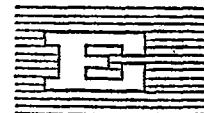


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COMMISSION ON HUMAN RIGHTS

Fortieth session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 February 1984, at 3 p.m.

Chairman: Mr. KOOLJMANS (Netherlands)

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The meeting was called to order at 3.15 p.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.4/1984/17, 19, 21 and 21/Add.1; E/CN.4/Sub.2/1983/15 and Add.1; E/CN.4/1983/63)

1. Mr. BURGERS (Netherlands), referring to the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1984/21 and Add.1), said that enforced disappearances constituted one of the most pernicious forms of oppression and a denial of many specific human rights, as noted in chapter VI of the report. In that connection, his Government welcomed the steps taken by the newly-elected President of Argentina to deal with the problem of the thousands of missing persons in that country: Argentina had promised to co-operate fully with the Group, and its establishment of a national commission on the disappearance of persons would bring hope to many in that country and abroad. The marked difference between that approach and the attitude of the previous Argentine Government, in both deeds and words, should make the Commission even more wary about government representatives' statements in general concerning alleged disappearances; many such statements did not necessarily match the facts revealed from other sources such as United Nations documents, the testimony of relatives and information from non-governmental organizations. But his delegation felt confident that, in the Group's next report, the chapter on Argentina would finally contain the information repeatedly asked for.
2. It also agreed with the conclusion, in paragraph 177 of document E/CN.4/1984/21, that it might be time for the Commission to be more active than hitherto. The Commission should be firmer in its appeals to Governments for co-operation with the Group in allowing the latter to make on-the-spot visits if it deemed them necessary. The rate of response by Governments to the Group's requests for information on disappearances was still poor, the Group having received only 142 replies concerning 4,168 cases. Some progress had been made, however, in obtaining information about the thousands of cases investigated. The Group had succeeded in establishing direct contacts with a number of Governments for that purpose, and had concluded that in most cases government co-operation had been maintained or increased. In other cases, the response from certain Governments continued to be disappointing, six Governments having failed to reply at all. The Group's new method of presenting statistics gave a better picture of the cases it dealt with.
3. The Group's approach was scrupulous and strictly humanitarian. The Governments concerned were the only entities empowered to conduct the necessary investigation and thus to solve the cases concerned, and their co-operation with the Group was crucial. It should be borne in mind that such government co-operation was in effect with the Commission, since it was the latter which had established the Group's mandate and was supposed to receive the co-operation of Governments pursuant to General Assembly resolution 38/124, which had been adopted by an overwhelming majority of Member States, including all the countries mentioned in the Group's report. His delegation urged all the Governments concerned to begin or increase their co-operation with the Group.

4. One must not overlook the fact that the figures reported represented human beings, whose suffering the Commission was duty bound to alleviate. The effects of enforced or involuntary disappearances on children were particularly grave and, as noted in paragraph 156 of the report, warranted every attention and concern on the part of the international community. It was disturbing to think what irreparable harm could have been done to a new generation as a result of the psychological impact mentioned in the report.

5. His delegation would firmly support any proposals to enable the Group to carry on and improve its work.

6. Mr. MACCOTTA (Italy) said that his Government regarded disappearances of persons as a matter of exceptional gravity, since such actions violated the basic human rights to life and freedom. All too often, States or their agents were directly responsible. The Commission's duty was to combat such practices by all possible means, undeterred by dubious political or legal considerations. Article 55 of the Charter, concerning the duty of States to promote respect for human rights and fundamental freedoms, could not be constantly obstructed by reference to the principles of sovereignty or non-interference in the internal affairs of States. His delegation reiterated its support for the Working Group's activities and for the renewal of its mandate.

7. Unfortunately, the number of missing persons had been as high in 1983 as in 1982. The 2,390 communications sent by the Group to 15 Governments doubtless fell short of the actual number of occurrences, which affected many countries on all continents. The Group still had a long and difficult task before it and should be given effective means to carry it out. His delegation reiterated its readiness to consider how to provide such means.

8. At the Commission's previous session, his delegation had raised the problem of missing persons in Argentina and had urged that country to seek a speedy, honourable solution to the problem. Since then the new, democratic Government in Argentina had taken steps to that end, including the decree reproduced in document E/CN.4/1984/21/Add.1. It was to be hoped that details about missing persons, including those of Italian nationality, would accordingly be made available in the near future.

9. Italy was equally concerned about disappearances anywhere, including those in Lebanon and Central America resulting from fratricidal conflicts. The Group's report showed that the number of such disappearances in Guatemala was increasing, a fact which was confirmed by other sources. Nor was the situation improving in certain other Central American republics. Italy appealed to those countries' Governments to collaborate as closely as possible with the Group and the Commission, in order to put an end to that evil phenomenon. It welcomed the Bolivian Government's declared willingness to collaborate with the Group and that Government's establishment of a national commission to look into cases of disappearances.

10. Mr. FILIU (International Federation of Human Rights) said that, in October 1983, the International Federation of Human Rights (FIDH), having secured the evacuation of roughly 1,000 besieged Christians in Lebanon at the request of the Christian Phalangist militia, had later inquired about disappearances allegedly attributable to the latter but had received a hostile response. FIDH had received a list of 2,011 missing persons from a committee of relatives of missing persons in Lebanon, whose members had been active since December 1982 in seeking information about individual and mass disappearances committed by the "Lebanese forces". The list, prepared on the basis of the testimony of relatives and other

sources, included not only Lebanese and Palestinians but over 200 civilians of Syrian, Turkish and other nationalities who had disappeared at the hands of the Phalangists since Israel's invasion of Lebanon in June 1982. There was a practice in Lebanon of abducting persons on the basis of their identity cards, which showed the holder's religious belief. Following the deployment of the Phalangist militia, under Israeli army protection, the number of disappearances had assumed unprecedented proportions; hundreds of civilians had disappeared as a result of raids or arrests since the massacre at Sabra and Chatila. Although the wave of disappearances had slackened in 1983, it had not ceased. In the vast majority of cases there was no political reason but simply the fact that the persons concerned were Palestinians or Muslims. The abduction of Palestinian Muslims had been systematic; Lebanese Muslims were allowed to move freely but were at the mercy of the local Phalangists. Many Maronites and other Christians had disappeared, and in most cases the reasons seemed to be political.

11. Many missing persons were known to be detained illegally in Phalangist prisons, such as that of the "Military council" of the "Lebanese forces", situated in East Beirut. The rare cases of release were based on an exchange of prisoners or on payment of a ransom. Torture and rape of detainees were common. A central figure in the supervision of the prisons was a person notorious for his part in the Sabra and Chatila massacres.

12. FIDH estimated, on the basis of its inquiries, that at least 1,500 Lebanese and Palestinian civilians had been abducted by the "Lebanese forces" since June 1982. It denounced those abductions and supported the victims' relatives in their demands for an inquiry. The leader of the "Lebanese forces", after having denied any detentions, had later admitted that 120 persons had been detained illegally. The Phalangists' illegal "courts" sought to distinguish between "political" detainees held for the purpose of prisoner exchanges, and "ordinary" detainees to be handed over to the legal authorities. FIDH, faced with a refusal to release any detainees, appealed to the Lebanese Government and the international community to take action in that tragedy. It had published a report on the matter in January 1984.

13. There were now fears that the Phalangists, following their military setback, might begin to execute detainees. Action was urgently needed, therefore, to prevent a further massacre and to secure the release of those still detained by Phalangists. FIDH requested the Commission to send a telegram to the Lebanese President for that purpose, and suggested that the Working Group should send a mission of inquiry to Lebanon as soon as possible.

14. Mr. MacDERMOT (International Commission of Jurists) said that his organization welcomed the proposal by the Sub-Commission on Prevention of Discrimination and Protection of Minorities that an annual report should be prepared on declarations or terminations of states of emergency. It hoped that the Commission would adopt that proposal.

15. The International Commission of Jurists (ICJ) had been preparing a detailed study of states of emergency over the past 20 years, in 19 countries in all regions. That study examined the reasons for declarations of states of emergency, the measures taken, their compliance with current national legislation and international norms, and the abuses which had occurred; it concluded with specific recommendations at the international and national levels. Much of the information had been made available to the Sub-Commission for the study of the implications for human rights of recent developments concerning situations known as states of siege or emergency. ICJ's studies had shown that although, pursuant

to article 4 of the International Covenant on Civil and Political Rights, there could be no derogation of certain rights, all the procedural and other safeguards which would reduce the risk of violations of those rights could themselves be derogated and in practice were usually suspended. The Sub-Commission might be invited to formulate, on the basis of its study, a statement of principles for the protection of human rights in states of emergency.

16. The Sub-Commission's proposal relating to annual reports would not adversely affect the role of the Human Rights Committee in appraising states of emergency in States parties to the aforementioned Covenant. Unfortunately, the Committee had not yet reached agreement about its jurisdiction on the matter although article 40, paragraph 1 (b), of the Covenant seemingly empowered it to act. In the meantime, the Sub-Commission might submit to the Commission any reliable information received about states of emergency even in respect of States not parties to the Covenant.

17. ICJ attached importance to the general technical study of amnesty laws requested by the Sub-Commission. It was a growing practice, in countries where states of emergency had existed for several years, to declare an amnesty for members of security forces in respect of their criminal acts. However, the knowledge that amnesty laws would provide no further protection under a change of regime would effectively deter government agents from committing or allowing such acts. In that connection, ICJ warmly welcomed the new Argentine Government's repeal of the amnesty law.

18. ICJ hoped that the Commission would support the Sub-Commission's invitation to the Government of Paraguay - a country considered by the Commission under the provisions of Council resolution 1503 (XLVIII) - to consider ending its state of siege, which had lasted for 35 years - an unmeritorious world record.

19. Perhaps the time had come for the Working Group on Enforced or Involuntary Disappearances to play a more active role in efforts to discover the whereabouts of missing persons and prevent future disappearances. Governments frequently gave misleading statistics or contented themselves with a formal statement that there were no records on disappeared persons even when detailed information - including relatives' testimony - was available. It would help if the Group could adopt the sort of procedure used by the Human Rights Committee, which would require Governments to show that alleged disappearances had not occurred or to make investigations. Unfortunately, although understandably, the Group had said that the questions of responsibility and punishment for disappearances were not within its purview; those questions, however, must surely be considered if further disappearances were to be prevented. The Group should continue to press for judicial investigations or inquiries by other specialized bodies. In Bolivia, for example, investigations by a national commission had led to a number of criminal prosecutions, and progress was to be expected in Argentina as a result of the steps taken by the newly-elected Government. ICJ hoped to visit Argentina shortly, at the request of that country's national commission on disappearances of persons.

20. Mr. SEPULVEDA (Inter-American Commission on Human Rights) said that the opportunity given to him to participate in the Commission's discussion was an encouragement to the Inter-American Commission on Human Rights (IACHR) in its work of promoting the observance of human rights in the Americas and throughout the world. IACHR followed the work of the United Nations Commission on Human Rights with great interest and had learned much from it.

21. The problem of enforced or involuntary disappearances was in the forefront of IACHR activities. It had become an alarming problem in recent years, and his organization considered the adoption of certain fundamental measures essential. It was not enough to criticize Governments after the event; systematic measures must be taken to prevent disappearances. IACHR had called upon all Governments to condemn the practice and to declare it a crime against humanity. Governments should keep up-to-date records of disappearances, and those responsible for them should be punished. The General Assembly of the Organization of American States (OAS) had adopted a resolution on the subject in November 1983. His organization would continue to institute proceedings in cases under its jurisdiction.

22. It was also seriously concerned about cases of torture of detainees by police officials, which were unfortunately frequent. That repugnant practice was an affront to human rights. IACHR and the Inter-American Commission of Jurists had submitted a draft regional convention on torture to OAS and were doing everything possible to secure its adoption, but action in that direction was unfortunately slow.

23. IACHR was also concerned about the flight of refugees from their own countries. The Office of the United Nations High Commissioner for Refugees (UNHCR) had done much to help them, but his organization was disturbed about the root cause of the problem, which it attributed to the basic lack of security in the field of human rights. It was considering a number of measures to deal with that problem so as to create the necessary conditions for the return of the refugees.

24. A further area of concern was that of economic, social and cultural rights, on which IACHR had urged the formulation of an additional protocol to the 1969 American Convention on Human Rights. By paying attention to such rights, it would be possible for Governments not only to satisfy some of the basic needs of their peoples, but also to avoid causes of conflict that could lead to violations of individual human rights and social disruption. Although it required some further elaboration, the preliminary draft protocol to the American Convention on Human Rights, submitted to the OAS General Assembly, showed the interest of the American continent in the question of economic, social and cultural rights. With a view to making people more aware of the importance of those rights in the region, IACHR, in co-operation with the Legal Research Institute of the National University of Mexico, would hold a seminar on the subject in September 1984.

25. His organization was concerned about the low rate of ratification of the American Convention: of the 30 or so members of OAS, only 17 had so far ratified the Convention. Most of the larger States and many of the Caribbean States had not yet done so.

26. Latin American Governments had recently shown increased understanding and support for IACHR, possibly because of a more creative and responsible attitude on their part, and also, to some extent, because his organization had endeavoured to observe the greatest possible degree of objectivity and impartiality in its decisions.

27. Mr. BENDANA (Nicaragua) welcomed the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1984/21). He wished to reiterate his Government's readiness to co-operate with the Group and to support the work of the

Commission, the Economic and Social Council and the Third Committee of the General Assembly on the subject. The comments he was about to make should be seen in the context of that support and of his Government's desire to help put an end to enforced or involuntary disappearances in any part of the world.

28. In the regional context, his Government had a history of support for, and co-operation with, IACHR and it appreciated the strenuous work carried out by the Latin American Federation of Organizations of Relatives of Missing Detainees. It could hardly adopt any other attitude in view of the struggle in which the Nicaraguan people had engaged against a policy of murder and enforced disappearances pursued by the Somoza dictatorship. A few years earlier, representatives of the Nicaraguan people and of the families of Nicaraguans who had disappeared had sought the support of various intergovernmental bodies. His Government therefore had a moral duty to support all efforts to eliminate the phenomenon of politically-enforced disappearances. Despite some reservations as to the method followed by the Group in preparing its report, particularly with regard to Nicaragua, his delegation supported that body's activities.

29. His Government did not seek to qualify its co-operation with the Group by referring to the aggression to which the country was subjected and which had led to the declaration of a state of emergency. It wished, however, to affirm categorically that the sovereign legal measures adopted in order to defend the Nicaraguan people from the foreign aggression that formed part of an undeclared war had violated neither the human rights recognized in international instruments nor the law of Nicaragua, and in no way affected the right of the people to hold free elections during the coming months. The Working Group could not ignore the aggression against Nicaragua, since many of the cases of alleged disappearance recently submitted by the Group to the Nicaraguan authorities concerned areas that were subject to terrorist raids from beyond the country's northern frontier. The undeclared war had given rise to displacement of civilian populations, which complicated efforts to investigate and verify the information received. The Nicaraguan Government and people, as well as journalists and representatives of humanitarian and religious organizations who had visited the area, had observed that there had been many disappearances which had caused much suffering for the families concerned. According to eye-witnesses and escapees, hundreds of Nicaraguan peasants, including women and children, had been abducted by counter-revolutionary forces and taken to Honduran territory. That had also been confirmed by representatives of UNHCR and the Inter-governmental Committee for Migration. An autonomous commission was currently compiling evidence of those events for submission to the Working Group so that the Honduran authorities could be requested to co-operate in any investigation.

30. In response to the request by the Chairman of the Working Group for suggestions as to its working methods, he said that its impartiality and humanitarian criteria should not rule out an analysis of specific points in appropriate cases. An objective evaluation should be made of the degree of real and effective co-operation offered by Governments. The Group's mandate should be aimed at helping to eliminate the phenomenon of disappearances illegally enforced by certain Governments for political reasons.

31. His delegation shared the concern that had been voiced about the presentation of statistics in the reports, to which the Chairman had drawn attention. Where Nicaragua was concerned, the repetition of cases and allegations of earlier years had obliged his Government to repeat the same explanations on the same facts

year after year, and there appeared in some cases to be a dialogue of the deaf. His Government's co-operation in providing information and sending a special representative to meetings of the Group had been inadequately reflected in the report. Nearly half the cases referred to in the report had occurred during the time of the Somoza dictatorship or in the weeks immediately following the victory of the revolution, when the Government had not had complete control of the situation. Many persons had disappeared during the war and others had fled. IACHR had stated that 65 of the persons referred to in the Group's report were not missing persons. His delegation considered the current approach somewhat counter-productive, since it tried the patience of Governments which, like his own, were genuinely seeking to put an end to the long nightmare of disappearances practised by earlier regimes. He wondered whether Argentina, which had been praised for its recent change of Government, would later be expected to shoulder the responsibility for acts perpetrated by the former regime.

32. The Chairman had rightly pointed out that persons making complaints frequently omitted to inform the Group of cases in which detained or missing persons had been released. It was also an unfortunate fact that the first indication his Government had received of most complaints had been in the form of official communications from the Group. Despite the state of emergency, and despite what was said in the Group's report, there were legal remedies in his country for dealing with complaints from families, and those remedies had not been exhausted. That led his delegation to believe that the communications received by the Group had been politically motivated as part of the policy of destabilization pursued against Nicaragua.

33. His delegation hoped that its comments would be duly noted by the Group and by the Commission, which bore responsibility for defining and extending the Group's mandate.

34. Mr. GIESDER (Federal Republic of Germany) said that the appalling conclusions in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1984/21), which showed the extent to which such disappearances were continuing, should be given the most serious international attention by Governments and public opinion alike. What made the problem so acute was the fact that the practice could not be rationalized by any philosophical or fundamental theory, but appeared to be merely a brutal method of eliminating political opponents without any possibility of control by the Judiciary or even by the Executive.

35. Enforced or involuntary disappearances were among the most pernicious violations of human rights; not only did they violate the human rights of the victims but they also deprived relatives of the right to know about their fate and well-being. The report of the Working Group nevertheless gave grounds for hope. Recent events in Argentina, for example, had shown that a malicious trend could be reversed and that perseverance by all concerned could yield some hope of improvement. In his delegation's view, the treatment of the problem in the United Nations and the establishment of the Group had made an essential contribution to progress in that field. His delegation whole-heartedly supported the humanitarian approach followed by the Group, which considered the clarification of cases to be its primary task.

36. As the Group's report clearly showed, much work remained to be done. It was a cause of particular concern that the number of disappearances continued to increase and that the light thrown on cases remained limited. It was therefore essential to renew the Group's mandate, and his delegation hoped that the draft resolution on the subject would again be adopted without a vote. It appealed to all Governments concerned to co-operate with the Group.

37. Mr. DHAVERNAS (Canada), referring to the question of states of siege or emergency, said that his delegation welcomed the work carried out by the Sub-Commission at its thirty-sixth session and by its Working Group on Detention. Following the preparation by Mrs. Questiaux, Special Rapporteur of the Sub-Commission, of the study of the implications for human rights of recent developments concerning situations known as states of siege or emergency (E/CN.4/Sub.2/1983/15), and the Commission's adoption of resolution 1983/18, the Sub-Commission at its most recent session had adopted resolution 1983/30, in which it had decided to include a specific item on the subject in its agenda, had requested its Working Group on Detention to draw up and update annually a list of countries which proclaimed or terminated a state of emergency, and had proposed that it should submit an annual report on the matter to the Commission.

38. The summary records of the Sub-Commission's thirty-sixth session explained the intention of the experts on the subject. The Chairman of the Working Group on Detention had stated that the Group had no intention of establishing any kind of "black list". The proclamation of a state of siege was often justified, and was sometimes even a duty for a Government that had to act speedily and in exceptionally difficult situations to protect the general welfare. There was no intention of condemning a State which proclaimed a state of siege, but the objective was to ensure, once such a proclamation had been made, that certain inalienable rights of the individual received special attention at a time when human rights were necessarily more precarious than in normal times. The International Covenant on Civil and Political Rights offered a good frame of reference for determining the rights in question: the right to life (art. 6), the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (art. 7), the right not to be held in slavery (art. 8) and the rights set forth in article 4, which guaranteed minimum protection for the individual in time of public emergency.

39. The responsibility for exercising supervision and sounding a warning in the event of abuse was unquestionably that of the Working Group on Detention. In that connection, he drew attention to Sub-Commission resolution 7 (XXVII), under which the Group had been established. By drawing up a list of States that had considered it their duty to proclaim a state of emergency, the Group would help the Sub-Commission to determine the precise cases in which special vigilance was required.

40. It was the duty of the Commission, as the guardian and protector of human rights, to ensure respect for the inalienable rights of the individual in states of emergency. It was therefore appropriate for the Sub-Commission to prepare a general report on respect for those inalienable rights and to place the results of its consideration of the question before the Commission annually. In resolution 1983/18, the Commission had requested the Sub-Commission to propose measures designed to ensure respect throughout the world for human rights and fundamental freedoms in states of siege or emergency. An annual study on the subject by the Sub-Commission would be

a specific, effective and praiseworthy exercise. He hoped that the Commission would welcome the reports that were to be submitted by the Sub-Commission and would consider them in an objective and unbiased spirit and with a due sense of responsibility for the special protection of the inalienable rights of the individual in states of emergency.

41. He noted the excellent work carried out by the Human Rights Committee, which had an important role to play, together with other bodies responsible for the promotion of individual rights.

42. Mr. PIRISHIS (Cyprus) said that his delegation had read with particular interest the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1984/21), which painted a comprehensive picture of the tragic problem under consideration. The brutal reality of enforced or involuntary disappearances was a source of grave concern for all delegations. No one could remain indifferent to that abhorrent phenomenon, which continued in several countries.

43. Cyprus, where nearly 2,000 persons remained unaccounted for as a result of the Turkish invasion in 1974, was particularly sensitive to the problem. The Working Group's report rightly stated that the uncertainty, anxiety, anguish and frustration were equally great whether the disappearances had occurred 10 years or 10 days earlier. His delegation therefore welcomed the Group's readiness to assist in the quest for a speedy solution of the problem in accordance with the relevant United Nations resolutions.

44. The constructive results obtained by the Group on numerous occasions were encouraging, but the figures in the report showed that much remained to be done. His delegation had been gratified to learn of developments in Argentina and was confident that the measures decided upon by the new democratic Government there would shortly achieve the desired results and put an end to the anguish of thousands of families.

45. His delegation had also noted with satisfaction that several governments had offered their help to the Group. It regretted, however, that not all had done so, and it fully endorsed the recommendations in paragraph 179 of the report. Nothing could justify the refusal or reluctance of any government or body to collaborate with the Group in solving such human problems. Enforced or involuntary disappearances represented the most tragic form of violations of human rights. They were a flagrant violation of the Universal Declaration and of the human rights of the families of disappeared persons. The psychological effects of the problem on relatives were well known.

46. The need to put an end to the phenomenon of disappearances was urgent and imperative. The Commission should carefully study the recommendations in paragraph 17 of the Group's report. His Government supported the renewal of the Group's mandate.

47. Mr. CHOWDHURY (Bangladesh) said that the Working Group's report (E/CN.4/1984/21) made agonizing reading. The sympathy felt for the victims of enforced or involuntary disappearances was sincere, and genuine efforts must be made to eliminate that vile practice, which existed in many countries and brought disruption and pain to many families, with irreparable damage to children. In all cases in which a person was taken into custody, his family should be informed of his whereabouts, but there were thousands of cases in which persons had simply disappeared and in which the Government concerned denied any knowledge of the disappearances.

48. As could be seen from the Group's report, that body had performed a difficult task in delicate circumstances. Enforced or involuntary disappearances could in no way be justified and should be declared a crime against humanity. Impartial and exhaustive investigations should be carried out at the national level, and the United Nations should encourage the establishment of national commissions to deal with the subject. While welcoming the increased co-operation which Governments appeared to be extending to the Group, he noted from paragraph 4 of the report that disappointment had been expressed in certain quarters about the paucity of results achieved. He hoped that Governments would further increase their co-operation and that good results would be produced by the Group's efforts, which deserved the support of the Commission and the General Assembly. A welcome change had taken place in some countries. The Group had referred, for example, to the co-operation it had received from the new Government of Argentina in investigating cases of disappearance and taking steps to remedy the situation. Argentina's example should be followed by other countries.

49. In paragraph 43 of its report, the Group indicated that it had informed the Government of Argentina of 2,508 cases of enforced or involuntary disappearances, while according to the British press the President of that country had stated that more than 10,000 people had disappeared during government operations against terrorists in the 1970s. It was gratifying that the Government of Argentina was now co-operating with the Group. The Government of Nicaragua had also expressed its willingness to co-operate with the Group in investigating cases of disappearance under the previous regime.

50. His delegation agreed with the Group that the problem was essentially humanitarian. The Commission should call for co-operation from all the Governments concerned, and non-governmental organizations should be encouraged to support the Group.

51. Cases involving children were particularly heart-rending. The United Nations should make arrangements to provide financial support for the families of missing persons. Finally, with regard to South Africa, his delegation deplored the fact that no assistance had been received from the Government of that country.

52. Mr. EZQUERRA CALVO (Spain) said that his country had always considered the involuntary disappearance of persons to be among the most serious of human rights violations. His Government had long supported the Working Group on that problem.

53. The unacknowledged detention of persons, for whatever reason, was inadmissible whether those responsible were State authorities or other groups. The detainee's family had a right to know of his whereabouts and the reason for his arrest. Arbitrary detention was frequently tantamount to abduction, and it was likely that a whole range of fundamental human rights would be violated, including the right to life, since many of those who were abducted were unlawfully executed.

54. Spain was particularly gratified by the restoration of fundamental freedoms in Argentina. The approach adopted by the democratic authorities of Argentina in the case of missing persons provided the international community with a model of how General Assembly resolution 33/173, which referred to the need for Governments to undertake speedy and impartial investigations in the event of disappearances, could be put into practice.

55. Spain attached great importance to ending the causes underlying disappearances. Society should be rid of such an odious phenomenon.

56. Mr. COLLIARD (France) said that all human rights violations involved suffering, which was particularly acute in cases of enforced or involuntary disappearances. Not only the victim suffered, but also the family, who frequently were left unaware of the victim's fate. Any attempt to secure information was met with evasive replies.

57. Still more horrifying were those instances in which children were involved. The report of the Working Group contained terrible tales of children born in detention, and of others who had been missing for years, but had ultimately been located by their grandparents. What fearful trials such experiences were for the most innocent of all! The scope for combating such odious practices was restricted by the attitude of Governments, whose co-operation was essential to the Group. It was clear that some Governments were not willing to co-operate at all. The situation was particularly serious where Governments themselves were responsible for the abductions. Nevertheless, the Group must continue with its task. Its success could be measured in terms of not only persuading Governments to end such practices, but also convincing them of the need to investigate any instances of disappearance.

58. The key to the Group's approach lay in the fact that no accusations were involved, while no confessions or self-incriminations were sought. The exercise was entirely humanitarian, an approach which had borne fruit. It seemed appropriate for the Group to continue and expand its activities. His Government agreed with the Group's recommendation that the Commission should appeal to Governments to increase their co-operation with the Group, and that it should encourage a positive response to the Group's suggestions for on-the-spot visits.

59. The problem of enforced or involuntary disappearances should remain in the forefront of the international community's concerns, which meant including non-governmental organizations in efforts to resolve it. The observations contained in General Assembly resolution 33/173 remained valid. The purely humanitarian nature of the Group's activities should be stressed, as should the Group's traditional discretion.

60. For several years the Commission had adopted a draft resolution on enforced or involuntary disappearances without a vote. The resolution to be submitted to the Commission at the current session was similar to those submitted in earlier years, and his delegation trusted that it would once again be adopted without a vote.

61. Ms. RASI (Finland) said it was tragic that cases of enforced or involuntary disappearances continued to occur. Instances involving children were particularly grave and warranted every attention on the part of the international community. Finland commended the Working Group for taking a special interest in that aspect of the matter.

62. A main feature of the humanitarian work of the Group was the contact it made with Governments in order to ascertain the fate of missing persons. The co-operation of Governments was of paramount importance in enabling the Group to attain its objectives, and it was encouraging that they had, in general, shown increased willingness to co-operate. It was, however, regrettable that some Governments had been reluctant to offer such co-operation. The Commission should make a firm appeal to the Governments concerned.

63. The Group had helped to solve a number of cases over the past four years, and with continued emphasis on the humanitarian aspects of its mandate would achieve further positive results.
64. Mr. GEVORGIAN (Union of Soviet Socialist Republics) said that it was impossible to remain indifferent to the many cases of disappearance of persons. The international community's desire to end the phenomenon was completely legitimate. His delegation called for an end to such practices and the punishment of those responsible.
65. Human rights violations occurred in all countries in which there was a policy of repressing popular movements, such as South Africa, Chile, El Salvador and Guatemala. The effectiveness of measures to end those practices would depend on the willingness of Governments to comply with their international obligations. As indicated in the Working Group's report, political will was more important than the adoption of new measures. The Commission should mobilize world public opinion in order to put an end to such practices.
66. The possibility of abuse of the Working Group by dishonest elements existed. His delegation was opposed to the inclusion by the Group in its report of unfounded allegations. It was gratifying that the Group had already concluded that more thorough checking of allegations was necessary, since the motivation of its informants was not always purely humanitarian. The Commission and Group should adopt a more business-like approach, taking care to refrain from any interference in the internal affairs of States.
67. Mr. CARRIER (Canada) said that the Working Group's task was a delicate one. Continued discretion was needed in its contact with Governments, but in situations in which it was necessary to choose between respect for established procedures and the denunciation of human rights violations his delegation strongly favoured the latter. It was important to find a means of exerting pressure on those Governments which did not co-operate with the Group.
68. The Canadian people were extremely interested in the problem of enforced or involuntary disappearances. Many individuals, organizations and groups had been dismayed by the barbarity of such practices, which contravened the norms of civilized society. It seemed that the epidemic of enforced disappearances, while waning in Latin America, was spreading to other parts of the world. With respect to the problem of persons who disappeared during armed conflict, and specifically in the case of the war between Iran and Iraq, his delegation agreed with the Group that its current mandate did not authorize it to investigate such matters, which lay within the competence of the International Committee of the Red Cross (ICRC).
69. His delegation also agreed with the Group that the Commission should play a more active role in supporting the Group. In particular, the Group should be able to carry out on-the-spot visits. The humanitarian aspect of the Group's work should be stressed in the resolution to be adopted by the Commission, so as to encourage Governments to co-operate with it.
70. The problem of prisoners of conscience was of concern to his delegation. Such prisoners were individuals who had been imprisoned simply for having expressed their views, usually political. Such an act was regarded in Canada as being not only a right but a duty, yet such individuals were condemned by all kinds of regimes throughout the world.

71. It was paradoxical that the problem had not been debated by the Commission or dealt with in any of its resolutions. His delegation felt that a clear and unambiguous discussion of the matter should take place in the Commission, and was therefore submitting a draft resolution. Canada's intent was not to provoke new controversy or to accuse particular countries, but to promote open discussion of a problem which could not be overlooked. The resolution was based on a humanitarian approach, and his delegation trusted that it would be adopted.

72. Mr. MINAMI (Japan) said that, although article 4 of the International Covenant on Civil and Political Rights allowed a State party to take measures derogating from some of its obligations under the Covenant when it declared a state of siege or emergency, it could do so only to the extent strictly required by the exigencies of the situation. Furthermore, a State was required to inform other States parties if it availed itself of that provision. Yet it seemed that there had been cases in which it was not clear whether States parties had been so informed. It also seemed that some States sought to apply article 4 permanently and that some might have infringed human rights which were inviolable even in a state of emergency. There was thus a need for the international community to monitor the situation.

73. The Sub-Commission on Prevention of Discrimination and Protection of Minorities had requested its Working Group on Detention to **draw up and** update annually a list of countries which had proclaimed or terminated a state of emergency. Such a list would provide an effective monitoring system and would prevent countries from using a state of emergency as a pretext for human rights violations.

74. The Sub-Commission was trying to tackle the many problems of human rights in criminal procedures. Japan hoped that it would do so from an expert stand point and that its activities would be universally acceptable. The Sub-Commission should consider co-operating with other organs which had built up expertise in such matters.

75. Despite the provisions to the contrary in the International Covenant on Civil and Political Rights, enforced or involuntary disappearances were reported from every part of the world. It was regrettable that the international community had yet to find ways of ensuring the prevention of such basic human rights violations. Given that such instances generally took place in politically-tense contexts, the utmost sensitivity and care were required. In that connection, the efforts made by the Working Group on Enforced or Involuntary Disappearances were commendable. The Group had adopted a humanitarian approach, which had elicited co-operation from the Governments concerned. Although the number of cases settled had not been large, Japan hoped that the Working Group would devise ways of taking swift action to minimize the suffering of victims.

76. Governments' co-operation was essential to the Working Group. In that connection, it was encouraging to note that the Government of Argentina had established a national commission on the disappearance of persons to investigate such events. His delegation welcomed the decision by the national commission to invite the Group to visit Argentina, and trusted that such co-operation would continue.

77. It was important to solicit the co-operation of non-governmental organizations in order to eliminate the abhorrent practice of enforced disappearances. Such organizations provided information and could help to alleviate the sufferings of the victims. It was only through co-operation between the United Nations, the Governments concerned and non-governmental organizations that progress, however slow, could be made.

78. Mr. BIANCHI (Argentina), referring to the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1984/21), said that the majority of the political bodies in Argentina had rejected the theses of the "Final document" referred to in paragraph 34 of the report. The Amnesty Act promulgated in September 1983 by the military Government had been repealed by Congress as unconstitutional. Because of the vast number of crimes committed in Argentina in recent years, the only solution open to the Government was the strict enforcement of the law through an independent Judiciary. With regard to offences committed by members of the armed forces, Congress had just promulgated a law under which sentences passed by the military courts could be reviewed by the ordinary courts.

79. The thousands of disappearances had induced the Government, as soon as it had acceded to power, to establish a national commission on the disappearance of persons. Its work was familiar to all Argentines through television and radio, and the Ministry of Defence had called on the people to bring complaints of disappearances to its attention; by 17 February 1984 approximately 2,100 cases had been notified. Cases of arrest and disappearance were clarified through a procedure of complaints, legal analysis, verification and submission to the courts. Argentine embassies and missions abroad were also empowered to receive complaints. In view of the serious difficulties involved in tackling the problem of the more than 10,000 enforced or involuntary disappearances, the only solution was to establish the truth by legal means. The entire community was awaiting that result and the punishment of those responsible.

80. His Government considered that international action was required to combat the terror of disappearances through the adoption of an international instrument and by heightening world awareness of the problem. His delegation was deeply grateful to the Group for the work it had done and assured it that the facts it had brought to light would be placed before those who were legally empowered to investigate them. Argentina knew that without democracy and the rule of law terrible disasters could and did occur. It also knew, and had paid dearly for the knowledge, that there were no short cuts to justice or security.

81. The delegation of the Netherlands had rightly pointed out the lack of correspondence between what some Governments stated and what was known from other sources. The democracy newly established in Argentina would be the best means of ensuring that that situation did not occur there.

82. The terrible truth of the disappearances had been only partially reflected in paragraphs 147 to 150 of the report concerning the impact of such disappearances on the victim's family, particularly on children. The policy of disappearances had branded a period in Argentina's history which would not be forgotten. The people of Argentina had rejected that policy, as it had rejected the "doctrine of national security", which had been used to create complete insecurity among the people in recent years.

83. His delegation supported the appeal, in paragraph 177 of the report, to the Governments concerned to increase their co-operation with the Working Group.

84. Mr. HAYES (Ireland) observed that the Commission was awaiting the report of the Working Group set up to prepare a draft convention against torture, which had concluded its work the previous week. It had decided by consensus to submit to the Commission a draft convention on prohibition of torture and other cruel, inhuman or degrading treatment, which represented the culmination of several years of exhaustive examination of the issues and of delicate negotiations to resolve the differences between delegations. It was his delegation's hope that the areas of disagreement which still existed would be disposed of in the course of the Commission's deliberations, so that the Commission could submit a unanimous draft to the General Assembly. His delegation and that of Canada wished to include in the draft a provision requiring parties to the convention to provide, through national legislation, for compensation for victims of torture or other cruel, inhuman or degrading treatment. They looked forward to an opportunity to discuss that matter further.

85. While the contents of the report of the Working Group on Enforced or Involuntary Disappearances could only be described as distressing, the Commission must ensure that its work was continued by renewing the Group's mandate. If the positive results were disappointing when viewed against the extent of the problem, however, the effects should not be underestimated in discouraging an even wider spread of the practice.

86. His delegation commended the determination, patience and discretion displayed by the Group, and also the positive spirit in which the Group had considered criticism of its work. He was certain that it would continue to seek improvements in its methods of work, encouraged by the success of the special role adopted for the Chairman in dealing with urgent cases.

87. Much of the record concerning cases submitted to the Group was disappointing because of lack of information and co-operation, and the practice of disappearances continued. Those Governments which were co-operating with the Group should be commended and all Governments encouraged to undertake a campaign to eliminate the evil, including examination of administrative practices, investigation of complaints followed by prosecutions and punishment, and maintenance of courts with high standards of effectiveness and integrity. No plea to Governments would be as eloquent as that implicit in chapters V and VI of the report, which conveyed harrowingly the suffering of families resulting from that problem. It must be hoped that the pleas would result in the speedy restoration of the rule of law, which was the real safeguard against that gross violation of human rights.

88. His delegation regretted that there has not been more progress on the request made by the Commission some sessions previously for a study on the problem of involuntary disappearances. Such a study might provide useful background material for the draft declaration against unacknowledged detention of persons, to be prepared at the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

89. His delegation was aware of the work undertaken by the Sub-Commission on the role of amnesty laws, penal administration, such as fair trial and procedures, imprisonment periods, capital punishment, states of siege and the use of force by police and military. A careful examination of those topics would be helpful to the Commission in its continuing responsibility for the promotion and protection of human rights.

90. Mr. GRYK (Amnesty International) said that the special powers given to the authorities under a state of emergency all too often led to such gross violations of human rights as torture, disappearances and extrajudicial executions. The declaration of a state of emergency should therefore be regarded as a signal to the international community that special vigilance over fundamental rights was needed. The need for such vigilance applied especially where a state of emergency had become a permanent or semi-permanent feature, as in the Syrian Arab Republic, Brunei and Asunción (Paraguay), where there were well-documented cases of arrests, detention without trial for many years, torture, disappearances and extrajudicial executions.

91. Under a state of emergency there was a special need for adequate international machinery - which did not currently exist - to monitor respect for human rights. Amnesty International had therefore welcomed the initiative by the Sub-Commission in compiling an annual list of countries which proclaimed or terminated a state of emergency and submitting an annual report to the Commission on compliance with relevant national and international standards. That plan deserved the Commission's full moral support.

92. The Working Group on Enforced or Involuntary Disappearances had reported that 2,390 new cases - about the same number as in 1982 - had been transmitted to the Governments of 15 countries in 1983. Each individual case represented totally unacceptable interference with a person's fundamental rights and represented immeasurable suffering for those who stayed behind. During the past four years the Group had gathered an impressive amount of information on missing persons, had set up an efficient intervention scheme, had analysed the causes and had suggested remedies for disappearance, but had managed to clarify the fate of only a few individuals.

93. Amnesty International would like to suggest that the Commission should review the Group's activities in substance and decide on a new departure. The Group had suggested in paragraph 177 of its report that the Commission should adopt a more active role and that General Assembly resolution 33/173 might be used as a yardstick in assessing its achievements. That resolution called upon Governments "in the event of reports of enforced or involuntary disappearances to devote appropriate resources to searching for such persons and to undertake speedy and impartial investigations". The Group should be instructed to transmit to the Commission information on cases in which a Government's responsibility for an abduction had been clearly established but in which the Government had refused to co-operate with the Group.

94. The Group's report contained a chapter on bodies established at the national level to investigate disappearances; such bodies could play an important role. The Government of Argentina had recently established a national commission on the disappearance of persons, which had been welcomed, as had the repeal of the Amnesty Act which prevented the perpetrators of disappearances from being brought to justice. Argentina's investigation of disappearances would set an important international precedent.

95. The report also contained information on disappearances in some 22 countries, but a number of countries referred to in the previous report were no longer mentioned by name. That did not mean that disappearances in those countries had been investigated to the Group's satisfaction, since the vast majority of disappearances in Ethiopia, Mexico and Peru, for example, had not been clarified and more had occurred in 1983. Amnesty International was concerned that the exclusion of those countries from the report without adequate explanation might be interpreted to mean that the problem no longer existed.

96. Mrs. RIDER (Pax Romana) said that her organization, composed of Christian students, intellectuals and professionals from all continents, was anguished by the practice of disappearances and the serious effects on the families of victims. What was most serious was the qualitative nature of the issue: the violent elimination of political opponents which had become generalized in many countries. Her organization denounced that practice on moral grounds.

97. The concern of the Commission, the four reports submitted by the Working Group on Enforced or Involuntary Disappearances and the measures adopted were not sufficient. The Group's observation that little headway had been made in clarifying cases of disappearances and the evasive replies of Governments were unacceptable. Her organization wished to call on international public opinion to increase its efforts to condemn the crime in question and to find a solution for it. Pax Romana supported the continued investigation and denunciation of the Governments of countries where that crime was perpetrated. In that context, any death was a murder.

98. Her organization welcomed the signs of hope which existed in the world, such as those which had appeared in Argentina. It supported the request made by many that the violation of human rights represented by disappearance should be the object of maximum international sanctions. It proposed that the Working Group should continue its work, more energetically and more rapidly, in conjunction with an international campaign against enforced or involuntary disappearances and that the Group should continue to support national bodies for the investigation of enforced or involuntary disappearances and ask Governments to apply the criteria for action set forth in paragraph 167 of its report (E/CN.4/1984/21). It called for the study and adoption of efficient systems for the protection of relatives of missing persons, who were often the object of reprisals by Governments. It called for the study and adoption of efficient machinery for verification of the replies received from Governments so that efforts would produce some results. And it asked the Commission once again to request Governments to cease their practice of causing persons to disappear and to put into effect the legal measures and political changes needed to eradicate that crime against humanity once and for all.

99. Mr. ZOLLER (Pax Christi), said that his organization welcomed the political changes in Argentina which should make it possible to shed light on the thousands of abductions and disappearances since 1975 and to begin proceedings against those responsible. The repeal of the Amnesty Act, the establishment of a national commission on the disappearance of persons, and the complaints procedure were positive elements, although it would have been preferable if the military were not at the same time both judges and the accused. It was a matter of regret that the official number of missing persons should have shot up from 7,000 to 30,000; only two years previously the Commission had found that figure to be highly exaggerated.

100. His organization felt it important that in extending the mandate of the Working Group, the Commission should attach greater importance to the information supplied by relatives' organizations and organizations for the protection of human rights.

101. The policy of abduction and enforced disappearances was emerging in an increasing number of countries, and was practised in particular by the military authorities of most countries of Latin America. He referred especially to Peru, El Salvador and Guatemala, in each of which hundreds of persons had disappeared during the past six months.

102. As for the rest of the world, the situation in East Timor was particularly alarming, as could be seen from paragraph 76 of the report of the Working Group (E/CN.4/1984/21). A procedure had been established under which any request for tracing in East Timor would be immediately forwarded to ICRC, although that organization had provisionally ceased activity in East Timor. In addition to the 23 cases mentioned in the Group's report, Pax Christi had received information regarding the arrest of several hundred persons during the recent Indonesian military offensive; those persons were still missing.

103. His organization had also noted with alarm the cases of enforced disappearances in the Philippines, particularly the wave of abductions of trade unionists in January 1983.

104. The examples cited illustrated the need to extend the mandate of the Working Group, while taking account of factors which could facilitate the participation of the States concerned. Greater stress should be laid on a more active role for the Group, for example, through on-the-spot visits, greater publicity for its work, and the continued submission of increasingly specific reports to the Commission.

105. Mr. ALVAREZ VITA (Observer for Peru) said that States, non-governmental organizations and individuals should all fulfil their moral duty to collaborate with the Working Group on Enforced or Involuntary Disappearances. Peru had always attached special importance to the problem of disappearances and had been the venue for a conference on the subject in November 1982. It much appreciated the positive work done by the non-governmental organizations in the cause of human rights but rejected any use of human rights to achieve political objectives.

106. With regard to the references made by a non-governmental organization to disappearances in the Ayacucho region of Peru, he said that news of the alleged events had been widely disseminated in Peru by the media. Measures had been taken by the Government to investigate those cases, and to determine responsibility should the reports prove true. The people had also been requested to collaborate and investigations were taking place within the appropriate legal framework. Some cases had been declared closed since persons reported missing had appeared before the authorities and then the media, showing that the complaints made had been unwarranted.

107. The people of Peru followed the development of such cases with great attention, while enjoying freedom of expression and participating fully in political life through periodic elections which showed the climate of democracy existing in his country. The people of Peru were aware that democracy was a guarantee of the exercise of both their civic rights and basic human rights.

108. His delegation congratulated the Working Group on its achievements and considered that its mandate should be renewed.

109. Mr. PISSAS (International Association of Democratic Lawyers) said that his association could not remain indifferent to acts that humiliated human beings, including the detention and imprisonment of persons without due process of law. It expressed deep indignation at the enforced disappearance of peaceful citizens and had constantly condemned such behaviour on the part of several States. Unfortunately, the relevant reports before the Commission were very disturbing. They confirmed the previous infringements and revealed further violations against the dignity and very life of persons. However, the resolutions adopted had not yet succeeded in improving the situation.

110. At its current session, the Commission had received information from citizens of Albania - some of them members of the Greek minority in that country - who had escaped from prisons and concentration camps and provided details on the disappearances of their wives, children and other relatives taken by force from their homes by agents of the Albanian Government. The fate of those persons was still unknown. Recent reliable reports, including those of Amnesty International, contained descriptions of the cruel treatment to which political prisoners and detainees in Albania were subjected. The reports indicated serious deficiencies in criminal procedure, during both pre-trial detention and trial, the use of psychological and sometimes physical pressure during investigation to obtain statements from the accused and witnesses, and solitary confinement for extended periods. According to the same reports, prisoners were forced to work in copper mines with little protective clothing. Medical care was inadequate and prisoners punished by solitary confinement were kept in tiny, unheated, concrete cells. The over-all situation continued to be discouraging. His association would give strong support to any appropriate resolutions adopted by the Commission. Moreover, it was prepared to do its utmost, in co-operation with all other organizations, to help the Commission in its efforts to restore and protect the dignity and security of the human person in every part of the world.

111. Mr. MAHBOUB (Observer for Iraq) noted that, as stated by the Working Group on Enforced or Involuntary Disappearances in its report (E/CN.4/1983/14), Iran had requested that the Group should investigate its claim that 9,405 Iranian civilians had disappeared in Iraq since the beginning of the conflict. However, the Group had concluded that any persons, civilian or military, reported missing during an international armed conflict fell within the mandate of ICRC. At the Commission's previous session his delegation had confirmed that those persons, who had sought refuge in Iraqi territory either to escape the ravages of war or with the intention of not returning to Iran under the present regime, had been hospitably received by the Iraqi authorities and were being cared for by the Iraqi Red Crescent. As noted in an ICRC press release dated 15 February 1984, the ICRC delegation at Baghdad had been given facilities to visit those persons within the context of its mandate under the Geneva Conventions of 1949. Consequently, Iran's groundless allegation concerning the disappearance of 9,405 civilians was merely political propaganda against Iraq at a time when the Iranian authorities were persistently obstructing ICRC in the fulfilment of its mandate under the Geneva Conventions, which they were continually violating.

112. The ICRC delegation at Tehran had been assaulted by Iranians during a visit to a prisoner-of-war camp, as a result of which ICRC had been forced to suspend its activity in Iran, Iraqi prisoners-of-war had been left at the mercy of the Iranian authorities, by whom they were being subjected to inhuman treatment. As stated in paragraph 4 of the above-mentioned press release, since ICRC did not know the number, whereabouts, identity or state of health of prisoners, it was unable to draw up lists of prisoners for repatriation on medical grounds, nor could it supervise the distribution of Red Cross messages to families and prisoners. Moreover, as stated on the second page of that press release, some Iraqi prisoners of war who had been registered and visited in the camps on several occasions by ICRC delegates in the Islamic Republic of Iran had subsequently been reported killed in action. The existence of specific categories of prisoners, such as senior officers, had been systematically concealed and some prisoners had received harsh sentences, of which ICRC had not been informed. Ideological and political pressure, the use of intimidation in a "re-education" process, and affronts to the honour and dignity of the prisoners-of-war had been continuous and seemed to be increasing, with the aim of turning the prisoners against their own Government and obstructing the work of ICRC delegates.

113. ICRC had therefore made the resumption of its activities conditional on the cessation of such practices and had not yet received a satisfactory response from the Iranian authorities. Being justifiably concerned about the fate of its prisoners in Iran, Iraq had called upon the Secretary-General of the United Nations, in June 1983 and more recently on 18 February 1984, to establish a commission of inquiry to investigate the situation of prisoners-of-war in both Iran and Iraq. The need for such an investigation had become even more compelling in the light of the ICRC press release containing the Iranian report that Iraqi prisoners-of-war, previously registered and visited by the ICRC delegation, had been killed in action.

114. It was incredible that, while persisting in its continuation of the war and its defiance of United Nations resolutions and of the will of the international community, Iran had complained to the United Nations about the consequences of the war. In fact, the disastrous effects of the war, which Iran had forced on Iraq on 4 September 1980, resulted solely from Iran's failure to respect the will of the international community and Security Council resolutions such as resolution 540 (1983). It was common knowledge that Iran had rejected all the good offices offered by the Organization of the Islamic Conference, the Non-Aligned Movement and the United Nations, all of which had been accepted by Iraq with a view to a peaceful settlement of the conflict. Iraq had unconditionally accepted Security Council resolution 479 (1980) and had agreed to co-operate with all international mediation efforts. Moreover, Iraq had proposed the conclusion of a special agreement with Iran under which both parties would refrain from bombarding villages, towns and civilian installations. Iraq had also proposed a bilateral agreement providing for the cessation of all military operations in the Gulf region and the establishment of a neutral board of arbitration to identify the party responsible for the commencement and continuation of the war, on the clear understanding that the findings of the board would be accepted by Iraq. It was evident, therefore, that Iraq's acceptance of the Security Council resolutions and international good offices completely invalidated the allegations and pretexts on the basis of which Iran was stubbornly defying the will of the international community by continuing the war and its violations of human rights.

115. Mr. TOSEVSKI (Yugoslavia), speaking on behalf of the Chairman of the Working Group on Enforced or Involuntary Disappearances, noted that a number of useful comments and suggestions had been made during the discussion in the Commission. He assured members that the Group would take them into account in the hope that they might open up new avenues for closer co-operation between various Governments and the Group and thus enable the Group to fulfil its humanitarian task more effectively. It was to be hoped that the Group's next report would be less appalling and more promising.

116. Mr. MANALO (Philippines), speaking in exercise of the right of reply, said he wished to refer to the allegations made at the previous meeting by the representative of the International League for the Rights and Liberation of Peoples concerning human rights in the Philippines. He regretted the sweeping statement that the lifting of martial law in the Philippines had ushered in a period not of normalization, but of worsening repression and that the State machinery for repression had been institutionalized. If political rights were the source of all other rights, that statement was entirely untrue. In the past several months, preparations for elections to the National Assembly had been intensified. In response to popular demand, a referendum on constitutional reform for the purpose of creating the post of Vice-President had been successfully completed. To ensure that the elections to the National Assembly were free and fair, the legitimate opposition would be given seats in the electoral Commission, which traditionally monitored the conduct of elections in the Philippines. His delegation viewed those developments in a positive light. While violations of human rights did occur - as they did even in the best-regulated societies - they were on the decline and were not a consequence of State policy. On the contrary, the State was seeking to eradicate such abuses to the full extent of its power.

117. In a number of cases, abuses of human rights had been perpetrated by ill-disciplined, lower-echelon military personnel. In other cases, violations had been committed by rebellious elements of a different ideological persuasion, dedicated in theory and practice to the overthrow of the Philippine Government. Where abuses were committed by those elements, they were mistakenly ascribed to the Philippine Government. Such cases were not uncommon in conflicts of a guerrilla character, as was attested to by examples throughout the world.

118. His delegation was astonished by the statement that the Philippines was concerned with national security, since that was clearly true of every country.

119. The hamletization in Mindanao followed a classic military concept designed to protect civilians from being caught in the cross-fire of armed confrontation between rebels and government troops in certain areas of the island.

120. With regard to some of the specific charges made by the representative of the International League, he said that the labour leader Mr. Olalia, who had died of natural causes at the age of 79, had been arrested not for trade-union activities but for complicity with seditious groups.

121. His delegation took strong exception to the allegation that the Church as such was a target of oppressive practices. It would be of interest to other countries with missionaries in the Philippines to learn that only three weeks previously, three foreign missionaries had been released on the recognizance of the Bishop of the province in question. Two had been freed and the case of the other was before the courts. Two members of the International Commission of Jurists were in the Philippines to observe the trial procedures in that specific case. Three other

names had been mentioned, including that of Father Agatep. Since the persons involved were self-confessed members of the New People's Army, they were clearly subject to arrest under his country's legislation.

122. With regard to the allegation that the Philippine press was a target of repression, he said that the examples cited hardly constituted the Philippine press. We Forum was a tabloid given to exaggeration and often irresponsible statements, thereby making itself liable to the legitimate charge of libel. Its editor had long since been released. On the other hand, the editor of Bulletin Today, contrary to the allegation, had resigned for medical reasons. Since the murder of Senator Aquino Jr. was being investigated by a fact-finding commission, it was not a proper subject for discussion in the Commission. With regard to the leader of the Kalinga tribe, allegations to the contrary notwithstanding, four soldiers, following a pre-trial investigation, were at present subject to court martial proceedings.

123. Lastly, he drew attention to the appreciation expressed by the Working Group to the Philippine Government for its conscientious and prompt response to the cases brought before it.

124. Mr. ROMERO (Observer for Honduras), speaking in exercise of the right of reply, said that once again the Government of Nicaragua had tried to mislead the international community. Members would recall the allegation contained in official Nicaraguan statements accusing dissident forces of abducting and murdering Bishop Schlaefer. In fact, Bishop Schlaefer had been accompanying hundreds of Miskitos who had come to Honduras because of the repression to which they had been subjected by the Government of Nicaragua. Today, it was shamelessly claimed that Nicaraguans who had disappeared had been abducted by dissident groups operating from Honduras. The Government of Nicaragua did not have the moral authority or international credibility which would warrant its accusations being taken seriously.

125. His country, which had a democratically-elected Government, was not responsible for the internal problems of Nicaragua, where Nicaraguan forces were fighting Nicaraguan citizens. The only Nicaraguans in his country were those who had felt compelled to flee oppression, insecurity, and a régime which denied all freedoms and constituted a threat to the peace and security of the continent. It was irresponsible to try to involve UNHCR and the Intergovernmental Committee for Migration, which were performing a humanitarian task and had publicly recognized the co-operation provided by the Government of Honduras. The Nicaraguans who had disappeared should not be sought in Honduras. They were probably in common graves in the same place as patriots who had also been betrayed and become victims of another fierce dictatorship like Somoza's.

126. Mr. BOJJI (Observer for Morocco), speaking in exercise of the right of reply, said that in his statement at the previous meeting the observer for Israel had referred to alleged disappearances in Morocco. He noted, however, that the observer for Israel did not like talk of violations of human rights in Israel or the occupied Arab territories. The observer for Israel had tried to transpose the principles of physics and chemistry to the field of human rights, claiming that life always triumphed over all obstacles. That was an argument which could be applied in his case as well. The Palestinian people had the right to life and to choose its destiny. The Palestinian refugees scattered throughout the world were entitled to return to their homes and to live in peace there.

127. His delegation would like to know why the observer for Israel did not apply what he preached for others to the case of the people of Palestine. How could the observer for Israel dare to speak of human rights violations in Morocco at a time when Jews in Morocco were full-fledged citizens who enjoyed the same economic, social and political rights as other Moroccans? Even in the worst moments of the Second World War, Morocco had refused to follow the Protectorate authorities which had sought to apply discriminatory legislation in respect of Moroccan Jews. In Israel, many Jews of Moroccan origin were sorry they had left Morocco and wished to return there. However, they were prevented from doing so because of the repressive policies pursued by the Israeli authorities.

128. Mr. MASREHA (Observer for Ethiopia), speaking in exercise of the right of reply, said his delegation had noted with deep regret and dismay that Amnesty International had once again seen fit to cast aspersions on the integrity of his Government and the members of the Working Group on Enforced or Involuntary Disappearances. It should be remembered that Amnesty International had made a similar unfounded allegation the previous year and that his delegation had then expressed the hope that that organization would act more responsibly in its future review of certain cases. Unfortunately, Amnesty International had not heeded that appeal and continued to make wild accusations.

129. He wished to repeat that the phenomenon of disappearances was alien to Ethiopia. His Government was waging a battle against war, illiteracy, hunger and malnutrition. It was those evils which had begun to disappear. It was his Government's earnest hope that its efforts in that field would be recognized by the various non-governmental organizations. His country had co-operated fully with the Working Group on Enforced or Involuntary Disappearances and all allegations brought before that body had been the subject of careful scrutiny. It therefore believed that the accusations by Amnesty International were preposterous and hoped that in the future it would show more objectivity and restraint.

130. Mr. SHAHABI SIRJANI (Observer for the Islamic Republic of Iran), speaking in exercise of the right of reply, said that the true situation of the 10,000 or so Iranians who had been deported to Iraq early in the war was well known. The facts had been reflected in the ICRC memorandum of May 1983 and condemned by that organization.

131. The observer for Iraq had said that his Government had good intentions and was peace-loving, but everyone knew that the Iraqi regime was aggressive and attacked hospitals, schools and defenceless people. In its official communiqué to the United Nations, the Government of Iraq had stated that Iraqi troops had continued their march inflicting further defeat on the Persian enemy. It was clear, therefore, who had contravened the basic provisions of the Charter of the United Nations. Furthermore, the statement by the Minister for Foreign Affairs of Iraq that the "lands reached so far by Iraqi forces are the necessary positions for defence until Iran recognizes our rights and guarantees are reached for the achievement of a final and permanent solution to the dispute" (S/14236) showed a lack of respect for Article 1, paragraph 1, and Article 2, paragraphs 3 and 4, of the Charter.

132. The observer for Iraq had spoken of humanity. However, it was well known that some 24,000 civilians had been martyred because of Iraqi missile attacks on non-military cities and that 22,000 had been injured in those attacks. The report of a United Nations mission to the Islamic Republic of Iran spoke very clearly of the inhuman acts and crimes committed by Iraq. All those facts showed Iraq's plans for peace and humanity.

133. Mr. BENDAÑA (Nicaragua), speaking in exercise of the right of reply, drew attention to the existence of Somoza camps in Honduras, a fact also reported by United States journalists and referred to by the United States Government and CIA officials. Attention should also be drawn to the role and complicity of Honduras in the launching of aggression against Nicaragua. He would like to know why the Government of Honduras had refused to accept a tripartite commission in December to promote the repatriation of Miskitos living in humiliating conditions in Honduras. He would also like to know why that Government refused to comply with its obligations under the Contadora agreement and why Honduran forces had killed some 200 Miskitos who had wished to return to Nicaragua on 6 January 1984.

134. It should also be noted that the United States Administration was building an infrastructure in Honduras with a view to using that country as a base for aggression against Nicaragua.

135. Mr. MAHBOUB (Observer for Iraq), speaking in exercise of the right of reply, noted that the question of the disappearance of 9,405 Iranians had been raised by the Government of Iran itself in its letter of 28 November 1983 addressed to the Secretary-General (E/CN.4/1984/5).

136. As far as putting an end to the bombing of towns was concerned, acceptance of Security Council resolution 540 (1983), in particular paragraph 2 thereof, would guarantee the cessation of all military operations against civilian targets. Iran should comply with that resolution, as well as the Iraqi proposal which sought to achieve the cessation of all military operations against city and residential areas, provided that such cessation was under international control. In time of war, communiqués were often contradictory, but the solution to the problem consisted in having recourse to neutral parties which would guarantee the implementation of an agreement concluded between the two parties to the conflict. His Government would be prepared to accept international supervision to monitor the implementation of such an agreement.

137. The Observer for Iran had referred to his country's love of peace. In that connection, he would like to know whether that meant that Iran would be prepared to comply with Security Council resolution 540 (1983), which was binding under Article 25 of the Charter, and welcome international efforts to put an end to the war. If Iran accepted the resolution, it would be concluded that it was a peace-loving country. However, its aggressive intentions were all too apparent.

138. Mr. ROMERO (Observer for Honduras), speaking in exercise of the right of reply, said that his Government had protested formally and energetically against the massacre by Sandinista military elements of some 18 Indian refugees on 5 January 1984. His Government had pointed out that it was always prepared to promote the voluntary repatriation of any refugees on its territory. On 9 February 1984, the Minister for Foreign Affairs of Honduras had informed the Ambassador of Nicaragua that for voluntary repatriation to take place, the Government of the country of origin must ensure that those who voluntarily returned home had guarantees regarding their lives and freedom. The Government of Honduras had offered its co-operation so that firm preparations could be made for repatriation.

139. His country, which had a democratically-constituted Government, had a well-known tradition of respect for freedom. Its citizens were peace-loving and could only appeal to international public opinion. It would thus be seen who was trying to deceive the international community.

140. Mr. BENDAÑA (Nicaragua), speaking in exercise of the right of reply, referred to the allegations made by the Observer for Honduras concerning the events that had taken place on 6 January. He read out the contents of a communique from Mr. Pérez Equivel, the Nobel Peace Prize winner, dated 9 February, in which Mr. Pérez Equivel clarified the matter. The communique would be circulated to the members of the Commission.

The meeting rose at 7.30 p.m.