The Third Committee adopted that draft resolution also without a vote. May I consider that the General Assembly wishes to do likewise?

Draft resolution III was adopted (resolution 36/153).

238. The PRESIDENT: We turn now to draft resolution IV, entitled "Regional arrangements for the promotion and protection of human rights". The administrative and

financial implications of that draft resolution appear in the report of the Fifth Committee in document A/36/811. The Third Committee adopted that draft resolution without a vote. May I consider that the General Assembly wishes to do likewise?

Draft resolution IV was adopted (resolution 36/154).

239. The PRESIDENT: Draft resolution V concerns the "Situation of human rights and fundamental freedoms in El Salvador". A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Austria, Belgium, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cape Verde, Central African Republic, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Ethiopia, Finland, France, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Kenya, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Netherlands, Nicaragua, Norway, Panama, Poland, Romania, Rwanda, Saint Lucia, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Sweden, Syrian Arab Republic, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Vanuatu, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

Against: Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Indonesia, Israel, Morocco, Pakistan, Paraguay, Philippines, Turkey, United States of America, Uruguay, Venezuela.

Abstaining: Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Burma, Burundi, Canada, Chad, China, Democratic Kampuchea, Djibouti, Ecuador, Egypt, Equatorial Guinea, Fiji, Gabon, Ivory Coast, Jamaica, Japan, Lebanon, Lesotho, Liberia, Malaysia, Nepal, New Zealand, Nigeria, Oman, Papua New Guinea, Peru, Portugal, Qatar, Samoa, Saudi Arabia, Singapore, Solomon Islands, Somalia, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Thailand, Togo, Trinidad and Tobago, Tunisia, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, Upper Volta, Zaire.

Draft resolution V was adopted by 69 votes to 22, with 53 abstentions (resolution 36/155).⁶

240. The PRESIDENT: Draft resolution VI is entitled "Humanitarian assistance to refugees in Djibouti". The Third Committee adopted it without a vote. May I consider that the General Assembly wishes to do likewise?

Draft resolution VI was adopted (resolution 36/156).

241. The PRESIDENT: Draft resolution VII is entitled "Protection of human rights in Chile". A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Australia, Austria, Barbados, Belgium, Benin, Bhutan, Botswana, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic,

Congo, Cuba, Czechoslovakia, Democratic Yemen, Denmark, Ethiopia, Finland, France, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Jamaica, Kenya, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Netherlands, New Zealand, Nicaragua, Norway, Poland, Portugal, Romania, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

Against: Antigua and Barbuda, Argentina, Bolivia, Brazil, Chile, Costa Rica, El Salvador, Guatemala, Haiti, Honduras, Indonesia, Israel, Lebanon, Morocco, Pakistan, Paraguay, Philippines, Thailand, United States of America, Uruguay.

Abstaining: Bahamas, Bahrain, Bangladesh, Belize, Burma, Chad, China, Colombia, Democratic Kampuchea, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Fiji, Gabon, Ivory Coast, Japan, Jordan, Lesotho, Liberia, Malaysia, Nepal, Nigeria, Oman, Panama, Papua New Guinea, Peru, Qatar, Saint Lucia, Samoa, Saudi Arabia, Singapore, Solomon Islands, Somalia, Suriname, Togo, Trinidad and Tobago, Turkey, United Arab Emirates, United Republic of Cameroon, Upper Volta, Zaire.

Draft resolution VII was adopted by 84 votes to 20, with 42 abstentions (resolution 36/157).

242. The PRESIDENT: The Assembly will now take a decision on draft resolution VIII, entitled "Situation of refugees in the Sudan". The Committee adopted that draft resolution without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution VIII was adopted (resolution 36/158).

243. The PRESIDENT: We turn next to draft resolution IX, entitled "Social aspects of the development activities of the United Nations". The Third Committee adopted the draft resolution without a vote. May I consider that the General Assembly also wishes to do so?

Draft resolution IX was adopted (resolution 36/159).

244. The PRESIDENT: Draft resolution X is entitled "Measures to improve the situation and ensure the human rights and dignity of all migrant workers". The administrative and financial implications of that draft resolution are to be found in paragraph 6 of the report of the Fifth Committee [A/36/811]. The Third Committee adopted draft resolution X without a vote. May I consider that the Assembly wishes to do so also?

Draft resolution X was adopted (resolution 36/160).

245. The PRESIDENT: The Third Committee adopted without a vote draft resolution XI, entitled "Assistance to displaced persons in Ethiopia". May I take it that the Assembly also wishes to adopt that draft resolution without a vote?

Draft resolution XI was adopted (resolution 36/161).

246. The PRESIDENT: We turn now to draft resolution XII, entitled "Measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror". As Members are aware, an amendment to operative paragraph 4 of draft resolution XII has been submitted by the Netherlands [A/36/L.55]. May I take it that the Assembly adopts that amendment?

The amendment was adopted.

247. The PRESIDENT: Does the Assembly wish to adopt draft resolution XII, as amended, without a vote?

Draft resolution XII, as amended, was adopted (resolution 36/162).

248. The PRESIDENT: The Third Committee adopted without a vote draft resolution XIII, entitled "Question of involuntary or enforced disappearances". May I consider that the Assembly wishes to do the same?

Draft resolution XIII was adopted (resolution 36/163).

249. The PRESIDENT: The Assembly will now take a decision on draft resolution XIV, entitled "Missing persons in Cyprus", which was adopted by the Third Committee. May I take it that the General Assembly adopts that draft resolution?

Draft resolution XIV was adopted (resolution 36/164).

250. The PRESIDENT: We turn now to draft resolution XV, entitled "Question of the international legal protection of the human rights of individuals who are not citizens of the country in which they live". The administrative and financial implications of that draft resolution are contained in paragraph 9 of the same report of the Fifth Committee. The Third Committee adopted draft resolution XV without a vote. May I take it that the General Assembly wishes to do the same?

Draft resolution XV was adopted (resolution 36/165).

251. The PRESIDENT: I now invite members to turn their attention to draft resolution XVI, entitled "Exchange of information on banned hazardous chemicals and unsafe pharmaceutical products". The Third Committee adopted that draft resolution without a vote. May I consider that the General Assembly wishes to do the same?

Draft resolution XVI was adopted (resolution 36/166).

252. The PRESIDENT: Draft resolution XVII, entitled "Draft Declaration on Social and Legal Principles relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption Nationally and Internationally", including its annex, was adopted without a vote. May I consider that the General Assembly also wishes to do so?

Draft resolution XVII was adopted (resolution 36/167).

253. The PRESIDENT: We turn next to draft resolution XVIII, entitled "International Drug Abuse Control Strategy". The administrative and financial implications of that draft resolution are contained in paragraph 14 of the report of the Fifth Committee. The Third Committee adopted draft resolution XVIII without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution XVIII was adopted (resolution 36/168).

254. The PRESIDENT: We come now to draft resolution XIX, entitled "Observance of the thirty-fifth anniversary of the Universal Declaration of Human Rights". The administrative and financial implications of that draft resolution are to be found in paragraph 17 of document A/36/811. The Third Committee adopted draft resolution XIX without a vote. May I consider that the Assembly wishes to do so also?

Draft resolution XIX was adopted (resolution 36/169).

255. The PRESIDENT: The last draft resolution recommended by the Third Committee is draft resolution XX, entitled "Assistance to student refugees in southern Africa". May I take it that the Assembly, like the Third Committee, wishes to adopt that draft resolution without a vote?

Draft resolution XX was adopted (resolution 36/170).

256. The PRESIDENT: The Third Committee has also recommended two draft decisions. In paragraph 85 of its report, the Committee recommends the adoption of draft decision I, entitled "Welfare of migrant workers and their families". May I consider that the Assembly adopts that draft decision?

Draft decision I was adopted (decision 36/434).

257. The PRESIDENT: Draft decision II is entitled "Situation of human rights and fundamental freedoms in Guatemala". A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Algeria, Angola, Australia, Austria, Barbados, Belgium, Benin, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Congo, Cuba, Czechoslovakia, Democratic Yemen, Denmark, Ethiopia, Finland, France, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Iran, Iraq, Ireland, Italy, Ivory Coast, Jamaica, Kenya, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Mozambique, Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, Romania, Rwanda, Samoa, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia, Zimbabwe.

Against: Antigua and Barbuda, Argentina, Bolivia, Chile, Colombia, Costa Rica, El Salvador, Gabon, Guatemala, Haiti, Honduras, Indonesia, Israel, Pakistan, Paraguay, Turkey, United States of America, Uruguay.

Abstaining: Bahamas, Bahrain, Bangladesh, Belize, Bhutan, Botswana, Brazil, Burma, Chad, China, Democratic Kampuchea, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Fiji, Japan, Lebanon, Lesotho, Liberia, Malaysia, Maldives, Morocco, Nepal, Nigeria, Oman, Papua New Guinea, Peru, Philippines, Qatar, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Thailand, Togo, Tunisia, United Arab Emirates, United Republic of Cameroon, Upper Volta, Zaire.

Draft decision II was adopted by 81 votes to 18, with 45 abstentions (decision 36/435).

258. The PRESIDENT: I now put before the Assembly the draft resolution entitled "Question of human rights relating to the case of Mr. Ziad Abu Eain", contained in document A/36/L.58. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Bahrain, Bangladesh, Benin, Bhutan, Botswana,⁷ Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cape Verde, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Egypt, Ethiopia, Gambia, German Democratic Republic, Ghana, Grenada, Guinea, Guinea-Bissau, Hungary, India, Indonesia, Iran, Iraq, Jordan, Kuwait, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Nicaragua, Oman, Pakistan, Poland, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Somalia, Sri Lanka, Sudan, Syrian Arab Republic, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Viet Nam, Yemen, Yugoslavia, Zimbabwe.

Against: Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Finland, Germany, Federal Republic of, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Burma, Central African Republic, Chile, Colombia, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, France, Gabon, Greece, Guatemala, Guyana, Honduras, Ivory Coast, Jamaica, Kenya, Lesotho, Liberia, Nigeria, Panama, Paraguay, Peru, Philippines, Saint Lucia, Spain, Suriname, Thailand, Togo, Trinidad and Tobago, Turkey, Upper Volta, Uruguay, Venezuela, Zaire, Zambia.

The draft resolution was adopted by 75 votes to 21, with 43 abstentions (resolution 36/171).

259. The PRESIDENT: I shall now call on those representatives who wish to speak in explanation of vote.

260. Mr. DYRLUND (Denmark): My delegation has asked to speak to make a statement on behalf of the five Nordic countries—Finland, Iceland, Norway, Sweden and Denmark—on the occasion of the adoption by the General Assembly of draft resolution I, concerning the United Nations Voluntary Fund for Victims of Torture.

261. In a statement on behalf of the Nordic countries at the 62nd meeting of the Third Committee my delegation expressed the view that the adoption of this resolution would be an appropriate symbol of concern on the part of the United Nations for human rights in general and torture victims in particular. Therefore the Nordic countries are very pleased and satisfied that this resolution has now been adopted by the General Assembly.

262. In order that the Fund may be able to achieve its objective, it is imperative that the Fund receive an ade-

quate number of voluntary contributions. Some delegations have already, before the adoption of the resolution, expressed their intention to make substantial contributions to the Fund. With the adoption of the resolution it is the hope of the Nordic countries that additional Member States may soon also decide to contribute.

263. The adoption of the resolution on the United Nations Voluntary Fund for Victims of Torture constitutes, in our view, an important step in the endeavours of the United Nations to protect the human rights of the individual. The Voluntary Fund should therefore be given the means to fulfil its humanitarian purpose.

264. Mr. WALKATE (Netherlands): The Netherlands delegation has always supported the idea of transforming the United Nations Trust Fund for Chile into a fund of a more general nature. Therefore it voted in favour of draft resolution I. By adopting this resolution the General Assembly has given shape to its concern for individuals whose human rights have been severely violated as a result of torture wherever in the world they may be.

265. My delegation regrets that it is still necessary for the General Assembly to create such a fund six years after the adoption by unanimity of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. I refer to General Assembly resolution 3452 (XXX). In view of this, the Netherlands Government has decided to contribute the sum of approximately \$US 50,000—that is, the equivalent of 125,000 Dutch guilders—to the Fund just created. In doing so, my Government is heeding the appeal contained in paragraph 2 of the resolution and hopes to encourage other Governments to do likewise.

266. With regard to the draft resolution concerning the case of Mr. Ziad Abu Eain, my delegation wishes to explain that it voted against the draft resolution although in general it sympathizes with the raising of humanitarian issues in the General Assembly and other relevant organs of the United Nations. My delegation had to vote against the draft resolution because of certain judgements and views contained therein which are unacceptable to my Government.

267. Mr. MASSOT (Brazil): As a member of the Commission on Narcotic Drugs, Brazil joined in the consensus on the adoption of resolution I (XXX), concerning an international strategy for drug control and a five-year programme of action. Consequently, my delegation did not oppose the consensus when draft resolution XVIII entitled "International Drug Abuse Control Strategy" was adopted by the Third Committee, and by the General Assembly a few moments ago.

268. Notwithstanding this position, the Brazilian delegation does not favour the creation of a task force as envisaged in paragraphs 3 and 4 of the resolution adopted. First, it is our understanding that the supervision and implementation of the International Strategy for Drug Abuse Control and of the basic five-year programme of action are under the direct competence of the Commission on Narcotic Drugs, a much more representative body. Moreover, the creation of such a task force would imply additional expenditures, which could be avoided by leaving the task to the Commission itself. The same reason prompted my delegation to vote against the additional expenditure when the matter was raised in the Fifth Committee last week.

269. Mrs. AKAMATSU (Japan): The delegation of Japan joined in the adoption without a vote of draft resolution XII, as amended. We did so because the thrust of the draft resolution is in opposition to totalitarian nazism and fascism. However, my delegation would like to state for the record that it has reservations on paragraphs 4 and 5.

270. Ms. DEVER (Belgium) (*interpretation from French*): My delegation, which in the Third Committee abstained on the draft resolution on the situation with regard to human rights and fundamental freedoms in El Salvador, voted in favour of draft resolution V in the report of the Third Committee. This affirmative vote is to be explained fundamentally by the fact that the Belgian Government, as already stated in the Third Committee, remains very much concerned over the human rights situation in El Salvador and encourages any approach that may help to restore respect for human rights in that country. We entirely endorse certain elements of the draft resolution, particularly the condemnation of the violence in El Salvador and the appeals for peace-making and full respect for human rights.

271. Nevertheless, my delegation continues to believe that the draft resolution is incomplete, for it does not lay stress on the need for free and democratic elections. In this regard, we regret that the sponsors were unable to accept the suggestions we made to modify operative paragraph 2. This paragraph could in fact be interpreted in a way prejudicial to any procedure for re-establishing democracy accepted in a sovereign manner by the Salvadorian people. We think that a comprehensive political solution prior to elections is an option which is neither realistic nor democratic. We should like to recall in this regard the opinion of the Special Representative of the Commission on Human Rights, who, in paragraph 120 of his report [see A/36/608], expresses the view that the Government plan for holding elections is perfectly legitimate and acceptable if and when the electoral process takes place in a prevailing climate of social peace. We subscribe to this conclusion, which is in keeping with paragraph 6 of resolution 32 (XXXVII) of the Commission on Human Rights, in which the Commission:

“emphasizes that the people of El Salvador have the right, as soon as appropriate conditions have been established, to establish a democratically elected Government, in an atmosphere free from intimidation and terror, and to determine their own political, economic and social future, free from outside interference.”⁴

272. In the same context, my delegation is pleased at the broad agreement which marked the recent adoption by the General Assembly of the OAS of a resolution in paragraph 2 of which the hope is expressed “that all Salvadorians will attain an atmosphere of peace and harmony through a truly electoral process”.²

273. Mr. SVIRIDOV (Union of Soviet Socialist Republics) (*interpretation from Russian*): In connection with the adoption today of draft resolution XII on measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror, the delegation of the USSR would like to make the following statement.

274. The Soviet delegation supported that resolution both in the Third Committee and in the General Assembly. The Soviet Union, which bore the brunt of the joint

struggle against fascism during the years of the Second World War, lost 20 million people, and this is just in terms of the dead, without mentioning the other tremendous sacrifices. We cannot resign ourselves to the growing threat posed by the recent recrudescence of nazism and fascism. We cannot remain indifferent to the return to activity of those forces that once already have dragged the world into the abyss of a world war, causing untold sorrow and suffering to the peoples of Europe, and not only Europe.

275. The Soviet delegation has therefore consistently supported a draft resolution aimed at preventing the recrudescence of those forces. The documents on this question which are under consideration by the General Assembly and the discussion of them in the Third Committee make it absolutely clear that in many countries there has recently been a stepping-up of nazism and neo-fascism. Neo-Nazi parties, military sports groups, combat units and alliances and other associations are growing up like mushrooms and are doing their best to disseminate their inhuman ideologies. Propagating the theory of racial exclusivity and chauvinism, those parties and groups are taking increasingly strong positions against non-white populations and those fighting against racial discrimination and *apartheid*. In a number of countries they have their agents in the army, the police force, the organs of justice and in administrative bodies.

276. The Committee noted with great concern that not only are neo-Nazi and neo-Fascist activities sometimes not being prosecuted by the authorities, but are in some cases enjoying their tacit and in others their active support. A characteristic feature of neo-Fascist activities today is that, whereas previously neo-Fascists were compelled to mask themselves, choosing respectable names for their gangs, this camouflage is no longer necessary. They are acting openly, increasing their number and intensifying their efforts particularly in the area of terrorist activities, as is shown by the wave of terror which has recently affected many European capitals. Another characteristic feature of the activities of neo-Fascist organizations is the fact that they are at present co-ordinating their efforts on an international scale, thereby increasing the danger to the world in the present complex international situation.

277. We therefore warmly welcome the adoption of the resolution, which contains all the elements on the basis of which to carry out an effective struggle against the threat of the re-emergence of nazism, fascism and all other forms of totalitarianism inciting—in conditions of worsening social contradictions in the capitalist world—racial intolerance, hatred, terror and so on.

278. We consider the fact that this important resolution was adopted in the Third Committee and the General Assembly to be a great achievement, which cannot fail to be gratifying to all who cherish peace, security and human rights. The delegation of the Soviet Union believes that there can be no justification for failing to adopt effective measures to prohibit the propagation of such reactionary and imperialistic ideologies as nazism, fascism and neo-fascism.

279. In conclusion, we should like to point out that the Soviet delegation voted in favour of draft resolution A/36/L.58, since it deals with one of the manifestations, repeatedly condemned in the past by United Nations organs, including the General Assembly, of the flagrant and massive violation of human rights by the Israeli au-

thorities in the occupied Arab territories and the encouragement of that policy and practice by the United States.

280. Mr. NORDENFELT (Sweden): The purpose of my statement is to explain our position on draft resolution XII relating to measures to be taken against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror.

281. My delegation agrees with the objectives of the draft resolution as they are defined in operative paragraph 1. Totalitarian ideologies and practices often present serious threats to our democratic institutions and to an open society. It is, however, our conviction that measures against such ideologies and practices must be taken within the framework of our Constitution and established democratic institutions. Our participation in the adoption without a vote of the present resolution, as amended, must not be interpreted as an expression of any intention to allow unconstitutional limitations on freedom of opinion and expression and the freedom of the press.

282. My delegation also has reservations in regard to references to conventions which have not been acceded to by the Swedish Government.

283. Mr. ALMOSLECHNER (Austria): My delegation has asked to speak in order to explain its vote on draft resolution A/36/L.58. The international community is made aware in this draft resolution of a case which deserves our full attention. We are closely following the situation of Ziad Abu Eain.

284. We regret, however, that the text as it was presented did not sufficiently reflect considerations of that nature and, mainly because of legal issues, it became necessary for us to vote against the draft resolution. The text cannot be interpreted otherwise than as implying criticism of the judicial system of a Member State and we cannot subscribe to that. Furthermore, we feel that the third and fourth preambular paragraphs are in themselves not fully consistent, and they seem unbalanced. We do want to underline; however, that our vote has not been guided by any considerations other than those which I have just explained.

285. Mr. TREHOLT (Norway): I wish to address myself to draft resolution XII, which has just been adopted without a vote.

286. For the record, I should like to state that the Norwegian Government supports the objectives of this draft resolution as defined in its operative paragraph 1. We are fully aware of the threat which certain ideologies and practices pose to our democratic institutions. It is, however, our considered opinion that measures against such ideologies and practices should be taken within the framework of established democratic rules. However, during our deliberation in the Third Committee, it was proposed to delete operative paragraph 4 from this draft resolution. Norway supported that deletion, which was defeated by 58 votes to 52, with 18 abstentions. Our reservations regarding the present formulation of operative paragraph 4 are of a fundamental nature. The present wording might be interpreted to limit the rights of speech and freedom of the press. The Norwegian Government cannot subscribe to formulations which might threaten to undermine those basic principles, which are firmly safeguarded in our Constitution. Furthermore, the Norwegian Government considers that the wording used in paragraph 4 to de-

scribe acts punishable by law lacks the clarity and precision required in a legal context, and particularly required in penal law.

287. Mr. AMARI (Tunisia) (*interpretation from French*): I should like to explain our vote on draft resolution V, relating to the situation of human rights in El Salvador, and on draft decision II, relating to the situation of human rights and fundamental freedoms in Guatemala.

288. While reaffirming our unwavering attachment to respect for and protection of human rights, my delegation is of the view that it is essentially up to the regional organizations, and, in the case in point, to the OAS, to find solutions to the problem one of its members faces. That is the main reason why my delegation had to abstain in the votes on draft resolution V and draft decision II.

289. Mr. SIBAY (Turkey): I should like to explain the vote of the Turkish delegation on two draft resolutions.

290. Had it been put to the vote, we would have voted against draft resolution XIV, on the subject of missing persons in Cyprus. In fact, we voted against it in the Third Committee and we explained in detail our reasons for doing so at the time.

291. Here I should like to recapitulate the essential reasons for our position. The Committee on Missing Persons in Cyprus is an autonomous and independent body and therefore not an organ attached to the United Nations or a subsidiary of it. The question of missing persons in Cyprus is a matter between the Turkish and Greek Cypriot communities and they, of their own independent will, have agreed to establish and work within the Committee on Missing Persons to resolve this issue. The Committee on Missing Persons in Cyprus exists and is functioning and therefore is the only, the exclusive, place where any and all aspects of the question of missing persons should and can be discussed. The Turkish Cypriot side, in the light of the aforementioned conditions, opposed a discussion of this question in the United Nations and warned that any United Nations debate or decision would be detrimental to the work of the Committee on Missing Persons in Cyprus, because these would be in violation of the agreement of the two communities and constitute a challenge to the very foundation of the Committee in its actual composition.

292. The question of missing persons is a humanitarian issue and should not be politicized if the desire to solve it is genuine. For that reason it was agreed, taking into account the long experience of the International Committee of the Red Cross in this regard, that the terms of reference and the proceedings of the Committee on Missing Persons in Cyprus should be strictly confidential so as to enable it to conduct its work quietly, calmly and away from the public eye. The Turkish Cypriot side has observed the principle of confidentiality scrupulously; the same cannot be said for the other side. The General Assembly has been put in a position of intervening in an area which is outside its competence, and it has been asked to call on the parties to co-operate on the basis of an agreement about which it is not in a position to have any information, since these are confidential matters.

293. For those reasons Turkey would have voted against draft resolution XIV and regards it as null and void.

294. I should now like to explain Turkey's vote on draft resolution A/36/L.58. Turkey abstained in the vote on that

draft resolution because it was not in possession of all the necessary information about the facts pertaining to the case before us. Turkey is firmly and categorically against all acts of terrorism and cannot condone such acts for any reason, under any circumstances. We are especially opposed to violence and terrorist acts against civilians. For the same reason, Turkey is particularly against military attacks by any State against civilians, such as the attacks carried out by the Israeli Government. Turkey has always deplored such actions. We are also of the opinion that United Nations organs are not the forums where matters pertaining to courts' decisions and other jurisdictional acts of States can be considered and discussed.

295. Mr. SHERIFIS (Cyprus): I wish to place on record the deep appreciation of my Government, as well as of the relatives of missing persons in Cyprus, to all those delegations which, in the Third Committee, voted in favour of draft resolution XIV, just adopted by the General Assembly, as well as those delegations which, although they abstained or were absent when the Committee voted, gave us assurances—and they were numerous—that they would be voting in favour if a vote were taken in the plenary meeting.

296. The adoption of the resolution by the Assembly without a vote offers additional satisfaction to my delegation and to the relatives of missing persons because it signifies that the General Assembly shares the humanitarian concerns which prompted my Government to seek this resolution. It also signifies the wish of the General Assembly that the procedural difficulties created by the other side should be removed and that the Committee on Missing Persons should proceed with its substantive investigatory work, which alone can alleviate the trauma and agony of those missing who are still alive and of the relatives of all missing persons in Cyprus. For it is indeed regrettable that although six months have elapsed since the establishment of the Committee on Missing Persons, because of procedural difficulties on which the Secretary-General has elaborated in his two latest reports of 20 November [A/36/702] and 1 December 1981,⁸ the Committee has not even started its investigatory work and has not even considered one single file of even one missing person.

297. It is our earnest hope that the moral weight and overwhelming support of the international community as manifested again by the Assembly today will contribute to the solution of this exclusively humanitarian problem of which the General Assembly has been seized since 1974, and with reference to which it has adopted numerous resolutions, the last of which, resolution 33/172, of 20 December 1978, called for the establishment of an investigatory committee.

298. Faithful to the humanitarian nature of the resolution just adopted and of the issue it is designed to serve, I shall refrain, although with some difficulty, from entering into an exchange of arguments with the representative of Turkey. But it is really too much for anyone to claim that the United Nations has nothing or little to do with the issue of missing persons and with the Committee established in Cyprus when there are repeated resolutions adopted by the Assembly on that subject, and when the Secretary-General has appointed the third member of the Committee on Missing Persons in Cyprus, and when, only yesterday the Fifth Committee approved the operational expenses of the Committee.

299. I started my remarks with an expression of thanks, and I shall conclude with an appeal that we all work together for the solution of this exclusively and eminently humanitarian problem.

300. Mr. BLUM (Israel): We have supported draft resolution XII despite the questionable motives of its authors and the totalitarian character of their régimes, and despite the fact that it contains propaganda verbiage which is extraneous to the central theme of the draft resolution, on which my delegation reserves its stand.

301. The draft resolution, at least ostensibly, is directed against nazism, which, in keeping with its racist and inhuman character, made anti-Semitism its plank and the Jewish people its first and most tragic victim. The continuing existence and activity of neo-Nazi and Fascist groups and the open propagation of their nauseating doctrine is a danger to democracy and an affront to human decency and to the memory of the victims of the Nazi holocaust.

302. But nazism, monstrous and deadly as it was, is not the only form of totalitarianism. It is perhaps ironic that the authors of the draft resolution, in their pursuit of propaganda value, have had to adopt a condemnation of totalitarianism along with that of nazism, and so to brand themselves. Nor, unfortunately, is nazism the sole purveyor of anti-Semitism. The venom of anti-Semitism also manifests itself today. It does so by the official dissemination in some Arab countries of Hitler's *Mein Kampf* and of that pernicious Tsarist forgery, the *Elders of Zion*.

303. In the Soviet Union, as I had occasion to tell the Third Committee, the war on Jewish books, on Jewish culture, on Jewish identity goes on. The Nazis burned Jewish synagogues, the Soviet Union closed them down in their thousands and the PLO bombs them. Anti-Semitism has seeped into this very Assembly under the thin veneer of "anti-zionism". Whenever anyone has spoken about anti-Semitic manifestations in the Soviet Union, he has invariably been accused of slander. Let us therefore recall that Soviet spokesmen were no less vehement in their denials at the time of the infamous Doctor's Trials and the wholesale execution of Jewish writers and intellectuals, with they now admit, as Stalinist excesses.

304. I note that the Ukrainian SSR is among the sponsors of the draft resolution. We expect the Ukrainian SSR, the Soviet Union and others to practise what they preach in this resolution. We expect them to halt anti-Semitic practices and propaganda and bring to justice those responsible for them.

305. Mr. van WELL (Federal Republic of Germany): The Federal Republic of Germany voted for the draft resolution concerning the situation of human rights and fundamental freedoms in El Salvador in spite of considerable reservations.

306. It has done so to manifest its regret at the bloodshed in El Salvador, the violations of human rights and the suffering of the people of that country. Since the early stages of the conflict in El Salvador, the Government of the Federal Republic of Germany has sought to promote a dialogue between democrats on both sides. We therefore regret the fact that several points of the resolution attribute blame to one side only. Together with other countries, we have worked for a more balanced text, unfortunately without success.

307. Our delegation wishes to emphasize that our affirmative vote for this draft resolution is intended to demonstrate our concern for the restoration of human rights in El Salvador and that it should not be construed as taking sides.

308. I should also like to explain our vote on draft resolution A/36/L.58, concerning the question of human rights relating to the case of Mr. Ziad Abu Eain. My Government regrets that it had to vote negatively on a draft resolution which addresses itself in its title to the question of the human rights of an individual. We have repeatedly stressed that the human rights of individuals should be realized all over the world and that violations of the human rights of individuals should be condemned wherever they occur.

309. However, the contents of the draft resolution do not primarily reflect a humanitarian concern. It contains judgements, criticisms and views which the Federal Republic of Germany cannot accept. We cannot support the endorsement of armed struggle, nor can we subscribe to the allegation that Mr. Ziad Abu Eain was detained illegally in the United States for over two years. We do not see a basis for the criticism of the judicial system of the United States. We understand that Mr. Ziad Abu Eain was extradited to Israel in accordance with the Israel-United States Extradition Treaty. We cannot therefore subscribe to an appeal to the Government of the United States, after the extradition has taken place, to facilitate the safe transfer of Mr. Ziad Abu Eain to the country of his choice.

310. Mr. FURSLAND (United Kingdom): My delegation voted against draft resolution A/36/L.58 about the case of Mr. Ziad Abu Eain. We did so principally because the text contains immoderate and unjustified attacks on the handling of this case in the United States in accordance with established procedures.

311. My delegation is constantly guided by humanitarian considerations in our approach to human rights questions. We have paid close attention to the humanitarian concerns which have been expressed during the debate on this subject. If this draft resolution had been directed at the humanitarian aspects of the case, my delegation's position would have been different.

312. Mr. BOUFFANDEAU (France) (*interpretation from French*): My delegation abstained on draft resolution A/36/L.58 because it is our view that the General Assembly should not make a pronouncement on the case of Mr. Ziad Abu Eain, if only because it lacks the necessary information to express a valid judgement.

313. Having said this, the French delegation wishes to recall France's opposition in principle of extradition of persons persecuted for political reasons.

314. Mr. TRUCCO (Chile) (*interpretation from Spanish*): The delegation of Chile understands the humanitarian reasons that compelled a number of delegations of the Arab countries to introduce draft resolution A/36/L.58, relating to the case of Mr. Ziad Abu Eain. However, my delegation abstained in the vote on that draft resolution for reasons of principle. It is the policy of my Government not to express a judgement on judicial matters that are exclusively within the purview of the internal jurisdiction of Member States, especially in cases where the absolute separation of the powers of the State is evident.

315. Ms. ZOGRAFOU (Greece): The Greek delegation is very much concerned about the humanitarian aspect of draft resolution A/36/L.58 and we share to a great extent the perturbation voiced by other delegations as regards the fate of Mr. Ziad Abu Eain. The reason that we have seen fit to abstain on this draft resolution is that it raises complex and delicate legal questions and, especially, that it might be construed as constituting interference in the internal judiciary system of a Member State.

316. However, we hope that the United States will exercise all its influence to make sure that Mr. Ziad Abu Eain is given a fair trial and that his human and legal rights are properly safeguarded.

317. Mr. PIZA ESCALANTE (Costa Rica) (*interpretation from Spanish*): I wish to explain the vote of the Costa Rican delegation against draft resolution A/36/L.58. Our reasons are of an exclusively legal nature: we recognize the humanitarian motivations behind this draft resolution.

318. However, in our judgement the draft resolution is legally inadmissible and void. In the first place, the draft resolution is inconsistent with the criteria adopted by the General Assembly in resolution 32/130 to the effect that only mass and flagrant violations of human rights fall within international jurisdiction. My delegation does not agree with that limitation. On the contrary, we believe that any violation of human rights is the concern of the international community and therefore of international jurisdiction. But that is not the position of the United Nations, which has repeatedly refused to consider specific or individual violations of human rights. This is why in this case we have adopted a clear position against the draft resolution, which is an example of that one-sided human rights policy that we have denounced on so many occasions. When things change in the Organization, when we have the possibility of considering individual violations of human rights, in all cases and in respect of all political régimes, we shall be very pleased and we shall join in such efforts. But as long as violations exist only in certain cases and only for certain countries we cannot do so.

319. Moreover, the draft resolution assumes that the General Assembly can express a judgement, which in our view is in violation of the principle of non-intervention, recognized to be one of the basic pillars of international law. My delegation has been among the first and most vehement in pointing out that the principle of non-intervention should not and cannot provide a pretext for condoning situations that constitute clear violations of international law. But in the present case the draft resolution in no way refers to anything that might fall within the norms and principles of international law. On the contrary, the Assembly has heard explanations from the United States delegation, which have not been denied, from which it emerges that the case of Mr. Ziad Abu Eain is simply a case of a person accused of a common crime—the placing of a bomb in a public place, with tragic loss of civilian lives and injuries: a person whose extradition is required to another State Member of the United Nations in conformity with the treaties and standards in force relating to the extradition in all civilized nations; a person to whom the United States has granted due process and proper defence, something which no country has called or would venture to call into question.

320. With respect to extradition, these rights refer only to the establishment of the simple possibility of responsibility on the part of the accused, since going beyond that point would amount to trying him in the country from

which extradition is requested, whereas the point is for him to be judged in the country requesting extradition, should the case and the accused fall within its jurisdiction. Moreover, the United States Government has formally declared, through its representative in this Assembly, that it has requested and has obtained appropriate guarantees from the State of Israel to the effect that Mr. Ziad Abu Eain will not be tried in any special or military court, but rather in the ordinary courts of justice; that he will not be accused of other crimes, only of the crimes which form the subject of the extradition proceedings, which are clearly common crimes; and that if condemned he will not be subject to capital punishment.

321. All of this meets the standards of due process and the standards established under law by civilized nations, and in the light of those circumstances and any other circumstances that may be adduced here, my delegation can see no reason at all that could justify an act of intervention in the exclusively domestic affairs of a Member State such as that proposed in the draft resolution.

322. Mr. SYED SHAH (Bangladesh): We are not fully conversant with the facts, legal background and so forth of the case relating to Mr. Ziad Abu Eain as set forth in document A/36/L.58. However, in the well-known context of Israeli actions vis-à-vis the Arab countries and the PLO cause, we recognize the humanitarian appeal of the draft resolution. It is in that spirit that my delegation voted for the resolution just adopted.

323. Mr. LILJEBORG (Denmark): The delegations of Denmark, Finland, Iceland, Norway and Sweden sympathize with the submission of humanitarian issues to the General Assembly and other relevant organs of the United Nations. However, our delegations voted against the draft resolution relating to the case of Mr. Ziad Abu Eain because of the judgements and views contained in it which are unacceptable to our Governments.

324. Mr. ADELMAN (United States of America): The Government of the United States wishes to dissociate itself from the consensus on draft resolution XII concerning measures to be taken against Nazi, Fascist and neo-Fascist activities. In several statements made during the Third Committee debates, my delegation made clear why we consider this draft resolution, introduced by totalitarian States, to be cynical and propagandistic.

325. Unlike some of the sponsors of this draft resolution, my Government has always opposed Nazi, Fascist and other totalitarian ideologies and practices, including communism. This text fails to reflect adequately our belief that the evils of totalitarian ideologies are best exposed through promoting freedom of expression and the free exchange of ideas. This belief is enshrined in our constitutional guarantees of freedom of speech and in the Universal Declaration of Human Rights.

326. We would ask those delegations that consider this resolution meritorious to recall the fourth preambular paragraph of resolution 2839 (XXVI), which states that the General Assembly is

“Firmly convinced that the best bulwark against nazism and racial discrimination is the establishment and maintenance of democratic institutions, that the existence of genuine political, social and economic democracy is an effective vaccine and an equally effective antidote against the formation or development of Nazi movements and that a political system which is based

on freedom and effective participation by the people in the conduct of public affairs, and under which economic and social conditions are such as to ensure a decent standard of living for the population, makes it impossible for fascism, nazism or other ideologies based on terror to succeed”.

327. We cannot accept the Orwellian view that government repression of the dissemination of ideas is an appropriate or effective way to oppose totalitarianism. On the contrary, we believe that we can best do so through furthering values of liberty and free speech. Accordingly, my delegation does not wish to be associated in any way with draft resolution XII.

328. Ms. SLATTERY (Ireland): We have listened carefully to the humanitarian arguments adduced in favour of the draft resolution on the question of human rights relating to the case of Mr. Ziad Abu Eain. We have also listened carefully to the discussion of the complicated circumstances of the case and the many legal questions involved. We have come to the conclusion that we cannot support this draft resolution. We are not in a position to make a judgement on all aspects of the draft, but we find a number of elements in particular unacceptable. We note that the draft characterizes the proceedings of the United States Administration and courts as illegal. That does not appear to us to be justified. Nor does the proposal that the General Assembly strongly deplore the actions of the United States in this case seem to us to be warranted.

329. Furthermore, we note that it seems to be one of the accepted facts of this case that the act of violence concerned occurred within the boundaries of the State of Israel and not in the occupied territory, as the fifth paragraph of the preamble and operative paragraph I might imply.

330. The PRESIDENT: I shall now call on those representatives who wish to speak in exercise of their right of reply.

331. Mr. NOWAK (Poland): I wish to refer very briefly to a surprising part of the statement made by the representative of Costa Rica in his explanation of vote before the vote. He referred to the current situation in Poland and he went so far as to repeat some false reports by tendentious and sensational elements of the communications media on alleged condemnations to death for striking in Poland. That is a strange statement to be made by the representative of a country that is linked with Poland by traditional friendship and sympathy. We feel that these allegations are made in an attempt to prevent justified United Nations condemnation of massive and flagrant human rights violations where they in fact have been proved to occur. We regret that the representative of Costa Rica brought up a subject alien to our agenda. The Polish delegation rejects these allegations which, moreover, are not based on real facts.

332. Mr. ROSALES-RIVERA (El Salvador) (*interpretation from Spanish*): I should like to refer very briefly to some comments made by the representative of Mexico this afternoon in connection with the case of El Salvador and, incidentally, the decision adopted by an overwhelming majority of votes in the Organization of American States. In that respect, I should like it to be placed on record that we understand the position of Mexico to be a reaction of isolationism with respect to its policy towards Central America and in particular towards El Salvador. It

is only in such a context that we can understand the explanation given by the representative of Mexico.

333. While I am speaking on the subject of that statement, I should like to call to the attention of the representative of Mexico that I raised my point of order on the basis of the recommendations of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly, which state, in paragraph 76, that "the sponsor of a draft resolution adopted by a Main Committee should refrain from explaining its vote during the consideration of that draft resolution in the plenary unless it deems it essential to do so". [See resolution 2837 (XXVI), annex II.]

334. We felt that the appropriate course would have been for the representative of Mexico to be asked whether he deemed it essential to explain his vote. But it seems that all the recommendations of that Special Committee remain a dead letter. My point of order was based on an aspect relating to the rules of procedure. We cannot accept the way in which it was dealt with, although we did not press the point at the time in order not to prolong our meeting.

335. Mr. SVIRIDOV (Union of Soviet Socialist Republics) (*interpretation from Russian*): In connection with the statement of the representative of Israel, our delegation would like to recall that the resolution to which he referred in his statement is against Nazi, Fascist and neo-Fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror.

336. Numbered among those ideologies, as we are all aware, is also the official ideology of Israel—zionism. It would be no bad thing for the representative of Israel to be reminded of this.

337. As to his slander against the Soviet Union, our delegation vigorously rejects that slander, and we stress that in the Soviet Union there is no place for any ideology or practice based on racial hatred and intolerance.

338. Mrs. CASTRO DE BARISH (Costa Rica) (*interpretation from Spanish*): I should like to respond to what has just been said by the representative of Poland. I am surprised that the representative of Poland should have selectively referred to the statement made by the Permanent Representative of Costa Rica in his explanation of vote with regard to draft resolution VII, relating to human rights in Chile.

339. Perhaps the representative of Poland was confusing our statement with one made by some other representative, because several statements included references to the case of Poland, which is one that we all regret. Let me repeat what my representative said earlier today:

"It is sufficient to cite one surprising example. We have not learned, nor does the Special Rapporteur on the situation of human rights in Chile tell us, that either in that country or in other Latin American countries strikers are condemned to death, as has just been decreed, according to press reports, by the Government of Poland. I will not express any judgements at this point on the Polish situation, which is still very confused, but I think it would be worthwhile for some of those delegations that are most actively interested in Latin American problems to bear in mind the categorical statements of the President of France to the effect that

the situation in Poland falls within the exclusive jurisdiction of that country itself." [See para. 198, above.]

AGENDA ITEM 32

Policies of *apartheid* of the Government of South Africa (*continued*):*

- (a) Report of the Special Committee against *Apartheid*;
- (b) Report of the *Ad Hoc* Committee on the Drafting of an International Convention against *Apartheid* in Sports;
- (c) Reports of the Secretary General

REPORT OF THE SPECIAL POLITICAL COMMITTEE [A/36/719]

340. The PRESIDENT: I would remind representatives that the debate on this item was concluded at the 81st plenary meeting, which was held on 2 December. I shall now call on representatives who wish to introduce the various draft resolutions that have been circulated.

341. Mr. ADEKUOYE (Nigeria): I have the honour, on behalf of the sponsors, to introduce draft resolution A/36/L.24 and Add.1, entitled "Situation in South Africa", as well as draft resolutions A/36/L.36 and Add.1, entitled "Acts of aggression by the *apartheid* régime against Angola and other independent African States", A/36/L.39 and Add.1, entitled "Arms embargo against South Africa" and A/36/L.47 and Add.1, entitled "Programme of work of the Special Committee against *Apartheid*".

342. These draft resolutions are essentially an assessment of the present situation in South Africa resulting from the inhuman policy of *apartheid* pursued by the régime in Pretoria and a reaffirmation of the views of the overwhelming majority of Member States on urgent and imperative action to eliminate *apartheid*, colonialism and the racist South African régime's flagrant disregard of and refusal to conform to the United Nations resolutions on Namibia. The draft resolutions are based on the excellent report submitted by the Special Committee against *Apartheid* and on statements made in the debate, and I need not elaborate at length on the specific provisions they contain.

343. Draft resolution A/36/L.34 and Add.1 deals with the situation in South Africa. Its salient points are as follows. The international community has long recognized that *apartheid* is a crime. The United Nations has repeatedly endorsed the aspirations of the oppressed people of South Africa and their national liberation movement. As stated in operative paragraph 21 of the draft resolution, the United Nations remains committed to the establishment of a democratic society in which all the people of South Africa as a whole, irrespective of race, colour, sex or creed, will enjoy equal and full human rights and fundamental freedoms and participate freely in the determination of their destiny.

344. The racist régime in South Africa, however, in defiance of world public opinion, has not heeded reason. It has increased its repression. Six freedom fighters are now under sentence of death. It has proceeded with its criminal policy of bantustanization in a vain attempt to deprive the African majority of its citizenship. Only a few days ago, it proclaimed the so-called independence of Ciskei,

*Resumed from the 81st meeting.

and it has engaged in numerous acts of aggression, terrorism and destabilization against several other countries.

345. The Charter of the United Nations has provided sufficient authority for the community of States to act decisively in this situation. Can anyone dispute the fact that a few Powers have been preventing the Security Council from taking effective action under Chapter VII of the Charter?

346. While the Security Council is thus paralyzed, certain countries and many transnational corporations from these same countries have been increasing their collaboration with South Africa, profiting from *apartheid* and profiting also from the sacrifices of others and their misery, and have built up the *apartheid* régime as a monster, in contradiction to the ideals on which their nations are founded and, in one particular case, in complete antithesis to the revolutionary spirit of its founding fathers.

347. This draft resolution does nothing more than state the truth by calling on all those concerned to pay heed to the views of the overwhelming majority of States and to discharge their own obligations under the Charter.

348. Draft resolution A/36/L.36 and Add.1 condemns the various acts of aggression committed by the racist régime of Pretoria against the People's Republic of Angola in particular and other independent African States in general, urges the Security Council to carry out its duty concerning the maintenance of international peace and security by imposing comprehensive mandatory sanctions under Chapter VII of the Charter, calls on the Pretoria régime to withdraw all its troops from the Republic of Angola and to pay full compensation to Angola for the damage to life and property caused by its acts of aggression; and further calls on all States and intergovernmental and non-governmental organizations to provide moral as well as material support to Angola and other independent African States subjected to these continuous acts of aggression by the racist Pretoria régime because they are helping to implement the relevant resolutions of the United Nations.

349. Draft resolution A/36/L.39 and Add.1 is concerned with the question of the arms embargo against South Africa. The major point is contained in operative paragraph 1, in which the Assembly would urge the Security Council to consider effective measures to reinforce and strengthen the arms embargo. In the draft resolution the Assembly would also call upon all States to take effective measures to ensure that governmental and non-governmental organizations within their jurisdiction cease any form of military collaboration with the South African régime.

350. Draft resolution A/36/L.47 and Add.1 deals with the programme of work of the Special Committee against *Apartheid*. In it the Assembly would reaffirm the Special Committee's mandate for the promotion of the international campaign against *apartheid* and endorses its reports to the Assembly; it would request the Special Committee to give high priority in 1982 to a number of activities described in operative paragraphs 2 and 3. These activities, as we see it, constitute effective measures by the international community to combat *apartheid*. The Assembly would further request Governments and organizations to make voluntary contributions to or provide assistance for the special projects of the Special Committee in order to promote wide observance of the International Year of Mobilization for Sanctions against South Africa.

It would also request all Governments, specialized agencies and other institutions in the United Nations system and other organizations to co-operate with the Special Committee in the discharge of its responsibilities.

351. It is the hope of the sponsors that the General Assembly will adopt these draft resolutions unanimously.

352. Mr. SINGH (India): It is an honour and a privilege for me to introduce, on behalf of my delegation and those of the other sponsors, draft resolution A/36/L.35 and Add.1, entitled "International Year of Mobilization for Sanctions against South Africa".

353. It is perhaps appropriate that this honour should fall on me, representing as I do a country which over three decades ago imposed comprehensive sanctions against South Africa before any other country had even considered racism an issue that should be protested against. Since then, India has been constant in its devotion to the cause of racial equality, consistent in its unflinching support for the struggle of the people of South Africa against the pernicious system of *apartheid* and scrupulous in its observance of embargoes aimed at isolating South Africa with a view to compelling it to abide by the decisions of the United Nations.

354. In her message to the International Conference on Sanctions against South Africa, which was held in May 1981, in Paris, the Prime Minister of India, Mrs. Indira Gandhi said, *inter alia*, that the only peaceful method of upholding at the present time the provisions of the Charter vis-à-vis South Africa was by the application of mandatory sanctions against that country. The alternative is prolonged armed struggle and even greater suffering for the people of South Africa.

355. Speaking at the Paris Conference, the Foreign Minister of India, Mr. P. V. Narasimha Rao, said:

"We are aware that the imposition of sanctions against South Africa is likely to create serious difficulties for the geographically disadvantaged nations in Africa whose economies are inextricably entangled with the South African economy. But their temporary difficulties, for the alleviation of which methods have to be found by the international community, cannot be used as a pretext to encourage a racist régime to persist in its defiance of the United Nations. It is a matter of great satisfaction that the independent African countries in southern Africa have expressed their willingness to make sacrifices however great."

The time has therefore come for greater concerted efforts on our part to mobilize the world community in applying effective comprehensive sanctions against South Africa. With this end in view, the draft resolution seeks to have the year 1982 proclaimed and observed as the International Year of Mobilization for Sanctions against South Africa.

356. The text of the draft resolution needs no elucidation. In the preambular part the Assembly recognizes that the Paris Declaration on Sanctions against South Africa, adopted by the International Conference on Sanctions against South Africa in May 1981, provides the framework for effective international action for the elimination of *apartheid* and to avert the growing threat to international peace and security, and also recognizes the need to promote maximum support for the implementation of the Paris Declaration.

357. In operative paragraph 1 the Assembly would endorse the Paris Declaration and commend it to the attention of all Governments and organizations. In operative paragraph 2 it would proclaim 1982 as the International Year of Mobilization for Sanctions against South Africa and in operative paragraph 3 it would endorse the programme for the Year recommended by the Special Committee against *Apartheid* in its special report.

358. In subsequent paragraphs the Assembly, while requesting the Special Committee to take all appropriate action to promote the widest and most effective observance of the Year, would invite all Governments, intergovernmental and non-governmental organizations and institutions to participate effectively in the observance of the Year in co-operation with the United Nations. It also requests the Secretary-General to encourage the widest possible observance of the Year and to provide all necessary assistance to the Special Committee in the discharge of its responsibilities.

359. On behalf of the sponsors, which include my own delegation, I sincerely hope that the draft resolution will receive the unanimous support of the delegations present in this Hall representing countries which cherish freedom, equality and human dignity.

360. Mr. DUMEVI (Ghana): It gives me great pleasure to introduce on behalf of its sponsors draft resolution A/36/L.37 and Add.1, entitled "Comprehensive and mandatory sanctions against South Africa". It is substantially based on resolution 35/206 C, adopted by an overwhelming majority last year.

361. The issue of comprehensive sanctions against the Pretoria régime is a matter on which the positions of a large number of delegations here assembled are unequivocal and clear. Ever since the international community's conscience was severely jolted by the Sharpeville massacre of innocent men, women and children, the United Nations, and indeed the international community, has made several fruitless attempts to persuade the Pretoria régime to abandon its inhuman system of *apartheid*. Today, 20 years after international reaction against the Sharpeville incident, the system of *apartheid* not only continues to exist but has gathered strength.

362. The scenario in that country continues to be one of ever increasing dependence on violence and repression, in flagrant contravention of the Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples. Save for a few cosmetic amendments to the laws that ensure the continuation of *apartheid* that obnoxious system remains structurally unaltered. It denies the majority of South Africans their basic political, economic and social rights, rights that countries represented here now take for granted. Repressive and retributive punishments are pursued with alacrity and increased vigour. There is no visible hope for the enjoyment of basic freedom, equality and fundamental human rights for the black majority. In short, the situation continues to be bleak and depressing, with serious implications for peace and security in Africa and the world in general.

363. The Pretoria régime also continues its illegal occupation of Namibia despite numerous decisions of the General Assembly and the advisory opinion of the International Court of Justice. The pre-implementation meeting convened at Geneva in January of this year as yet another opportunity for the Pretoria régime to have a change of

heart collapsed because of South Africa's intransigence and insulting behaviour.

364. Spurred on by the fact that it possesses nuclear capability and a superior military force, Pretoria has on numerous occasions launched military attacks against neighbouring independent African States, particularly Angola, resulting in the subjection of innocent women and children to abuse and indignity, the wanton destruction of property and, worst of all, indescribable human carnage caused by aerial attacks and bombardments by South African troops. Indeed, Pretoria has literally turned sovereign neighbouring independent African countries into backyards where its troops go whenever they feel like exercising their military muscles.

365. It was within that context that African delegations and those of non-aligned countries last April asked the Security Council to impose mandatory sanctions against South Africa as a minimum punitive measure. Regrettably, that move was frustrated by the exercise of the veto by three permanent members of the Security Council.

366. But the international community cannot view with indifference South Africa's repudiation of the decisions of the Organization. It cannot permit South Africa to exploit Namibia and frustrate the aspirations of the Namibian people to self-determination and national independence; nor can it permit the racist Pretoria régime to pursue its attacks against neighbouring independent African States merely because those countries support the legitimate aspirations of the Namibian people.

367. Despite the failure of the Security Council to discharge its solemn obligations, the sponsors of draft resolution A/36/L.37 and Add.1 are of the view that the case for imposing sanctions against South Africa still remains valid. The draft resolution therefore represents yet another attempt, first, to focus international attention on the serious situation in South Africa; secondly, to demonstrate the universal abhorrence of *apartheid*; and, thirdly, to deny the benefits of international co-operation to the South African régime so as to oblige it and its supporters to heed world opinion.

368. An important element accounting for the strength of *apartheid* is collaboration. Collaboration with the Pretoria régime strengthens its military capability, encourages it to persist in its repressive, aggressive policies and offsets the effect of what limited international action is possible. The draft resolution therefore appropriately focuses attention on the regrettable collaboration with the racist régime of certain Members of the Organization and the transnational corporations in the critical areas of military, nuclear, petroleum and financial assistance. It also recalls the fact that an international consensus supporting mandatory sanctions against South Africa has been clearly expressed in the Paris Declaration of Sanctions against South Africa and the conclusions of the Conference of Foreign Ministers of Non-Aligned Countries held at New Delhi in February and the eighteenth Conference of ordinary session of the Assembly of Heads of State and Government of the Organization of African Unity [OAU], held at Nairobi in June.

369. To give effect to this global consensus, in the operative paragraphs of the draft resolution, the General Assembly would call for international collective effort to be exercised through the Security Council, by Member States individually, the major lending organizations, the Secretary-General and the Special Committee against

Apartheid; and would duly recognize the crucial contributions politicians, non-governmental organizations, anti-*apartheid* movements, trade unionists and church leaders can make to the general campaign against *apartheid*.

370. The adoption and the universal implementation of this draft resolution would ensure, in the view of the sponsors, South Africa's compliance with the decisions of the United Nations. The genocide and inhumanity that *apartheid* represents have lasted for far too long and continue to threaten international peace and security, particularly on the continent of Africa. If the United Nations is to sustain its credibility, then it is imperative that an international effort be made to combat *apartheid* effectively. On behalf of the sponsors of this draft resolution, I commend it to the full support of all Members of the Organization.

371. Mr. ROA KOURÍ (Cuba) (*interpretation from Spanish*): I have the honour, on behalf of the sponsors, to introduce for the consideration of the Assembly draft resolution A/36/L.38 and Add.1, on military and nuclear collaboration with South Africa.

372. As is well known, the United Nations has taken an unambiguous position against the existence and continuation of military co-operation, particularly in the nuclear field, with the *apartheid* régime of South Africa. In this connection, both the General Assembly and the Security Council have expressed the will of the international community—*inter alia* in General Assembly resolution 35/206 B of 16 December 1980 and Security Council resolutions 418 (1977), 421 (1977), and 473 (1980). Notwithstanding the clear declarations of this world body, of the non-aligned movement and of the OAU, a number of member countries of the North Atlantic Treaty Organization, chiefly the United States, and the Zionist régime of Israel persist in maintaining close links of collaboration with the Pretoria racists in the military sphere. Particularly disturbing in this connection is the information that has reached us concerning talks recently held between the Governments of the United States and South Africa relating to the establishment of closer collaboration in the nuclear field.

373. The racist régime of South Africa has amply demonstrated its aggressive and expansionist character. Not only does it subject the majority of the South African population to the most relentless oppression and exploitation, depriving it of its most elementary civil and political rights and condemning it in fact to the role of outcast in its own land, but it has extended the hateful system of *apartheid* to Namibia, which it illegally occupies, and is conducting an undeclared war against independent States of southern Africa, particularly Mozambique, Angola and Zambia.

374. The Fascist Pretoria régime is, beyond any doubt, the principal enemy of the peoples of Africa. In typically bold fashion, it has even proclaimed its so-called right to intervene in any country of Africa and to create a constellation of client States in the southern part of that continent. Its actions within and outside South Africa which have prompted universal condemnation, are sufficient cause for denying that country collaboration of any kind, all the more so if such collaboration enables it to strengthen its already considerable military potential and provides it with access to nuclear military technology. It is outrageous, therefore, that well-known Western Powers should maintain links with South Africa and expressly violate the arms embargo decreed by the United Nations

by continuing to supply assistance in the military field, including the nuclear field.

375. It is necessary to put an end to this reprehensible collaboration, which directly results in acts of aggression by South Africa against the independent countries of Africa and the consolidation of the *apartheid* system. On previous occasions, the Assembly has been warned that the further development of these relations is turning the racists of Pretoria into a serious threat to peace and security in the region and in the world.

376. Consequently in this draft resolution the Assembly would urge the Security Council to take the necessary steps to ensure the full implementation of the arms embargo imposed by Council resolution 418 (1977) and, to that end, would once again request the Council to take mandatory measures to strengthen that embargo and to secure the immediate cessation of all military and nuclear collaboration with the South African régime.

377. On behalf of the sponsors, my delegation expresses the hope that the General Assembly, by an unequivocal majority, will once again take a stand on this grave question, and calls upon those Member States which have not yet done so to lend their support to this just demand of the African countries.

378. Mr. OURABAH (Algeria) (*interpretation from French*): On behalf of the sponsors, it is my honour and privilege to introduce draft resolution A/36/L.40 and Add.1, on an oil embargo against South Africa. This draft resolution essentially reproduces the provisions of Assembly resolution 35/206 D on the same subject. It recalls the action taken in various forums to strengthen the oil embargo against South Africa. Thus, in the preambular part the Assembly takes note of the results of the International Conference on Sanctions against South Africa, and those of the Conference of West European Parliamentarians, held at Brussels on 30 and 31 January 1981. It commends all Governments which have imposed an oil embargo against South Africa and takes note of the resolution adopted on 6 May 1981 by the Organization of Arab Petroleum Exporting Countries to tighten crude oil sales contracts to prevent oil from reaching South Africa.

379. In the operative part, the Assembly would once again request the Security Council to consider urgently a mandatory embargo on the supply of petroleum and petroleum products to South Africa under Chapter VII of the Charter. Furthermore, it would urge all States which have not yet done so to take effective legislative and other measures to ensure the effective implementation of that embargo and request all States concerned to take effective action against corporations and tanker companies involved in the illicit supply of oil to South Africa. It would also authorize the Special Committee against *Apartheid* to continue its information activities to promote an effective oil embargo against South Africa and authorize the Special Committee, in consultation with the Secretary-General and oil-exporting countries, to organize if necessary a conference of oil-exporting countries which have imposed an oil embargo against South Africa to consider national and international arrangements to ensure the effective implementation of their oil embargo.

380. In appealing for massive support for this draft resolution, the sponsors remain convinced that the strict implementation of its provisions will do a great deal to strengthen our common action to eradicate the odious system of *apartheid*.

381. Mr. CAMARA (Guinea) (*interpretation from French*): On behalf of the sponsors, my delegation has the privilege of introducing draft resolution A/36/L.41 and Add.1, entitled "International Conference of Trade Unions on Sanctions against South Africa".

382. The preambular part of the draft resolution refers in effect to action taken by the United Nations and various international conferences in which all manner of sanctions have been called for against the odious racist régime of South Africa. It is to be regretted that not only have sanctions not been applied but the international political and economic relations of many Member States with the *apartheid* régime have actually become strengthened, however contradictory this may seem.

383. The South African Government has constantly been encouraged in its oppressive and dehumanizing policy by the absence of any concrete action with regard to sanctions. Hence, the international community, and particularly the countries which support the Pretoria régime economically and militarily, bear a heavy historical responsibility in the light of the repeated, increasingly brutal acts of aggression by the South African troops against Angola and other neighbouring countries.

384. The absence of sanctions also explains the arrogance with which the Fascists of Pretoria openly defy the international community as a whole by maintaining and even consolidating South Africa's colonial domination over Namibia. Each fighter of the South West Africa People's Organization who falls, each South African nationalist who disappears, a victim of the racist gunfire and police action, weighs overwhelmingly on the conscience of mankind.

385. The draft resolution proposes in particular that international recognition be given to the role of trade union organizations, which it is now realized is extremely important and effective, in mobilizing public opinion in favour of the application of sanctions against South Africa. To this end, the Assembly would authorize the Special Committee against *Apartheid* to take all necessary steps, in co-operation with a number of institutions and international organizations, to organize in 1982 an international conference of trade unions on sanctions against South Africa.

386. Is there any need to recall that in South Africa the system of *apartheid* which is in itself and by definition a mass institutionalized violation of human rights, excludes any free exercise by workers of their trade union rights? This denial of rights, which is a serious violation of the Universal Declaration of Human Rights, forms part of a whole series of measures to restrict, limit, persecute and do police violence to the victims of *apartheid*; which makes of South Africa a vast camp of displaced persons, who are subjected to strict conditions of forced labour, as in a concentration camp.

387. We very sincerely hope that the General Assembly will adopt this draft resolution. In endorsing the convening in 1982 of an international conference of trade unions on sanctions against South Africa, the General Assembly would be very definitely contributing to a further measure of success for the International Year of Mobilization for Sanctions against the Fascist régime of Pretoria. At the same time it will have expressed its profound devotion to the humanitarian ideals and ideals of liberty described in the Charter.

388. Mr. MAYCOCK (Barbados): I have the honour to introduce to the General Assembly draft resolution A/36/L.42 and Add.1 on "Academic, cultural and sports boycotts of South Africa", on behalf of the sponsors. The draft resolution contains seven preambular and six operative paragraphs which emphasize the need for action to isolate the *apartheid* régime in the academic, cultural and sports fields.

389. In the first three preambular paragraphs the Assembly recalls the resolutions adopted at the thirty-fifth session, the reports of the Special Committee against *Apartheid* and the *Ad Hoc* Committee on the Drafting of an International Convention against *Apartheid* in Sports and also recognizes the importance of the international campaign against *apartheid*. Since the previous session of the General Assembly, alarming developments have taken place in an effort to break the international isolation of the *apartheid* régime in sports. In the fourth and fifth preambular paragraphs the Assembly seeks to commend all Governments, organizations and individuals that have taken action to encourage support or arrange academic, cultural, sports and other boycotts of South Africa. Particular commendation is directed to those organizations and individuals in Ireland, New Zealand and the United States of America that demonstrated their opposition to exchanges with South African rugby teams. In the sixth preambular paragraph it deplores the actions of sports bodies and sportsmen who have continued to collaborate with South Africa, as well as the failure of several Governments to take firm action to terminate sporting contacts with South Africa.

390. In operative paragraph 1 the Assembly would commend the efforts of the Special Committee against *Apartheid* to promote an effective, academic, cultural and sports boycott of South Africa. In operative paragraph 2 it would note with appreciation the action of the Special Committee in publishing lists of sportsmen and others visiting South Africa. I should point out that the publication of this type of list has already proved to be quite effective and there is every indication that it will make a meaningful contribution to the overall fight against *apartheid*. In operative paragraph 3 the Assembly would condemn those sports organizations, sportsmen and promoters of sports events who have collaborated with their counterparts from South Africa; by operative paragraph 4 the General Assembly would endorse the proposal to organize national and international conferences and exhibits to provide the opportunity for effective action against *apartheid* by academic, cultural and sports personalities. The endorsement of such a proposal will contribute greatly to the campaign to isolate the racist régime of South Africa and to the struggle of the oppressed people of South Africa for freedom and human rights. By operative paragraphs 5 and 6 the General Assembly would authorize the *Ad Hoc* Committee on the Drafting of an International Convention against *Apartheid* in Sports to continue its work and continue consultations with representatives of Governments and organizations in order to achieve its objective. I can give the assurance that if its mandate is extended for another year the *Ad Hoc* Committee will spare no effort to reach a conclusion and submit a draft convention to the Assembly.

391. It cannot be emphasized enough that there can be no normal sporting or cultural environment in a country where racism and racial discrimination are an integral part of the law of the land. Civilized people everywhere should act in concert to isolate that régime in the sporting, cultural and academic fields—as indeed in other

fields. I hope that all delegations will find it possible to vote in favour of this draft resolution in a clear demonstration of solidarity with the oppressed people of South Africa and with their valiant efforts to break the manacles of *apartheid*.

392. Mr. SALONEN (Finland): I have the honour, on behalf of the sponsors, to introduce draft resolution A/36/L.43 and Add.1 on political prisoners in South Africa.

393. On numerous occasions the General Assembly, the Security Council and other organs of the United Nations have unanimously adopted resolutions calling on the South African Government to end repression against opponents of *apartheid* and to release all persons imprisoned or restricted for their opposition to *apartheid*. The international community, which has unanimously condemned *apartheid*, must continue to show its concern for those who are incarcerated for their opposition. It is clear that the escalation of repression and resistance will only lead to a more violent conflict.

394. A number of prominent South African personalities, among them Bishop Desmond Tutu, have initiated a petition since the Zimbabwe election last year for the release of Nelson Mandela and all other political prisoners. Their appeal has received extensive support from the international community, from Governments, organizations and public leaders. Recently numerous black trade-union leaders, students and others have been arrested. Six members of the African National Congress of South Africa have been sentenced to death. The draft resolutions before us therefore have particular urgency this year.

395. We hope that wide support for this draft resolution will help persuade the South African Government to change its policies and will convey a message of solidarity to the victims and opponents of the policy of *apartheid*. It is the wish of the Finnish delegation that the draft resolution will receive a favourable vote from most of the delegations in this body.

The meeting rose at 9 p.m.

NOTES

¹ See *Official Records of the Security Council, Thirty-sixth Year, Supplement for July, August and September 1981*, document S/14659.

² See *Proceedings of the Eleventh Regular Session of the General Assembly of the Organization of American States*, vol. 1, resolution AG/RES.551 (XI-0/81).

³ Geneva Convention relative to the Protection of Civilian Persons in Time of War (United Nations, *Treaty Series*, vol. 75, No. 973, p. 287).

⁴ See *Official Records of the Economic and Social Council, 1981, Supplement No. 5*, chap. XXVIII, sect. A.

⁵ The delegations of Democratic Yemen, Iraq and Qatar subsequently informed the Secretariat that they had intended to abstain in the vote on the draft resolution.

⁶ The delegation of Botswana subsequently informed the Secretariat that it had intended to vote in favour of the draft resolution and the delegation of the Niger that it had intended to abstain in the vote on the draft resolution.

⁷ The delegation of Botswana subsequently informed the Secretariat that it had intended to abstain in the vote on the draft resolution.

⁸ See *Official Records of the Security Council, Thirty-sixth Year, Supplement for October, November and December 1981*, document S/14778 and Add.1.

⁹ *Ibid.*, *Thirty-sixth Year*, 2277th meeting.