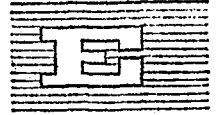


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COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 17 February 1983, at 10 a.m.

Chairman: Mr. OTUNNU (Uganda)
later: Mr. GONZALEZ de LEON (Mexico)

CONTENTS

Question of the human rights of all persons subjected to any form of
detention or imprisonment, in particular:

(b) Question of enforced or involuntary disappearances (continued)

Report of the Sub-Commission on Prevention of Discrimination and
Protection of Minorities on its thirty-fifth session

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The meeting was called to order at 10.10 a.m.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(b) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agenda item 10) (continued)
(E/CN.4/1983/14; E/CN.4/1285, 1409, 1427, 1493; E/CN.4/NGO/213; E/CN.4/Sub.2/1982/15;
E/CN.4/WG.1/WP.1)

1. Mr. SLESZYNSKI (Christian Democratic World Union) said that his organization profoundly regretted the continued practice of torture and other forms of cruel, inhuman and degrading treatment in many parts of the world, despite the efforts of the United Nations and many Governments and non-governmental organizations. More attention should be paid to the causes of such phenomena, among which were hatred based on political, ideological or religious beliefs, exaggerated nationalism and coercion through terror. His organization stood for the principles of the freedom, justice and integrity of man within society and welcomed all measures taken by the Commission to provide legal norms and common codes of behaviour aimed at improving the existing situation.
2. It was especially important to take preventive measures against summary and arbitrary executions, which were often politically motivated and resembled the massacres of the times of Hitler and Stalin; his organization accordingly welcomed Sub-Commission resolution 1982/10 and the decision to nominate a special rapporteur on that subject. It urged the Commission to give the greatest possible attention to the drafting of a convention on torture and other inhuman treatment, including measures for its implementation, as recommended in General Assembly resolution 37/193. It appreciated the report on the implications for human rights of states of siege or emergency (E/CN.4/Sub.2/1982/15) and urged the Commission to endorse it. Referring to General Assembly resolution 37/194, which set forth principles of medical ethics to protect prisoners against all forms of abuse, his organization requested the Commission to report on the torture and inhuman treatment of prisoners in countries where such cases were alleged to have occurred by appointing special investigating groups or a rapporteur who could verify those violations.
3. The President of the Christian Democratic Movement of Cuba, which was an affiliate of his organization, had referred during the Commission's thirty-eighth session to 185 complaints deposited with the Centre for Human Rights regarding violations of the human rights of prisoners. Others had been added to those cases, boosting the total to nearly 1,000. Some of the cases reportedly involved women, children and elderly people. In contemporary Cuban society, due to totalitarian and dictatorial tendencies, the systematic use of repression and grave human rights violations continued unabated and had intensified in the past three years. Article 48 (b) of the Cuban Constitution, which decreed that education was the function of the State and that consequently all educational institutions were State-run, was the source of about 20 per cent of the complaints, which were from students and teachers held prisoner. Many had been sentenced on the basis of the accusation that some members of their families had expressed their desire to leave

the country after the exodus of 1980. The systematic policy of repression applied to prisoners by the Cuban authorities reached its peak in the treatment of political prisoners. Some of them, who had already completed over 20 years of prison, had had their sentences extended for new misdemeanours supposedly committed while in gaol. For example, a Christian Democratic leader named Magno Moreno Melo had already served a 20-year prison sentence and was still in gaol in a very precarious state of health. The inhuman and degrading practices used by the Cuban prison authorities primarily against the political prisoners continued. They were deprived of medical aid, stripped naked for interrogation, subjected to forced hunger-strikes and long periods in solitary confinement without light and ventilation, deprived of visits by their families, beaten, and arbitrarily transferred from the category of political prisoners to that of common criminals. With regard to the treatment of ex-prisoners in Cuba, a report on 77 further cases of violations of their human rights would be submitted to the United Nations. Those violations took the forms of harassment and petty punishment of former political prisoners and also affected their families.

4. Turning to item 10 (b), he said that the human suffering caused to both victims and their families, in disregard of national and international norms designed to protect detainees, made the phenomenon of disappearances one of the most inhuman practices of recent times. The numerous unresolved cases of disappearances throughout the world placed an obligation on the international community to continue its present work and to seek new and improved methods of eliminating that inhuman phenomenon. His organization welcomed Sub-Commission resolutions 1982/5 and 1982/12 and wished to express its appreciation of the work done by the Working Group on Enforced or Involuntary Disappearances. It recommended that the Commission should extend the Working Group's mandate and broaden its terms of reference to include the formulation of a precise definition of "enforced disappearances" and that that definition and any other material the Commission deemed necessary should be sent to the International Law Commission with a request that it be taken into consideration in the formulation of the Draft Code of Offences against the Peace and Security of Mankind with a view to declaring enforced disappearances a crime against humanity subject to world-wide jurisdiction. Special attention should be given to cases of missing children, and safeguards against such practices should be included in the draft convention on the rights of the child. His organization would support the elaboration of an international law of habeas corpus and of a convention on enforced disappearances.

5. Ms. ESQUIVEL (International Federation of Rural Adult Catholic Movements) said that in many third world countries, the rapid accumulation of capital was responsible for systematic violence and repression which took various forms, from the most subtle to massacres and genocide practised against rural populations. Repression was an instrument for dominating weak and vulnerable rural communities.

6. Using a system of torture and cruel, degrading and inhuman treatment, the current military regime in Guatemala was seeking to check the efforts of rural populations to achieve genuine participation in the country's economic and political life. Two types of human rights violations were particularly extreme: the assassination of individuals and massacres of the entire, or virtually the entire, population of rural communities, of which there had been over 200 cases since the coup d'état of 23 March 1982. Both types of violations had been committed by the army and the security forces using incredibly cruel methods. The following examples were taken from testimony provided to the Centre for Human Rights.

7. One witness had said that the worst thing he had seen was soldiers grabbing pregnant women, raping them and slicing open their stomachs. In one house they had raped two girls and hacked at their faces with knives until their mother could no longer recognize which was the elder and which the younger. Corpses had also been found bound with barbed wire, decapitated, mutilated and with knives or wooden stakes implanted in various parts of the body.
8. Another witness had related that the army had taken an Indian boy from a village, tied his hands and put a noose around his throat, and starved him for 15 days. He had then been given a crown of thorns and taken to a football stadium, where one of his eyes had been poked out and the noose around his neck had been tied to a helicopter, which had flown away with the boy hanging from it.
9. There were detailed reports of such acts of cruelty as the massacre carried out by the army on 17 July 1982 in Huhuetenango province, in which over 300 people had been cruelly murdered.
10. One of the purposes of that brutality was to terrorize the rural population into submission. After one operation in which several people had been burned alive by the army, the officer in charge had stated that it had been a lesson designed to obtain the blind obedience of the rural population. Another purpose was to force the population to flee from place to place until, hungry and exhausted, it could be forced by the army to live in so-called "model villages" - concentration camps where it was forced to work under the threat of death or starvation.
11. Those acts were committed by peasants wrenched from their communities and families to do military service. In the barracks they were subjected to brutal and degrading treatment which wore away at their cultural values such as respect for elderly people, children and women. As a result of constant propaganda and psychological pressure as well as the use of drugs, they gradually lost their identity and even their human dignity. Many former soldiers had testified that they had had to become accustomed to mistreating their fellow men to the point of taking pride in their brutality.
12. Civilian patrols had been formed from populations which had survived massacres and were forced to collaborate with the army in rural areas. Many of them were subsequently killed by the same soldiers who had forced them to commit outrages in neighbouring villages. The purpose was to sow confusion and division among rural communities.
13. The military regime was now trying to seem respectful of human rights. The "model villages" project had been designed to give the anti-insurgency plan, which the previous military leaders had launched and the current regime was perfecting, the appearance of serving democracy, peace and even development.
14. Her organization urgently requested that the Special Rapporteur approved at the thirty-eighth session should be appointed at the current session, for in the past year over 10,000 rural inhabitants had been killed by the Government with impunity. The people of Guatemala hoped that the Commission and the countries which had signed the various conventions guaranteeing the defence of fundamental human rights would take prompt and effective action to prevent the regime from continuing to cover up the genocide, torture and cruel and repressive measures which it was applying throughout rural areas, especially in the north-west. The rural population confined in the "model villages" was suffering the worst treatment it had received since the Spanish conquest.

15. Ms. MENCHU (International Indian Treaty Council) said that her organization had often expressed its concern over the fate of missing persons and those who were victims of inhuman treatment. Those practises were crimes against humanity and should be condemned and prohibited by a convention.
16. The future of the 22 distinct Indian nations in Guatemala was being threatened by the cruel treatment, torture, abductions and other practises to which they were being subjected. The military Government had installed itself and was maintaining itself in power through the use of terror and force. The situation was the result of a deliberate plan to suppress the legitimate right of Indians to determine their own future, because they opposed the military Government and demonstrated a will to fight to retain their identity and sense of community and to develop and conserve their customs, traditions and values.
17. Disappearances, murder, terror, starvation and persecution had forced entire communities to live for months in rough terrain and to leave Guatemalan territory. There were over 100,000 refugees, primarily in southern Mexico, and around 1 million displaced persons within Guatemala.
18. Hundreds of orphans and widows had related how their relatives had been abducted and had never reappeared. Hundreds of corpses had been found in ravines or secret burial places. They were those of people who had been burned and whose throats had been cut, children who had been eviscerated and women who had been raped and whose breasts had been cut off. Corpses had been hung from trees in order to sow terror in rural communities. Many other examples of such brutality could be given.
19. Persons who had survived those practices had been forced to live in so-called "model villages", which were actually concentration camps where it was not possible to move about freely or sow crops without the permission and surveillance of the military authorities, or had been obliged to participate in civilian patrols which, under army direction, committed massacres, kidnappings and torture.
20. Her organization urged the Commission vigorously to condemn those practices of the military regime of Guatemala and to appoint without delay a Special Rapporteur to investigate the situation in that country.
21. Mr. HOENES (Pax Christi International) said that the use of the disappearance of persons as a systematic means of repression had begun in Guatemala in 1966 and had later been adopted successfully by other countries, particularly Argentina, Chile and El Salvador.
22. The right to life, security and freedom from bodily harm was guaranteed in numerous international treaties signed and ratified by the Guatemalan Government as well as in Guatemalan legislation, which also guaranteed the inviolability of the home and stipulated that no one could be detained except by virtue of a written order. Nevertheless, the history of Guatemala showed that those guarantees meant little in practice. The illegal detention or abduction of citizens from well-travelled streets of the city at any hour of the day, in full view of passers-by, had become common. The victim was intercepted by an armed group or by the security forces and forced into a vehicle which drove off to an unknown destination. In other cases, armed groups burst into homes, places of work and meeting places without a judicial warrant and seized the victim. Witnesses were

always threatened and could do nothing to defend the victim for fear of meeting the same fate. In many cases the victim was abducted along with some of his relatives. At times, Government forces had surrounded a building in order to abduct people inside, even diverting traffic for that purpose, and in one incident a convent had been partially burned in order to abduct a nun.

23. Such acts were a daily occurrence: the victims disappeared for ever in unmarked vehicles in full view of citizens and even of law enforcement officials, who did nothing to stop the abductions.

24. There was no distinction of sex or age in the enforced and involuntary disappearance of Guatemalan citizens. People from every walk of life had disappeared: farmers, workers, students, journalists, teachers, politicians, priests, artists, merchants and professionals. It was not necessary to be an opponent of the Government to be abducted: mere suspicion of opposing the Government, or involvement with groups which were not pro-Government, could be sufficient cause. Nor were the relatives and friends of a victim immune from suffering the same tragic fate.

25. Once the victim had been borne off, the suffering of relatives and friends began: inquiries in one police station after another, the search for influential friends who could help to secure the person's release, the plea for information and mercy from the captors through the press, the shuttling from one morgue to another in attempts to identify the person among the corpses, etc. The search was exhausting and usually fruitless: in some cases the corpse of the individual appeared, almost always showing signs of torture, but in the vast majority of cases, it never did.

26. That had all been part of the daily life of Guatemalan citizens for many years, but disappearances had increased markedly since the coup d'état of 23 March 1982. From that date to 31 August 1982, the disappearances of at least 283 people throughout the country had been documented, not counting the hundreds of disappearances in rural areas which had never been reported.

27. The current military Government had attempted to justify that situation through Decree-Law No. 45-82, which had imposed a nation-wide state of siege and given the military authorities the power to order, without a judicial mandate, the detention of any person who was suspected of conspiring against the Government or who belonged to groups linked to Marxist-Leninist international entities and to search homes without a judicial order.

28. Mrs. QUINTEROS (Pax Romana) observed that, far from declining, the problem of enforced or involuntary disappearances was assuming incredible dimensions in terms both of the number of victims and the number of countries in which such disappearances took place. Her organization wished to make it clear that its interest in missing persons was motivated purely by humanitarian considerations, not by politics. All such persons, without exception on grounds of politics, race, religion, etc., were endowed with inviolable human dignity. For Pax Romana, they were made in the image of God and there could be no possible justification for dealing with them outside legal channels and in violation of the universally accepted rules of law.

29. Her organization appreciated the efforts made by the Working Group on the subject, but believed that the Group was not receiving the necessary co-operation from Governments, who were ultimately responsible for disappearances, whether perpetrated by their security forces or by other individuals: the point was demonstrated by the discrepancy between the number of cases transmitted to Governments by the Working Group and the number of replies received.

30. Some of the statements made by Governments did not seem to reflect a genuine desire to solve the problem of disappearances. Thus, one Government representative had stated that the phenomenon had ended with the restoration of internal order in his country: it was a thing of the past, as demonstrated by the fact that there had been no new reports of disappearances since 1980. How could one speak of a restoration of internal order when thousands of people saw their households destroyed by the absence of their loved ones? How could one speak of order, if one meant order based on justice and fundamental human rights, in a country where hundreds of corpses lay buried in clandestine burial places, without any means of identification? One had to ask: who had signed the death certificate, how had those people died, who had ordered their burial and who had killed them? Was it possible that a Government could be ignorant of such facts?

31. In paragraph 93 of the Working Group's report (E/CN.4/1983/14), another Government sought to evade its responsibilities by arguing that there were more disappeared people in other countries than in its own and that the problem must be given its "real dimension". For her organization, the real dimension was actual cases of disappearance. A single disappearance was enough to warrant investigation by the Working Group and in fact there had been several disappearances in the country concerned. One hundred and twenty of its citizens had also disappeared in Argentina. Unfortunately, as the Group had itself concluded, it had always been convenient for a powerful Government to silence its opponents by removing them. Some Governments had been able to silence their political opponents, but relatives could not be silenced whatever reprisals or intimidation were used against them. In that connection, Mrs. Cecilia Rodríguez, the sister of a Chilean disappeared person, had been prevented from flying from Chile to Europe to attend the debate in the Commission on the question of disappearances and was now being held in the women's prison in Santiago on charges of infringing the Internal Security of the State Act. In December 1982, 78 year-old Mrs. María Elena Antuña de Gatti had been interrogated for 10 hours at a police station in Montevideo because, for the past seven years, she had been trying to find out the whereabouts of her disappeared son Gerardo Gatti and, for the past five years, those of her grand-daughter Adriana Gatti who had been 17 years' old and eight months' pregnant when she disappeared. Pax Romana had just been informed that the Buenos Aires daily paper La Voz had confirmed on 9 February that the body of a woman found in the La Chacarita cemetery (Buenos Aires) in December 1982 was in fact that of Adriana Gatti.

32. Her organization believed that the only way to solve the problem of missing persons was to maintain a dialogue between all the parties concerned, rather than practise intimidation and reprisals against those who had no choice but to continue to look for their relatives. The United Nations must use all its influence to put an end to enforced or involuntary disappearances. Her organization therefore appealed to the Commission to renew the mandate of the Working Group and to give it broader powers so that it could demand unequivocal replies from Governments. It urged the Group to persist in its search for the truth about the disappeared.

33. Mr. ARTUCIO (International Commission of Jurists) observed that the Working Group had reached important conclusions. Its efforts, combined with the courageous work of organizations of relatives of missing persons and the Inter-American Commission on Human Rights, had also contributed to a decline in the practice of enforced or involuntary disappearances. The Working Group must continue its work, for it was the most effective instrument currently available at the international level.

34. Matters had gone so far however, that the results achieved did not suffice. Much remained to be done to discover what had happened to each and every missing person and, where possible to rescue those who were still alive in clandestine prisons. International action must create the necessary conditions for justice to function within States, put an end to human rights violations and determine responsibilities, in order to discourage anyone from resorting to such practices in the future.

35. Over the past year, the world had learned with horror of such news as the discovery near Buenos Aires of nine clandestine burial places containing hundreds of unidentified corpses, and that of three such burial places near Tegucigalpa (Honduras). It had been asked in some quarters whether there was any point in trying to clarify what had happened in the past and whether there were still any disappeared people alive. In fact, in the course of 1982, eight people had turned up, in very poor physical condition, near their homes in Argentina. All eight had been registered as disappeared, some of them since 1976, and the authorities had consistently denied that they had been arrested. The persons concerned had stated that, at the time of their release, there had been several dozen other people in the same situation and that they had been detained in absolute secrecy by units of the national army.

36. His delegation endorsed firmly the conclusions contained in paragraph 144 of the Working Group's report. Disappearances would end only when there were truly democratic Governments that were answerable before the law. The argument about changes of Government was however, less clear, for the responsibility of previous Governments remained. It was noticeable that disappearances had always taken place during states of emergency and, since a Government which today respected the law might tomorrow give way to an oppressive Government, the Working Group's conclusions should be supplemented in future by recommendations to States that, even during crises or emergency situations, safeguards should be provided to protect human rights and prevent disappearances. Such safeguards would include the requirement that any arrest should be publicly confirmed and that detainees should be brought without delay before a magistrate so that the latter might determine whether the arrest was lawful and how the detainee was being treated. In other words, the judiciary must be independent of the Government and be the custodian of human rights even during states of emergency. Such guarantees were referred to in document E/CN.4/Sub.2/1982/15 and also in a study on states of emergency prepared by his organization.

37. His delegation hoped that the Working Group's mandate would be renewed, that the Group would maintain the system of emergency actions such as the use of telegrams, since the latter had prevented some detainees from disappearing, that it would keep relatives and associations of relatives of missing persons informed of its activities and that, to the extent possible, it would include in its next report an account of what had happened in the case of each missing person.

38. Mr. GRYK (Amnesty International) recalled the excitement and public pressure that had surrounded the establishment of the Working Group three years previously. There was now a danger that consideration of the phenomenon of disappearances would become a routine exercise, and the Working Group's latest report could well encourage such an approach. The need for the international community to deal with the phenomenon of disappearances was, however, as urgent as ever. Only very few of the cases recorded in previous years had been solved, and large numbers of people continued to disappear. During 1982, Amnesty International had on more than 50 occasions transmitted to the Working Group information on disappearances in 17 countries. The Working Group's report was the key international document on disappearances and should not be merely noted but also studied carefully by the Commission with a view to giving the Working Group guidance in its task.

39. The Working Group had so far transmitted some 4,000 cases of disappearances to different Governments. In fewer than 200 cases had the Governments concerned clarified the fate of the missing person concerned. That was a disappointing result even if one took into account the fact that many of the cases were several years old and therefore difficult to investigate.

40. The blame for that situation lay not with the Working Group but with the Governments that had persistently failed to co-operate with it. Almost all the Governments mentioned in the Working Group's report had stated their willingness to co-operate yet, when it came to investigating and providing information on individual cases, many Governments either simply did not reply or raised technical objections. One such objection warranted careful consideration: the Working Group had so far transmitted 1,377 cases to the Government of Argentina but had received no replies from that Government. That Government took the position that information on the fate of disappeared persons could be supplied only to the relatives of the persons concerned. It had also stated that relatives had already received information on the 704 cases transmitted to the Working Group in 1981. In fact, no such information had been transmitted to relatives. In February 1982, the Argentine Minister of the Interior had said that information would be provided by the Government to relatives on request, while in June of the same year he had suggested that relatives should pursue their inquiries through the courts rather than through the Government. There were no signs that the executive branch had begun to co-operate with the judiciary on those matters, however. The Commission should, moreover, reject the Argentine Government's assertion that only relatives need be informed. The Working Group had been established precisely because the relatives of missing persons were unable to obtain information directly from their Governments.

41. The report contained useful information on a number of other countries. The establishment of a National Commission for the Investigation of Disappeared Persons in Bolivia was a promising development, at least on paper. With regard to Mexico, paragraph 79 stated that relatives had not received from the Government the hoped for information on the fate of missing persons, yet paragraph 80 indicated that the Group would take no further action on those cases. Even though the Mexican Government had voluntarily submitted new cases of disappearances to the Group, that did not discharge it from its responsibility to investigate the cases transmitted to it. For the Working Group to drop those cases would set a bad precedent. With regard to Ethiopia, the Government had responded to only two of the 16 cases transmitted to it, yet there too the Working Group was recommending that no further consideration be given to those cases. It was not clear on what grounds the Working Group had arrived at that decision.

42. He hoped that the Commission would give due consideration to the points that he had raised and also some thought to what the Working Group should do in cases in which Government responsibility for a disappearance had been clearly established but the Government concerned continued to refuse to co-operate. No such situation should be accepted. His delegation urged that in such instances the Working Group should make its files public and transmit them to the Commission for appropriate follow-up.

43. The Working Group continued to be one of the main sources of help for the relatives of missing persons. It was under heavy pressure from Governments to limit the scope of its work, and the Commission should therefore strongly support it in its efforts.

44. Ms. VICTORY (International League for the Rights and Liberation of Peoples) said that she wished to refer specifically to the situation in Guatemala. The International League was deeply concerned at the steadily mounting violations of the human rights and fundamental freedoms of the Guatemalan people, especially under the present military Government.

45. On 23 March 1982, a military junta headed by General Efraín Ríos Montt had seized power in a coup. Shortly afterwards, a military statute had entered into force which repealed the Constitution and stated that the new Government would be based on respect for human rights and fundamental freedoms. The junta had recognized that the previous military Government had systematically violated human rights and had offered to bring the culprits to justice. It had also promised to create just laws and honest tribunals which respected human rights.

46. In June 1982, the junta had been dissolved and General Ríos Montt had appointed himself President, assuming all executive, legislative and even judicial functions. On 1 July, a state of siege had entered into force which eliminated the minimum individual and social guarantees provided for by the military statute. Special courts had been set up, the composition and functioning of which lacked the minimum legal guarantees.

47. International public opinion had been horrified to learn of the mass murders of defenceless civilian populations perpetrated by Guatemala's army. The razing of towns, which were first bombed by the airforce and then burnt down with people still in them, and the torture of children, women and old people, made up a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.

48. Her organization had learnt from the testimony of Guatemalans the nature of the machine of terror and death created by the Guatemalan army to destroy entire peasant populations, particularly Indians, massacring old people because they were the bearers of the Maya-Quiché culture and children because they were "future subversives". The collective massacres had resulted in more than 1 million displaced persons and approximately 150,000 refugees.

49. Violations of article 9 of the Universal Declaration of Human Rights had increased as people were detained arbitrarily, and article 10 had been openly violated as detainees were judged by the special courts. Those courts had the power to impose the death penalty on persons accused of political crimes, with the result that four people had been shot in September 1982 and another four sentenced to death only two weeks previously. Such action also violated article 4, subparagraph 4, of the American Convention on Human Rights, which Guatemala had signed and ratified.

50. The abductions committed by the army and agents of the Guatemalan Government were particularly cruel and inhuman and were carried out on a massive scale in rural areas and selectively in urban areas. People disappeared from their homes, places of work, or meeting places and even on the street. Such disappearances not only constituted arbitrary deprivation of freedom but also seriously threatened the personal integrity, security and life of the victim.

51. The torture practised by the military forces of General Ríos Montt violated article 5 of the Universal Declaration of Human Rights, article 4 of the Universal Declaration of the Rights of Peoples and article 3 of the Geneva Conventions, 1949.

52. The Guatemalan Government had launched military operations against the population and forced Indian peasants and poor mestizos, on pain of death, to join civilian patrols. In so doing it was pursuing two objectives: at the national level, to foment hatred among brothers and, at the international level, to confuse world public opinion, making it believe that the Government had popular support.

53. The Guatemalan Government was violating the sovereign right of the Guatemalan people to self-determination. It had shown that it was simply carrying on the policies and practices of previous regimes, maintaining intact the repressive military apparatus which systematically violated the human rights and fundamental freedoms of the Guatemalan people. The military leaders responsible for the serious human rights violations of the previous military Government were being protected by General Ríos Montt.

54. The root cause of the violations of the human rights of the Guatemalan people was to be found in the economic and social inequality suffered by the vast majority of the population who, finding all peaceful legal channels for the solution of their problems closed, had organized themselves in different ways to promote the cause of peace and respect for human rights.

55. The failure of the Ríos Montt Government to co-operate fully in the appointment of a Special Rapporteur showed that it feared an in-depth investigation of the violations of the human rights of the Guatemalan people. It was vitally urgent that an investigation should be made into the situation in Guatemala, as called for at the Commission's thirty-eighth session for the present situation of terror and death, which was causing a bloodbath unprecedented in the history of Guatemala, affected the entire international community.

56. Mr. Gonzalez de León (Mexico) took the Chair.

57. Mr. HALEVI (Observer, Palestine Liberation Organization) said that the imprisonment and disappearance of Palestinian, Lebanese and other detainees in the Israeli-occupied territories in Lebanon, Syria and Palestine was a matter of grave concern. The problem had acquired dramatic new dimensions with the recent Israeli invasion of Lebanon. The Israeli military occupiers were flagrantly violating the principles of humanitarian law applicable in wartime.

58. Since the first days of the June 1982 aggression, the Israeli invading forces in Lebanon had carried out mass arrests of Lebanese, Palestinian and other civilians, including medical staff and doctors. There was a large amount of testimony to confirm such arrests, although the exact number of those detained was still unknown. Detainees were being held by Israel in conditions which defied established international rules. The ICRC had been allowed to visit some detainees only 41 days after the

beginning of hostilities, at which time many of the 9,000 officially recognized prisoners were being detained in various camps and centres in Israel itself, in flagrant violation of the rules prohibiting such transfers.

59. A memorandum issued by the Israeli League for Human and Civil Rights on 9 December 1982 had emphasized that the Israeli authorities were denying any requests to reveal the exact number of people taken prisoner and also the places of their detention. The accumulation of testimony emanating from both the relatives of missing persons and from prisoners released from the El-Ansar camp in Lebanon, the only acknowledged place of detention, led to the unavoidable conclusion that thousands of people were either being detained in unknown places or had been murdered following their arrest. Israel's refusal to provide international humanitarian agencies with an exhaustive list of detainees and places of detention aroused the gravest fears as to the fate of those prisoners. The recent reports of mass executions, abductions and murders of Palestinian refugees in camps in southern Lebanon only reinforced those fears.

60. The Israeli League's report and indeed all reports on the question mentioned the systematic use of torture in the course of interrogation, while the Israeli press itself had reported widely on the intolerable conditions in El-Ansar, which former Knesset member Uri Amery had described as a concentration camp. Emphasizing that most of the detainees in El-Ansar were not combatants but civilians, Uri Amery had written that those who had actually been active in operations against Israel were being held somewhere in Israel itself and that Palestinians doubted whether they were still alive. The men in El-Ansar were there simply because they were Palestinian adult males.

61. In the report contained in document E/CN.4/1983/5, prepared by the International Center of Information on Lebanese and Palestinian Prisoners, Deportees and Disappeared Persons, it was stated that, in addition to insufficient medical care or the refusal to give medical care to sick prisoners, prisoners were the victims of systematic humiliation and brutality. Israeli soldiers' reactions to detainees' protests against their conditions of detention were extremely violent and a number of incidents had occurred which had resulted in several deaths at El-Ansar. Such incidents had been described by an Israeli journalist who had spent his military reserve period as a guard at the camp. A member of the Israeli parliament had also revealed in a letter sent to all Knesset members in November 1982 that 14 Palestinian prisoners had died under torture in Meggido prison camp.

62. Persons detained by the Israeli authorities must, if combatants, be given the status and protection of prisoners of war and, if civilians, be released at once. All civilians were entitled to protection under the Third and Fourth Geneva Conventions, the applicability of which could not be seriously challenged. It was significant in that connection that the United States State Department had declared itself "extremely preoccupied by the recent murders of Palestinian civilians in South Lebanon". Israeli claims that the Conventions were being applied was pure propaganda and the Commission must urgently examine ways and means of inducing Israel to comply with international law.

63. Quite apart from the situation caused by the Israeli invasion of Lebanon, several thousand Palestinians had been and continued to be subjected to various forms of arbitrary imprisonment in the occupied territories. The Report of the Special Committee to Investigate Israeli Practices gave precise information on the conditions of detention in various special prisons, and only a few days previously Palestinian prisoners at Nafha had been waging a collective hunger strike to protest against those conditions.
64. A number of elements must be taken into account in order to grasp the situation of prisoners in the occupied territories. Israeli security laws empowered the military Government to sentence civilians to heavy prison terms for purely political activities, on the pretext that such activities endangered the security of the State of Israel. They also allowed the military Government, without any judicial debate, to place individuals in administrative detention or under house arrest. In October 1982, Amnesty International had issued a report on restriction orders in Israel and the occupied territories which provided ample evidence of the widespread nature of that practice in both the territories occupied in 1967 and those annexed in 1949. Curtailment of the freedom of the individuals concerned was often a punishment for their non-violent political activities.
65. The Israeli contention that the Third and Fourth Geneva Conventions were being applied in the occupied territories was contradicted by all the evidence. In the past two years, along with the development of anti-Palestinian terrorism, paramilitary settlers' organizations had been functioning as parallel forces to terrorize the Palestinian inhabitants of the occupied territories. There had been numerous cases of Palestinian civilians being abducted by such groups and later being found dead in mysterious circumstances, sometimes blown up by explosive devices which the authorities claimed were of their own making.
66. The arbitrary arrests, inhumane conditions of detention, torture, brutality and disappearances to which Palestinians and other inhabitants of Israeli-occupied Arab territories were subjected must prompt the Commission to investigate the whole problem thoroughly. The 1949 Geneva Conventions must be applied to the territories occupied by Israel in Lebanon, the Golan Heights and Palestine itself. There, as everywhere when fundamental human rights were violated, the freedom of all peoples of the world was at stake.
67. Ms. de MARIANI (International Movement for Fraternal Union among Races and Peoples) said that her organization, which strove for peace and harmony among all peoples and races, appreciated the work done by the Working Group on Enforced or Involuntary Disappearances.
68. Attacks on human dignity were continuing to occur in all parts of the world. Laws, treaties and conventions were still being flouted, and principles and values brutally violated. Human beings continued to be killed and made to suffer, physically and mentally. Thousands of persons had disappeared, including children and infants deprived of their identity and, as a result, of all their rights.
69. Her organization wished to focus on cases of violations of the rights of the child, especially cases of disappeared children - something which occurred chiefly in Latin America and was a cause of particular concern. One example was the case of Clara Anahí, who had disappeared in 1976, aged three months, when the family home had been destroyed and her mother, and later her father, had been killed. The relatives had begun to search and had been doing so ever since, without success.

Even the parents' bodies had never been located. The search had involved unsuccessful inquiries at orphanages, child institutions, police stations and international human rights organizations. For the past six years, the child had been growing up in some alien environment, no doubt believing herself unwanted by her own family.

70. That was but one case among hundreds. Children were sometimes abducted together with their parents; some disappeared unborn when expectant mothers were abducted. It was the plight of those persons, denied all their human rights, which her movement wished to bring to the Commission's attention.

71. The world's conscience cried out for the return of abducted children to their legitimate families. To remain silent on the matter would indicate that something was at fault with men's hearts and minds or with the measures to uphold essential human values. Arguments against efforts to trace such children ranged from the contention that there were none to the claim that, in the case of Clara Anahí, the child had been killed when its home had been destroyed. With regard to that case, however, her organization knew that the child was alive and that children had indeed disappeared; hundreds of complaints had been documented, and some children had actually been located by grandparents, five of them during the past few months.

72. The Working Group's mandate should be renewed, since its work would, it was to be hoped, make it possible to find all missing children and return them to their homes.

73. Mrs. ZUMSTEIN (International Federation of Human Rights) said her organization felt that the way in which its communications concerning the fate of missing persons were currently dealt with by the United Nations was unsatisfactory. Neither the procedures under Council resolution 1503 (XLVIII) nor the ad hoc procedure established by the Working Group on Enforced or Involuntary Disappearances had enabled the most serious violations of human rights to be made public or the perpetrators denounced - probably due to lack of political consensus.

74. Public denunciation was the sole effective form of action for the protection of human rights, especially where the crime against humanity constituted by the practice of "disappearances" was concerned. The quasi-legal measures applied pursuant to the European Convention on Human Rights, the Inter-American Convention on Human Rights, or the International Covenant on Civil and Political Rights were inappropriate because of the scope of the crime, which violated all human rights without exception. Moreover, discreet diplomacy of the sort practised by ICRC and the Working Group on Enforced or Involuntary Disappearances was inadequate if Governments refused to co-operate or pleaded lack of information. Public denunciation, therefore, had to be used in the last resort, and had in fact been successfully employed at times by the Commission.

75. The Commission should consider adopting a new procedure - for example, the establishment of a non-confidential list of persons who had been shown to have ordered, directed, carried out, participated in or covered up "disappearances", regardless of whether such persons were government officials or members of armed opposition movements. The new procedure should reflect that of the Ad Hoc Working Group of Experts on southern Africa, which prepared dossiers on persons suspected of the crime of apartheid in Namibia or of any other serious violation of human rights. The contents of such files should be brought to the Commission's attention.

76. Ms. PENETTE de GUTIERREZ (Women's International League for Peace and Freedom) said that, in her country, Argentina, she was also a member of the movement of relatives of missing persons or persons detained for political reasons. In Argentina, detention and the enforced disappearance of persons were used systematically as a means of eliminating political opponents. Thousands of men, women and children had been spirited away from their homes, workplaces or classrooms and taken to unknown destinations, never to be heard from again. Inquiries through official channels concerning the whereabouts of the missing or the charges against them had produced no reply from the judiciary, the government authorities or the armed forces. It was for that reason that the relatives of victims had banded together, realizing that only in unity would they have the necessary strength to secure the return of their loved ones. After six years, the Argentine people supported their cause and demands.

77. The former police chief of the province of Buenos Aires had recently stated that there were three kinds of missing persons: those in exile abroad, those free and at large in Argentina and those who were in detention. Thus it was clear that there were missing persons who were in detention, as her organization had been asserting for some time. The Women's International League for Peace and Freedom had submitted to the Centre for Human Rights the testimony of an individual who had been missing for several years and had been released only recently. For obvious reasons of security, she could not provide any information that would reveal the identity of the individual, who had been held in a place with others who were similarly missing. Her organization wished to know how many such detainees there were, where they were being held and when they would be set free. Only the de facto military Government of Argentina could answer those questions.

78. Her organization appealed to the Working Group on Enforced or Involuntary Disappearances, the Commission on Human Rights, Member States and the Secretary-General to take urgent action to secure the immediate release of the missing detainees. That was the basic prerequisite for the achievement of peace in her country, which was the League's fundamental objective and the desire of all the world's peoples.

79. The Working Group had expressed its satisfaction at the special procedures established in some countries to investigate cases of disappearances. Such an office had existed for six years in Argentina under the Ministry of the Interior and it served merely to convoke the relatives of victims periodically to inform them that there was no word of the missing or to send them form letters, which suggested that requests for information made to the competent authorities would yield no results. The representative of the Netherlands had emphasized that the failure to reply to the relatives of the missing in Argentina had been one of the main factors prompting the establishment of the Working Group and had highlighted the Government's statement to the Working Group that it was prepared to continue its investigations and to provide to the relatives, and the relatives alone, the findings. In the case of her son, she had reported his detention and subsequent disappearance on 24 July 1978 to the Ministry of the Interior and had provided information from reliable sources establishing the responsibility of members of the security services for his detention. In reply she had received only form letters on which the date, her name and that of her son had been typed. That was the kind of replies the relatives of the missing had been and were still being given in Argentina.

80. Mr. MAHALLATI (Observer for Iran), speaking in exercise of the right of reply, said that the question of some 9,500 missing Iranians had gained paramount importance with regard to the Working Group's future tasks; the number was unprecedented in the Working Group's history. Unfortunately, certain references to the matter had been made from a politically motivated rather than purely humanitarian standpoint by one or two observers, including the representative of a non-governmental organization, in an attempt to divert the Commission's attention. Such speakers should show more respect for the Commission's humanitarian interests, particularly with regard to the fate of the unfortunate families of the missing persons.
81. Mr. SAKER (Observer for the Syrian Arab Republic) said that ever-growing numbers of disappearances were being recorded, and that the cause, in many cases, was the policy of terrorizing the opponents of certain political regimes. The methods by which disappearances were effected varied considerably; but so too did the nature and motivation of related allegations. It was to be earnestly hoped, therefore, that the Working Group had established scientific criteria for the purpose of its investigations, in order to ensure objectivity and freedom from political motivation, thus enabling the Commission to adopt appropriate measures on a basis which would enhance its credibility.
82. Mr. HEREDIA PEREZ (Cuba) said that his country, whose record of consistent opposition to all human rights violations was well known, had been the subject of an unprecedented attack, earlier in the meeting, by an observer for a non-governmental organization, involving allegations based on a text, in English, whose preparation had clearly been instigated by a certain State which it was not necessary to identify.
83. With regard to prison conditions in Cuba, an international symposium on the penitentiary system had recently been held in that country; the Commission had welcomed the holding of the symposium, and the hope had been expressed by some countries that their representatives might be able to visit prison establishments in Cuba. No one in Cuba was in prison on the grounds of belief or opinion. Prisoners were paid at the proper rates for any work done. They received the same medical attention as did ordinary citizens, and enjoyed many facilities, including sports; they also received visits from their spouses. Many of those in prison had been guilty of subversive activities under the auspices of the United States Government. Nevertheless, almost all had been freed except those classified as war criminals and terrorists having established links with regimes outside Cuba.
84. Notwithstanding the disparaging reference to education in Cuba, education at all levels was now free to all Cuban citizens. Only two years after the completion of the Cuban Revolution, UNESCO had recognized that illiteracy in that country had been abolished.
85. The facts themselves, therefore, rebutted the ill-intentioned but hardly surprising attempt, prompted by the United States, to discredit Cuba.
86. Mr. FAJARDO-MAILDONADO (Observer for Guatemala) said that the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1983/14) was a valuable and objective contribution to the work of the Commission and the cause of human rights in general.

87. The Guatemalan Government, since attaining office, had established a policy, based on domestic and international measures, aimed at ensuring the observance of human rights in the country. Domestic measures included the setting up of suitable institutional arrangements to look into questions of disappearances and to gain information, as far as possible, relating to all cases, particularly those originating during the previous regime. At the international level, the Government had established, as a cornerstone of its foreign policy, a programme of broadly-based co-operation with human rights bodies. It had invited delegations and international organizations to visit Guatemala in order to study the situation at first hand and to establish the truth with regard to alleged human rights violations. The Inter-American Commission on Human Rights had already visited Guatemala; its report would shortly be available. Moreover, an invitation to the Special Rapporteur on questions relating to summary or arbitrary executions to visit Guatemala had been accepted in principle. In addition, the Ministry of the Interior had established a dialogue with the American Red Cross concerning measures for the relief of indigenous peoples affected in the fighting between Government forces and terrorists. A constructive dialogue had also been established with the Centre for Human Rights and the relevant working groups; in that way, it had been possible to generate a climate of confidence and a consequent flow of information. It was to be hoped, therefore, that the Commission would judge the situation in Guatemala on its true merits, bearing in mind the need for a positive approach in solving the difficulties. The nomination of a Special Rapporteur, referred to in document E/CN.4/1983/43, had been clearly accepted by Guatemala; the Guatemalan Government's observations concerning the person to be appointed were reflected in the final paragraph of that document.

88. The Guatemalan delegation therefore categorically rejected the irresponsible accusations made by the representatives of certain non-governmental organizations, whose consultative status had been abused. It also questioned their mandate to speak on behalf of the indigenous population of Guatemala. The virulent statements made were clearly intended to distract the Commission and unduly influence the latter's relevant resolutions and decisions. Destruction was much simpler than reconstruction. The latter represented a challenge which the Guatemalan Government had accepted; it was to be hoped that its efforts would be acknowledged in a positive spirit.

89. Mr. Otunnu (Uganda) resumed the Chair.

90. Ms. SINEGIORGIS (Observer for Ethiopia) commended the Working Group on Enforced or Involuntary Disappearances for its objective analysis of the phenomenon and strictly humanitarian approach. Enforced or involuntary disappearances - one of the most horrendous crimes against one's fellow man - were alien to her country. A people could be said to enjoy human rights only when they were free from fear, hunger and malnutrition. Her Government was, therefore, waging a war on illiteracy and on malnutrition, in short on underdevelopment, and those phenomena were indeed disappearing in her country. Contrary to the baseless allegations made earlier by a non-governmental organization, her country was fully co-operating with the Working Group, as could be seen from paragraphs 109-111 of its report, and the Working Group had concluded that no further consideration should be given to the cases involving her country. The regrettable statement made by the non-governmental organization in question was, therefore, tantamount to casting aspersions on the judgement of the members of the Working Group. That non-governmental organization should endeavour in future to ascertain the authenticity of reports before making allegations against Member States. Her Government, for its part, had made a thorough investigation into the cases referred to, which Amnesty International had decided conveniently to ignore.

91. Mr. SCHIFTER (United States of America) said that, if his delegation were to respond to every generalized political attack against the United States, it would take up much of the Commission's time. Most of the members of the Commission were familiar with the true facts and dismissed the anti-United States attacks as pure propaganda.

92. It had been suggested at the current meeting that the United States delegation wrote statements for and made payments to non-governmental organizations. The delegation which had made that allegation might have some familiarity with the practice described but the United States delegation did not.

93. Mr. HEREDIA PEREZ (Cuba) said that history furnished ample evidence of the dishonesty of certain Member States. At the time of the Bay of Pigs invasion, for example, a United States representative who had enjoyed great prestige had stated in the United Nations that his Government had had nothing to do with the attack. Subsequently, the President of the United States himself had admitted his Government's involvement. That was eloquent proof of the trustworthiness of certain delegations.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-FIFTH SESSION (agenda item 20) (E/CN.4/1983/4; E/CN.4/Sub.2/1982/20 and Add.1; E/CN.4/Sub.2/1982/29)

94. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights) said that the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities was one of the important documents considered annually by the Commission. The Sub-Commission, composed of independent experts, had played a valuable role in assisting the Commission in various areas, and had participated in the drafting of international standards and various instruments designed to counter discriminatory practices. The Sub-Commission had also prepared a number of pioneering studies and assisted the Commission in the implementation of procedures dealing with allegations of violations of human rights.

95. At its thirty-seventh session, the Commission, following an extensive review of the activities of the Sub-Commission, had adopted resolution 17 (XXXVII), recalling the basic tasks assigned to the latter by the Commission at its fifth session, which included the undertaking of studies, particularly in the light of the Universal Declaration of Human Rights, the submission of recommendations concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities, and the performance of any other functions which might be entrusted to it by the Economic and Social Council or the Commission. The Commission had also referred in that resolution to its resolution 8 (XXIII), by which it had requested the Sub-Commission, inter alia, to bring to its attention any situation which the Sub-Commission had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms in any country, including policies of racial discrimination, segregation and apartheid, with particular reference to colonial countries and other dependent territories. The Commission had further referred to resolution 1235 (XLII) of the Economic and Social Council authorizing the Commission and the Sub-Commission to examine

information relevant to gross violations of human rights and fundamental freedoms, as exemplified by the policy of apartheid as practised in the Republic of South Africa and the Territory of South West Africa. Finally, the Commission had drawn attention to resolution 1503 (XLVIII) of the Economic and Social Council, which, inter alia, had requested the Sub-Commission to consider communications with a view to determining whether to refer to the Commission particular situations which appeared to reveal a consistent pattern of gross and reliably attested violations of human rights.

96. As to the structure of the Sub-Commission's report, it would be recalled that the Commission, in resolution 17 (XXXVII), had requested the Sub-Commission to present and indicate clearly in an introductory chapter to its annual report all matters requiring the Commission's approval. Accordingly, the report of the Sub-Commission on its thirty-fifth session (E/CN.4/1983/4) contained draft resolutions recommended for adoption by the Commission in part A of Chapter I and resolutions requiring consideration by the Commission in part B.

97. In paragraph 4 of resolution 17 (XXXVII), the Commission had requested the Secretary-General to take appropriate action to draw to the attention of the members of the Commission, prior to the commencement of each session, those matters arising out of the Sub-Commission's report and not requiring prior approval of the Commission on which the Secretariat had already taken action, and those matters outstanding for consideration by the Sub-Commission at its regular session, together with the material which would be relevant to the Commission's consideration of them. In respect of matters listed in chapter I of the Sub-Commission's report, the approval of the Commission and, as appropriate, the endorsement of the Economic and Social Council was being awaited before any implementation action was taken. In relation to other matters arising out of the Sub-Commission's report, the Secretariat had taken action only on essential procedural matters.

98. It would also be recalled that the preceding year the Commission had requested the Sub-Commission to attach to its report a complete list of the studies under preparation, with relevant information on the legislative authority for them and the time-table for their completion. Annex III to the Sub-Commission's report accordingly contained such a list.

99. As could be seen from a perusal of the Sub-Commission's report, the matters on the Sub-Commission's agenda, as well as the subjects of its decisions, covered a field almost as extensive as that dealt with by the Commission. As indicated in chapter III of the report, the Sub-Commission had for the first time discussed various ideas concerning its own status and activities and its relationship with the Commission and other United Nations bodies, and intended to continue its consideration of the topic at its next session.

100. One specific procedural feature which had been emerging at recent sessions of the Sub-Commission was its extensive, and fairly fruitful, utilization of pre-sessional and sessional working groups. Three pre-sessional working groups had met in 1982, dealing with slavery, communications and indigenous populations respectively, the latter for the first time ever. The report of the Working Group on indigenous populations had formed a significant part of the basis for the Sub-Commission's debate on the subject and the resolution it had subsequently adopted (1982/31).

101. Sessional working groups had met during the Sub-Commission's previous session to consider the ratification of international human rights instruments, the rights of prisoners and detainees, the rights of persons detained on grounds of mental ill-health and the question of a High Commissioner for Human Rights. The Sub-Commission's experience in the use of working groups appeared to match that of the Commission, which had also used pre-sessional and sessional working groups to much advantage.

102. It would be noted, finally, that the participation of governmental and non-governmental observers at the Sub-Commission's sessions continued to be maintained at a high level.

103. Mr. FURLAND (United Kingdom) welcomed the fact that the item on the report of the Sub-Commission was being considered during the first half of the Commission's session: too often in the past the Commission had not given sufficient consideration to that item. The Commission must take the trouble to follow the Sub-Commission's work closely, pay proper attention to the latter's views and recommendations, and make the best possible use of its studies and expertise. It must also be ready, when necessary, to lay a guiding or restraining hand on it.

104. Sometimes the Commission seemed divided into supporters and critics of the Sub-Commission. Such an apparent division was confusing and unnecessary, and his delegation, at least, wanted to be both.

105. The Sub-Commission had a unique and vital role to play in the protection and promotion of human rights. His delegation had a high regard for its members, independent experts and persons of distinction as they were. It would be surprised, and perhaps even a little disappointed, if a body composed of persons of such stature did not from time to time seek to loosen the reins of discipline imposed on them by Governments through the parent bodies, the Commission and the Economic and Social Council. If and when that happened, the Commission should rein the Sub-Commission in, and his delegation trusted that the latter would be responsive to the Commission's guidance and would not allow such guidance to curb the valuable energy and enthusiasm which it brought to its work.

106. Recently the Sub-Commission had been conducting an examination of its name, role and relationship with the Commission. Self-examination could be a salutary exercise for any institution but could be counter-productive if taken to excess. In addition, it was important clearly to distinguish form from substance. His delegation did not care much what the Sub-Commission was called; it was more concerned by what it did. It was to be hoped that the Sub-Commission would not spend any more of its scarce time on the rather academic question of nomenclature. The same went for the question of the Sub-Commission's relationship with the Commission. While sympathetic to the principle which lay behind the proposal to accord the Sub-Commission a status equivalent to that of the Commission and to authorize it to report directly to the Economic and Social Council, his delegation felt that such an arrangement would not work in an organization composed of States understandably jealous of their autonomy and consequently insistent on the primacy of intergovernmental organs. The Sub-Commission and the Commission must build a mutually sympathetic and supportive relationship, with the Sub-Commission as the prized, spirited, independent and perhaps occasionally recalcitrant first child of the Commission. The Commission would be a poor parent if it expected that first child to be consistently obsequious and never to try to stretch its licence. And the Sub-Commission would, in turn, be ill-advised if it sought to renounce its benevolent and sympathetic natural parent, the Commission, and to put itself up for adoption by that relatively obscure and money-minded body, the Economic and Social Council.

107. Far more important than the Sub-Commission's title or its formal position in the hierarchy of the United Nations was its independent, expert character. That was what set the Sub-Commission apart, gave it its unique authority and enabled it to make a unique contribution. The independent expert from the United Kingdom on the Sub-Commission frequently expressed views opposed to those of the United Kingdom Government, thus displaying the sort of freedom which should characterize the Sub-Commission. The independent, expert character of the Sub-Commission should not be taken for granted. Unless it was protected, the Sub-Commission would just turn into a smaller, junior version of the Commission.

108. One practice relevant to that question was the use of alternates. In an ideal world, there would be no need to provide for alternates at all, and his delegation urged all members elected to the Sub-Commission to attend its sessions throughout whenever possible. It accepted, however, that there might on occasion be a need for an alternate to take the place of the elected expert when the latter was unable to attend. If the Sub-Commission was not to lose its independent expertise, it was essential that such alternates should be possessed of the same qualities as the member, as the Commission had recognized in its consensus resolution 1982/23. To that end, alternates should be nominated at the same time as members, and his delegation would welcome the views of other delegations on that subject.

109. His delegation had been impressed with the range of issues which the Sub-Commission had tackled and the energy which it had brought to its work. At its most recent session, the Sub-Commission had for the first time convened a pre-sessional working group on indigenous populations. His delegation welcomed the good start that had been made and the encouraging spirit of co-operation established between the groups represented, the members of the Sub-Commission and Government observers.

110. His delegation also welcomed the study on the implications for human rights of recent developments concerning states of siege or emergency (E/CN.4/Sub.2/1982/15). The study represented just the sort of work the Sub-Commission could do best, and it was to be hoped that it would be followed up in the Commission.

111. Draft resolution VI submitted by the Sub-Commission proposed that members of the Sub-Commission should be authorized to visit any country in respect of which there were reliably attested allegations of a gross and consistent pattern of violations of human rights. That proposal seemed to go beyond the Sub-Commission's mandate and to blur the distinction between the latter and the Commission. Perhaps the Sub-Commission could be asked to look again at its proposal and reformulate it in a way more consistent with its mandate. Draft resolutions IV and V similarly strayed beyond the Sub-Commission's mandate and particular expertise.

112. The Sub-Commission, like the Commission, had an overcrowded time-table and needed to restrict and better order its agenda, as well as limit its requests for information. In that process, it should in so far as possible, avoid duplication with other bodies.

113. The usefulness of and justification for the Sub-Commission lay in its differences from other United Nations bodies. For its own sake, it should cultivate those differences, concentrate on doing what it did best and avoid straying into those areas where it could offer only a reflection of what went on in other bodies. The Commission, for its part, should seek to promote and protect the quality which made the Sub-Commission special - its independent, expert nature.

The meeting rose at 1 p.m.