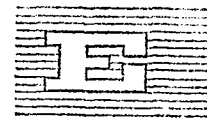


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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 53rd MEETING
(First part)*

Held at the Palais des Nations, Geneva,
on Tuesday, 12 March 1985, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)
later: Mr. KHMEL (Ukrainian Soviet Socialist Republic)

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* The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.53/Add.1.

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GE.85-15562

The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (E/CN.4/1985/2, 7/Rev.1, 9 and Add.1, 17-21, 44, 54, 57, 58 and 60; E/CN.4/1985/NGO/4, 8, 13, 14, 15, 20, 21, 25, 28, 29, 34, 36, 38, 44, 50, 52 and 54; E/CN.4/1985/L.12/Rev.1, L.30, L.48, L.57, L.62, L.66, L.71, L.73, L.80, L.81 and L.83; A/39/635 and 636 (continued))

1. The CHAIRMAN invited delegations that wished to do so to make use of their right of reply under agenda item 12.

2. Mr. KHERAD (Observer for Afghanistan) rejected the slanderous allegations and totally unfounded comments made by the representative of the United States of America and by certain member countries of NATO against the People's Republic of Afghanistan. He categorically condemned the unhealthy activity, the tendentious manoeuvres and the interventionist attitude orchestrated by the United States. They were all part of a vast venture comprising open or clandestine activities against Afghanistan. Ignoble campaigns of that kind had been initiated against all countries which refused to accept the diktat of American imperialism, and formed part of a counter-attack by international imperialism against all the independent countries of Asia, Africa and Latin America which had set out on the path of freedom, progress and peace.

3. The representative of the United States and some of its allies were ill-advised to invoke international law and peace while they trampled underfoot the provisions of the Charter and the generally-accepted standards of international law, as well as the most elementary rights of millions of people in the world. They should not be permitted to speak of self-determination when they themselves sought continually to determine the fate of others and decide what was good and what was not in terms of their own interests. The plots hatched by the United States and the mercenary wars and acts of aggression which it directed or committed, the repeated threats of recourse to force to defend what it alleged to be its vital interests and its interference in the internal affairs of States were incompatible with the very idea of human rights and represented a serious threat to the peace and security of mankind.

4. The United States had arrogated to itself the right to invade any country whose politics or economic and social system it did not like, as had happened with Grenada. It sought to justify such violations by accusing other States without justification, but no one was deceived. The United States was the greatest exporter of violations, and everyone knew that the more closely a country was associated with the United States, the more serious human rights violations there were.

5. There were constant violations of social, economic, civil and political rights in that country, which called itself the champion of human rights, and its citizens suffered from large-scale unemployment, persistent discrimination and a rising crime rate. Approximately 12 million persons suffered from malnutrition in the United States. The people were spied on by electronic means and repression was rife against the non-white population, whose resources were pillaged and whose civilization was destroyed. The Indians were particularly affected and their numbers had dropped considerably, while their life expectancy was barely half that of the whites. Prisons in the United States held a record number of detainees and ill-treatment was a daily fact of life there.

6. Those facts revealed the propaganda statements which proclaimed the advantages of democracy in the United States and claimed to assert its attachment to the ideals of human rights in their true light. He would also recommend that the representative of the Netherlands, who had similarly made accusations, should reflect on the situation in his own country, whose authorities practised a policy of discrimination against minorities, immigrants and other social groups, particularly the gypsy minority, who had been victims of large-scale expulsions. The Government of the Netherlands had severely repressed the homeless, who had organized peaceful demonstrations to protest against their fate, and police action had resulted in dozens of persons being injured. In the Netherlands, the right to respect for privacy was violated by a system which automatically recorded information of a personal nature.

7. As so often in the past, the representative of the United Kingdom had also made groundless accusations. The United Kingdom, which had always violated and continued to violate human rights on its own territory and in Northern Ireland, pretended to be unaware of massive and flagrant violations of human rights in Northern Ireland and also in South Africa, the occupied Arab territories and other reactionary countries governed by dictatorships; in those circumstances, it had no authority to make judgements on the situation in other countries where human rights were effectively respected. The delegation of the United Kingdom would do better to concern itself with the deplorable situation of human rights in Northern Ireland and in its own country, where there were a great many political prisoners and where persons had been detained and charged without concrete evidence, where those who demonstrated for peace were persecuted, and where racial discrimination was on the upsurge, not to mention repression, arbitrary arrests, murders and torture as well as inhuman and degrading treatment in the particular case of Northern Ireland. His delegation also advised the representatives of Ireland, Japan, Italy, Norway and Denmark to look at what was happening in their own countries before criticizing others.

8. The representatives who had referred to Mr. Ermacora's so-called report on the situation of human rights in Afghanistan, which was a tissue of lies, would find the answer to their questions and allegations in the detailed statement which he had made during the general debate on agenda item 12.

9. The voices raised by the United States and its allies were those of hatred and anger, expressing the convulsions of imperialism, which had lost its interests in Afghanistan. The new Afghanistan continued to progress and would never permit itself to be diverted from the moral way which it had chosen. The Afghan Government was resolved firmly to oppose pressure and intimidation.

10. Mr. SAID (Libyan Arab Jamahiriya) recalled that, in a statement under agenda item 12 (b), the representative of a non-governmental organization had made accusations devoid of any substance against the Libyan Arab Jamahiriya. The sole purpose of that statement had been to falsify the facts so as to minimize the major role played by the Libyan Arab Jamahiriya in supporting freedom-loving nations which fought to free themselves from the foreign yoke.

11. The representative of that organization had mentioned persons who, he had asserted, had been arrested for their political opinions. He could not be unaware that they had committed acts of sabotage and that the authorities of the Libyan Arab Jamahiriya had requested the collaboration of Interpol in order to arrest them. All those persons were guilty of criminal acts and had been judged in due legality by the people and the people's congresses.

12. Mr. KHARMA (Observer for Lebanon) refuted the slanderous allegations made by the representative of the Union of Arab Jurists, who had claimed that the Lebanese civil and military authorities had in 1982 launched vast arbitrary detention campaigns and that a number of inhabitants of West Beirut who had been victims of those arrests had been subjected to inhuman treatment. The facts were quite different. In September 1982, the security and armed forces had learned that certain persons of various nationalities, illegally in Lebanese territory, were involved in sabotage, acts of pillage and aggression of all kinds. In their concern to protect the safety of Lebanese citizens, the authorities had endeavoured to combat those crimes, arresting 1,500 persons who had been duly interrogated. A large number of those persons had been released as soon as they had been able to establish their innocence. Only a very few detainees still awaited judgement. All those persons, who had certainly not been arrested for their religious beliefs or political affiliations but for proven offences, had been well treated during their detention; they had been able to receive visits from their relatives and representatives of ICRC had been to see them a number of times.

13. The representative of the Union of Arab Jurists had also alleged that democracy had been suspended in Lebanon, and in particular that freedom of expression and movement were subject to restrictions. The best evidence that that was not the case was that the representative of the Union of Arab Jurists, a Lebanese citizen, was completely free to move about and say whatever he wished to the Commission; moreover he returned to Lebanon whenever he wished.

14. The conclusion of the statement by the representative of that non-governmental organization, who had appealed for measures to be taken to prevent the Lebanese army from continuing to ill-treat individuals, showed that he had lost all reason. The Lebanese security forces spared no effort to protect the people and continued to guarantee respect for basic human rights.

15. Mr. HEREDIA PEREZ (Observer for Cuba) recalled that the previous day the representative of the United States had once again launched into a ridiculous tirade against "Big Brother". It might be wondered why there was never any question of "Ku-Klux-Klan Brother", of "Indian Killer Brother", or of "Puerto Rican Discriminator Brother". The United States had no right to give lessons on human rights to other countries. The representative of the United States had himself admitted that there was much to be done for human rights in his country, but had had the impudence to add that the mere fact of recognizing that situation exonerated those responsible!

16. That country, which was helping Israel and South Africa to commit all kinds of human rights violations, could hardly take the liberty of giving lessons on the administration of justice and the treatment of political prisoners. Moreover, the Commission could have an idea of the frightening situation of human rights in the United States by referring to the study on discrimination against indigenous populations drafted by an expert of the Sub-Commission, which described in detail the inequality in the administration of justice and prison conditions, and the discrimination against Indians, Blacks and Puerto Ricans.

17. The representative of the Federal Republic of Germany had expressed his concerns about human rights in Cuba. If he had done so in all good faith, he would also be concerned, as the Cuban Government was, about a phenomenon as serious as the re-emergence of Nazism in some regions of the Federal Republic of Germany, where, as everyone knew, toys with pictures of Hitler and the swastika were sold to children.

There should also be concern about suicides among prisoners, which were common in the Federal Republic of Germany, and certain discriminatory laws which were a long way from meeting the criteria of the international instruments on civil and political rights. All those phenomena certainly merited the Commission's full attention. Equally alarming developments in the United States and the Federal Republic of Germany were the exploitation of children for pornographic purposes and drug addiction among adults and children.

18. Mr. MEZZALAMA (Observer for Italy) expressed his delegation's great surprise at and profound disagreement with, the statement by the representative of the Soviet Union concerning the situation of human rights in Italy. He wished to state that terrorism in Italy had been vanquished after much difficulty, in total observance of constitutional legality and human rights. The Italian authorities, however, were continuing to follow closely certain instances of the re-emergence of a phenomenon which was rife in a number of countries and did not in any case seem to have the least connection with the situation in Italy.

19. Neither the President of the Italian Council of Ministers nor any other authority had ever, on any occasion, made the remarks attributed to him by the representative of the Soviet Union concerning the alleged connivance of the Italian magistrature.

20. Unemployment, which was a structural phenomenon of industrial societies, affected both market economies and countries with centrally-planned economies, the only difference being that in the former it took forms that were evident and affected people individually, while in the latter it was reflected in underemployment among all workers, or quite simply imaginary jobs. The Italian Government had committed itself to combating the adverse economic, human and social consequences of unemployment by intervention programmes aimed at broadening the system of production and thus creating new jobs. Special human and social measures were being taken to help the unemployed.

21. Mr. ODOCH-JATO (Observer for Uganda) recalled that in the course of the debate on item 12 some delegations had mentioned the human rights situation in Uganda. That situation had already been reviewed in the Third Committee of the General Assembly and in his delegation's statement in connection with agenda item 10. He merely wished to add a few comments.

22. First of all, he assured the delegations concerned that the Government of Uganda remained committed to upholding and promoting the enjoyment of human rights by all who lived in the country. The Government had in particular taken measures aimed at economic reconstruction and development as well as measures designed to ensure the supremacy of the rule of law. Impartial observers acknowledged that the policy of the Ugandan Government had brought peace to all but parts of three of the country's 33 districts. Similarly, they admitted that more comprehensive training had considerably strengthened the capacity and discipline of the law-enforcement agencies.

23. He had already mentioned to the Commission cases of indiscipline among members of the security forces. Amnesty International had drawn attention to one such incident in the Mukono area in May 1984. The members of the security forces had only intervened following acts of sabotage, perpetrated in the area by protagonists of violent and unconstitutional change. The Government had nevertheless condemned the act and the officer responsible had since been charged in accordance with the law.

24. The Government of Uganda was firmly committed to guarding and strengthening the democratic system which had been re-established in the country. In the field of human rights, it had left the door open to the offers of co-operation and assistance which might be made to it. Those delegations which had made comments on the subject of Uganda could make no better contribution to the defence of human rights than to declare their support for the democratic process in the country and to join in persuading the protagonists of violence to abandon their course.

25. Mr. KHMEI (Ukrainian Soviet Socialist Republic) said that when the representative of the United States of America had stated that the Ukrainian Church was not free, he had known very well that it was not true. He had, in fact, been thinking of a particular Church, the Uniate Church of the Ukraine, which in the minds of the Ukrainian people was synonymous with subjugation to foreigners. The most recent pages of the history of that Church were marked by especially criminal acts, since it had rendered numerous services to fascism under Hitler. Its highest dignitaries had welcomed the occupation of the Ukraine by the Fascists and had given their support to a Nazi division of Ukrainian collaborators, which had become part of the Wehrmacht. Fallen into disgrace with the Ukrainian people, that Church had been dissolved in 1946; its members had become Orthodox while its criminal elements had taken refuge in the United States. The mere mention of its name was an insult to its victims.

26. Everyone knew that the main concern of the United States delegation was to make insinuations against other countries, particularly the socialist countries, without ever saying anything constructive. There was nothing surprising in that, since that State was not even a party to the international instruments which provided the legal bases for the work of the Commission. The reason why the delegation of the United States took the liberty of passing judgement was in order better to defend itself, since the violations of human rights in that country were legion.

27. The right to employment, for instance, was constantly denied and between 8 and 12 million people at least were unemployed. Because of the underemployment and racial or sexual discrimination, 4 million persons were homeless, and according to the social organizations 44 million did not even have the minimum to live. Every year one adult out of every 24 was arrested. More than 25,000 persons committed suicide each year and 25,000 died violent deaths, several hundreds of them killed by the police. That was not the reward of a harmonious life, but the result of hatred, despair and anger. In that so-called kingdom of democracy, Truman had been elected with 25.3 per cent of the votes, Nixon with 26.4 per cent, Carter with 27 per cent and Reagan with 25.0 per cent in 1980 and 30 per cent in 1984, which demonstrated a singular political apathy.

28. The representative of the United States had wanted to paint an idyllic picture of his country and had stated that everyone wanted to settle there. Those who wished to emigrate to the United States were, in fact, the greatest exploiters in the world. When a new international economic order was established and countries were liberated, that situation would no longer exist; the United States authorities knew that well and sought to resist progress. Their reaction was that of imperialism which knew itself to be doomed.

29. Mr. MAHBOUB (Observer for Iraq) said that the observer for Iran had given untrue answers to the criticisms of human rights violations in his country. The truth was that the Islamic Republic of Iran had been continuing its aggression against Iraq since 4 September 1981. It did not respect the decisions taken by the international conferences to end that aggression, but on the contrary wanted the

war to go on. Iraq had proposed an agreement in order to end the bombing of the civilian population and establish an efficient international monitoring system. For his part, the Secretary-General of the United Nations had on 9 June 1984 asked Iraq and Iran to cease all attacks on civilian targets. While Iraq had immediately accepted, the Islamic Republic of Iran had merely intensified such attacks. It had not given permission for the mission sent by the Secretary-General of the United Nations to carry out its monitoring task except in Teheran and had prevented the mission from travelling in the rest of Iranian territory. During that time Iran had attacked villages and towns in Iraq with the aim of "exporting" its revolution; that was the reason for the escalation of the bombing which had taken place during the current month.

30. In reply to the Iranian attacks, Iraq, in legitimate self-defence, was bombing the Iranian economic centres which contributed to strengthening the Iranian war machine. Those were sites not covered by the agreement of 12 June 1984. In retaliation the Iranian air force had bombed towns in Iraq, particularly Bassora. The Islamic Republic of Iran had thus violated the agreement to prevent the bombing of civilian targets. It had not allowed the mission sent by the Secretary-General of the United Nations to investigate the attacks made by its forces.

31. At a time when the Security Council was seeking a humanitarian solution to spare civilians, the Islamic Republic of Iran had continued its criminal attacks against Iraqi civilians, and was still causing large-scale loss of life among innocent persons. At the same time, it was trying to deceive the Security Council by concealing the fact of its increasing violation of United Nations resolutions. The Islamic Republic of Iran bore the full weight of the responsibility for the resumption of the bombing of civilian targets and the continuation of the war. The crimes it committed were premeditated. The Islamic Republic of Iran sought to create confusion between military and civilian targets so as to be able to carry on its expansionist policy. Moreover, it did not hesitate to enrol children among its troops, on the somewhat *outrious* grounds that the children who were taking part in the war were demonstrating their maturity and were guided by a spirit of martyrdom which materialists could never understand.

32. One might wonder who gained any advantage from the war waged by the Islamic Republic of Iran against Iraq. From a study of the facts it could be seen that it was essentially the Zionists who continued to occupy Arab territories. In 1982, the aggression of the Zionist entity against Beirut had taken place on the same day as the attack on the port of Bassora. The Islamic Republic of Iran claimed to defend the inhabitants of the occupied Arab territories against the Zionists, but in fact it served the Zionists' interests. People who lived in glass houses should not throw stones.

33. Mr. JAEGER (Federal Republic of Germany), replying to criticisms made at the previous meeting by the representative of the Soviet Union, said that the Federal Republic of Germany was a democracy where the rule of law prevailed, and that its Parliament, its courts and its Government acted to the best of their competence and conscience to ensure respect for human rights. Unfortunately, that did not prevent the occurrence of certain regrettable incidents, such as, for example, an incident in which Turks had been excluded from a restaurant. That incident had, however, aroused indignation in the country.

34. The representative of the Soviet Union certainly had the right to mention incidents of that type, but it was a grotesque distortion of truth to pretend that they were a reflection of the general attitude of the Federal Republic of Germany. That approach was one of disinformation. No country was perfect but there were countries where human beings enjoyed greater freedom and lived better; those were the countries which were flooded with people seeking asylum and refuge. There were other countries where people tried to leave in vast numbers because their basic rights were violated. He would not name those countries, since he considered that the sufferings caused by violations of human rights in the world should not be a subject for polemics.

35. Mr. KHMEL (Ukrainian Soviet Socialist Republic), Vice-Chairman, took the chair.

36. Mr. DO TAT CHAI (Observer for Viet Nam) deplored the fact that the representatives of the Federal Republic of Germany and the United Kingdom had made malicious insinuations against his country. Those representatives would do better to consider the situation in their own countries, where pro-Nazi demonstrations were tolerated and even accepted, the workers - the miners in particular - had an increasingly miserable existence, the number of unemployed was very high and the authorities excluded from public office persons whose political opinions they did not like.

37. The centres of re-education in Viet Nam to which those representatives had referred had allowed 90 per cent of the former members of the neo-colonialist régime subsequently to take part in the political life of the country. That lenient policy could be compared with what had happened in Europe following the Second World War, when hundreds of thousands of former associates of the Fascist régimes had been summarily punished. The persons still detained in the centres of re-education were not political prisoners but persons convicted of crimes against the homeland and against mankind who, if they came to trial, would be subject to extreme penalties. Their time in the centres of re-education, on the contrary, gave them an opportunity to mend their ways. In the case of completely irremediable elements, on the other hand, Viet Nam was prepared to discuss with their former protectors a matter which must be strictly humanitarian.

38. As the fortieth anniversary of the victory over fascism and of the creation of the United Nations approached, he hoped that all nations would strive to co-operate to punish the Nazi war criminals - many of whom were still at large - and those who emulated them, so as to contribute to the preservation of peace and the true development of human rights.

39. Mrs. GU Yijie (China) rejected the allegation made by the observer for Afghanistan that China was the puppet of imperialism. China was a sovereign country and there was not a single foreign soldier on its territory. The country which the observer represented, on the other hand, had a puppet régime and was controlled by an occupying army. The régime in power in Afghanistan allowed villages to be bombed and people to be killed by a foreign army. When acts of that kind against their own people were mentioned, the representatives of that régime referred to the intervention of a friendly State. Was that not puppet behaviour?

40. Mr. SHAHABI SIRJANI (Observer for the Islamic Republic of Iran) said that it was a matter of profound regret that the International Youth and Student Movement for the United Nations, a non-governmental organization had made itself the spokesman of the terrorist organization MKO. He quoted the following passage from the Associated Press

of 10 February 1985: "The MKO informed the Associated Press Office in London that the forces of its organization, during an attack against one of the centres of repression and torture in North Teheran, killed a revolutionary guard and injured two others". The attack had, in fact, been carried out against the accounting section of the Foundation for the Poor, where the person in charge had been killed and two guards wounded. That was the latest act of blind terrorism by MKO, which selected its victims from the most modest strata of society, particularly students, teachers, employees, shopkeepers and workers.

41. The International Youth and Student Movement for the United Nations should have concerned itself with the struggle against Zionism of young people in Southern Lebanon, against apartheid in South Africa, or against the empty and corrupt existence of so many young persons in Europe and America. It was to be hoped that the organization would become more intellectually mature and be able to single out the crucial priorities of young people in the world.

42. The representative of the non-governmental organization the Baha'i International Community had on 7 March 1985 rejected the validity of the book "Baha'ism, its origin and role" which had recently been distributed, although it quoted principally from Baha'i sources. On page 11 of that book could be found a quotation from a letter by Shoghi Afandi written after British forces had invaded Palestine on 22 July 1918: "Oh God, may Emperor George V, Ruler of Britain, be assisted in his divine achievements, and may his shadow over this realm be everlasting". That statement illustrated the Baha'i attitude towards the imperialist Powers. The Baha'is currently supported Zionism and it was those partisans of Zionism who put forward untrue allegations concerning the situation of the Baha'i community of Iran. When Baha'is were brought to justice in his country it was due to their illegal acts and not because of their beliefs.

43. The observer for Iraq had repeated accusations against the Islamic Republic of Iran which hardly merited an answer in detail. He recalled, however, that the war between his country and Iraq was a war imposed by the latter. Referring to articles in the International Herald Tribune he revealed the crimes committed by Iraq. An article in that newspaper of 6 March 1985 made it clear that the Iranian forces had warned the civilian population of Bassora to evacuate the city before a retaliatory raid so as to reduce civilian casualties. Another article from the same paper of 11 March showed that the behaviour of the Iraqi forces had been completely different. It stated: "Residents of the steel and oil city of Ahwaz said many people moved outside the city before dark and pitched tents for the night. The town is one of the 30 Iraq has threatened to attack. Iraq appears to have switched from night raids to daylight attack to catch residents after they return to work in urban centres".

44. He also referred to Security Council document S/16962, concerning a mission sent by the Secretary-General of the United Nations. Paragraph 273 of that document stated: "Physical violence appeared to be particularly common in POW camps in Iraq". The crimes committed by Iraq were well-known and the Commission should give them much more careful thought so as better to understand the position of the Islamic Republic of Iran.

45. Mr. KOOLJMANS (Netherlands), referring to criticisms of his country by the Soviet delegation, stressed that the competent authorities of the Netherlands were making every effort to assist persons who claimed to be victims of violations of their rights to obtain recourse nationally and internationally. The Netherlands had in particular recognized the competence of the Third Committee of the General Assembly to receive complaints in connection with article 13 of the International Convention on the Elimination of All Forms of Racial Discrimination. The Netherlands had also made the declaration provided for in article 41 of the International Covenant on Civil and Political Rights. He hoped that the USSR would also make that declaration; his delegation could then have a fruitful exchange of views with the Soviet delegation on the subject of article 41 of the Covenant.

46. Mr. HOPPE (Observer for Denmark), replying to remarks about his country made by the Observer for Afghanistan, said that if that observer considered that human rights violations took place in Denmark, he should have mentioned them during the discussions. Denmark was quite prepared to consider the human rights situation in its territory and would even invite the observer for Afghanistan to visit the country in order to form his own opinion. It would be desirable for Afghanistan to do the same, and in particular to collaborate with the Special Rapporteur appointed by the Commission.

47. The observer for Afghanistan had also claimed that the study of the situation of human rights in his country constituted interference in its internal affairs. It was paradoxical that Afghanistan, like other countries, should support the appointment of special rapporteurs to study the situation in Chile, Guatemala or El Salvador, but considered that the same measure constituted interference when it was applied to Afghanistan.

48. Mr. CHOWDHURY (Bangladesh), Chairman, resumed the chair.

49. Mr. SCHIFTER (United States of America), referring to various criticisms made of his country, said that the United States of America was an open country and had nothing to hide. The members of the Commission could obtain information on events there perfectly freely and were sufficiently perceptive to be able to form a picture of the real situation in that country.

50. Mr. KHERAD (Observer for Afghanistan) rejected the slanderous accusations made by the representative of China against his country. The Afghan delegation had not said that China was a puppet of the United States; if that was what the representative of China wished to understand, that was her own business. The Afghan delegation had simply expressed surprise that China should assist the imperialists and the reactionaries who were the direct heirs of those who, at one time, had tried to drown the Chinese revolution in blood. It might also be wondered how that attitude could be reconciled with the statements made by the Chinese leaders declaring their support for the revolutionary struggle of the nations.

51. China was arming bandits and terrorists against the Afghan civilian population and, in connivance with United States imperialism, was engaged in an undeclared war against revolutionary Afghanistan. Indisputable information had revealed that on Chinese territory, in Xinjiang Province, near the frontier of the People's Republic of Afghanistan, special camps had been set up where Chinese advisers and experts armed and trained counter-revolutionaries; Chinese instructors were also training Afghan terrorists in training centres in Pakistan. For some months the

armed forces of the People's Republic of Afghanistan had been capturing large quantities of arms of Chinese manufacture: submachine guns, launching ramps, anti-tank and anti-aircraft grenade-launchers, ground-to-air missiles, recoil-less canons or infantry weapons. Moreover, the official representatives of China did not conceal the fact that that country intended to continue its military aid to the counter-revolutionary gangs which proliferated on Afghan soil. He was surprised that the Chinese representatives should refer to human rights when in their country in a single year there had been 700 executions according to some sources, or several thousand according to others.

52. Addressing the observer for Denmark, he reiterated the comments which he had made; the question put by that representative was illogical and absurd.

53. The CHAIRMAN announced that, since those delegations that had wished to use their right of reply had done so, the Commission had completed its consideration of agenda item 12.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (E/CN.4/1985/23, 38 and 41; E/CN.4/1985/NGO/5, 11, 19, 32, 35, 39, 40, 42, 43 and 51; E/CN.4/1985/L.49 and L.79; E/39/61) (continued)

54. Mr. HERNDL (Assistant Secretary-General for Human Rights) recalled that at its previous session the Commission had requested the Special Rapporteur on the Situation of Human Rights in Chile to present a progress report to the General Assembly at its thirty-ninth session and his final report to the Commission at its current session.

55. Accordingly, the Special Rapporteur at the time, Mr. Lallah, had submitted a report to the General Assembly in document A/39/631. A statement by Mr. Lallah was reproduced in document E/CN.4/1985/38, which was also before the Commission. As was clear from document E/CN.4/1985/41, Justice Lallah had resigned, and the Chairman of the Commission had on 1 March 1985 appointed Mr. Fernando Volio Jiménez as Special Rapporteur on the Situation of Human Rights in Chile.

56. Mr. MONTAÑO (Mexico) noted with regret that for more than 10 years the Commission had been obliged to consider the situation of human rights in Chile. Mexico was extremely concerned by the tragedy which a sister Latin American country had been suffering since 1973 and in its desire for solidarity had continually worked since then towards the restoration of democracy in a country which had formerly been an example for the entire continent.

57. Mexico categorically rejected the arguments put forward by the Chilean Junta denying the legitimacy of United Nations decisions concerning the situation of human rights in Chile. It considered that the argument several times advanced by the Chilean authorities was based on an erroneous interpretation of article 2 of the Charter; to claim that everything concerning respect for human rights was exclusively a matter of national jurisdiction was contrary to the letter and spirit of the Charter, which was aimed solely at protecting the sovereignty of States against attempts at political interference in matters which belonged exclusively to the responsibility of those States. Violations of human rights and fundamental freedoms were specific de facto situations, unambiguously referred to in the Universal Declaration on Human Rights and in the Covenants as well as in the relevant inter-American Conventions signed by Chile.

58. The Mexican delegation also rejected the argument that Chile was a victim of a "discriminatory and selective procedure", an argument which had already been refuted by the Special Rapporteur in his report. The very wide-ranging powers of the United Nations under the Charter allowed it to resort to the procedure in question, which had in any case already been used in similar cases.

59. Another argument used by the Chilean authorities was equally unacceptable: they claimed that, under a decree issued by the Supreme Court in October 1984, Chile was no longer required to apply on its territory the provisions of the Covenant on Civil and Political Rights - which Chile had ratified - on the pretext that the text of the Covenant had not been published in the Diario Oficial (Official Gazette) as provided for by the Constitution; that was, of course, a specious argument, since the non-fulfilment of a formality relating exclusively to domestic law could not exempt Chile from fulfilling obligations contracted under inalienable standards and principles of international law.

60. There could therefore be no doubt that the Commission had not only the right, but also the duty, to work towards the restoration of human rights in Chile. That country's attitude of rejection and non-co-operation defied international legality and the United Nations itself.

61. He would not dwell on the systematic dismantling of the democratic legal and political structures which had been going on since 1973, but he wished to make some comments on developments in recent months in the legislative sphere. In order to complement the standardized institutional framework provided by the 1980 Constitution, the military authorities - who, in addition to the executive power also held the legislative and the judicial power - had responded to the loud demands of the people to restore democracy by speeding up the adoption of basically repressive texts. That development, mentioned by the Special Rapporteur in his statement to the General Assembly (E/CN.4/1985/38), seemed logical, since the current régime was seeking a means of stemming the movement of popular protest.

62. During 1984 and early 1985 the Junta had promulgated a series of so-called "acts" and decrees intended to organize repression. Those texts, which complemented the 1980 Constitution in terms of its implementation were, like that Constitution, contrary to the fundamental principles and standards of the international instruments which Chile had signed and ratified. By way of example, he would describe some elements of a veritable corpus juris which, as the Special Rapporteur had stressed, constituted a systematic set of denials of civil and political rights and freedoms, particularly as a result of the institutionalization of the state of emergency; that analysis corresponded to that of the Chilean Commission on Human Rights and others. According to that Commission, the features of the new legislation enacted in 1984 were heavier penalties in the legal texts concerning State security, weapons control and some political situations; establishment of new offences and heavier penalties applicable to existing ones so as to restrict freedom of expression, opinion and information; new restrictions on the right of association and legalization of the procedures used by the security services, encroaching on the freedom of individuals; new anti-terrorist legislation; and new provisions concerning the right to work, which seriously jeopardized economic and social rights.

63. The anti-human rights texts promulgated in 1984 included the following acts and decrees: Act No.18.314, which determined terrorist activities and the penalties for their punishment; Act No.18.313, amending the Act on abuses of publicity; Act No.18.315, amending the Decree-Law which had established the

National Information Agency (CNI) and authorizing it to arrest and detain persons on its own premises; Act No.18.342, amending the Code of Military Justice and the Internal Security of the State Act; Decree No.263, extending the state of emergency on the grounds of threat to internal peace; Decree No.310, establishing a state of emergency; Decree No.98, maintaining control over new publications; Decree No.320, restricting the publication and dissemination of information concerning facts or conduct which might in any way be prejudicial to public order; Decree No.599, prolonging the state of emergency; Decree No.901, prolonging the state of exception on the grounds of threat to internal peace; and Decree No.486, maintaining control over new publications.

64. With respect to form, none of those new texts had been the subject of prior public debate, and Acts Nos.18.314 and 18.313 had not been adopted in accordance with the procedures provided for by the 1980 Constitution, i.e. an absolute majority of deputies and senators in office. So far as their substance was concerned, the group of provisions was contrary to human rights and primarily to the right to freedom, since the administrative and military authorities were henceforth empowered to arrest persons on mere suspicion, without a warrant, while CNI could arrest and detain persons on its own premises, magistrates could prolong administrative detention and, under the state of emergency, persons could be arrested without any charge being preferred against them. The right to freedom of movement was equally affected, since under the state of emergency the administrative authorities could place persons against whom no charge had been preferred under house arrest, or forbid them to enter or leave the country, or expel them from it. The right to an effective remedy in law was also flouted, since the state of emergency excluded the possibility of any legal remedy against the measures taken by the administrative authorities. The right to impartial judgement was trampled underfoot, since the persons concerned had no remedy against such procedures as interception of communications and confiscation of private documents, witnesses could give evidence in secret, the administrative and military authorities arrogated to themselves powers which were normally those of the courts, courts could take decisions without informing the persons concerned, etc. The right of peaceful assembly was infringed, since organization of public collective activities in the streets, squares and other public places was regarded as a danger to State security and under the state of emergency the administrative and military authorities could restrict the right of assembly. The right to information was ignored, since under the state of emergency the administrative and military authorities had broad powers to restrict any freedom the information agencies might have, and particularly to apply censorship; an administrative measure prevented the information agencies from giving prominence to or stressing matters, events or behaviour which might foster or encourage any breach of public order; moreover, new types of offences had been defined in respect of information and the penalties provided for that category of offence had been made more severe. The right to equality was not respected either, since the members of the armed forces and the police enjoyed special legal protection. Lastly, the right to privacy was infringed, since the administrative authorities did not need a warrant to intercept, open and confiscate private communications and documents and place persons under surveillance.

65. The measures taken during the period under consideration could be summed up as follows: the powers of CNI had been strengthened; legislation had also extended the power of repression of the administrative and military authorities; the authority of the military courts had been expanded to the detriment of the

civil courts; the administrative authorities had arrogated to themselves powers normally attributed to the courts; at least 24 new types of offence had been identified with a view to protecting public order, institutions, the armed forces and the police; the norms of criminal procedure, long established in Chilean legislation, were flouted, while vague and poorly defined criminal provisions left individuals in a situation of insecurity; heavy penalties, particularly the death penalty, were laid down for the new offences; legislation on State security provided for the application of civil sanctions in addition to criminal sanctions; lastly, armed forces and police personnel enjoyed privileged status.

66. In addition to that group of oppressive and anti-democratic measures, several types of constitutional states of emergency, the effects of which the Special Rapporteur had analysed in detail, had been systematically proclaimed.

67. Those facts presented by the Special Rapporteur in documents A/39/631 and E/CN.4/1985/38 were extremely serious. Some which might be mentioned, in so far as they were public knowledge, were: the detention of 40,000 persons following mass arrests - for example on the occasion of popular protest demonstrations, or operations carried out by the army and the police in the poor districts of the cities; more than 100 dead and thousands of injured following the intervention of the so-called forces of order against demonstrators; the reopening of detention centres to receive hundreds of prisoners; recourse to torture and other cruel treatment involving disappearances and deaths; the persistent refusal by the authorities to authorize the return of thousands of exiles to their country and the practice of "banishment" or house arrest; the use of censorship; and the extension of the powers of the military courts.

68. Not only were civil and political rights trampled underfoot: the situation was no less dramatic in respect of economic, social and cultural rights. In practice, all fundamental rights involving work had been revoked, beginning with the right to work itself, which was the object of arbitrary discrimination on the part of the authorities, while the right of petition and the right to strike were being progressively undermined by the so-called labour legislation.

69. When the Commission had decided to appoint a Special Rapporteur on the Situation of Human Rights in Chile, that situation had already seemed very serious. Despite the obstacles placed in his way by the Chilean authorities, the first Special Rapporteur, Mr. Dieye, had performed his task excellently. Following his death, the Commission had appointed Mr. Lallah, who, like his predecessor, had carried out his task objectively and scrupulously. In the light of information contributed by the two Rapporteurs, the Commission had decided to extend Mr. Lallah's mandate, but in view of the increasingly serious situation of human rights in Chile he had resigned. The new Special Rapporteur, Mr. Fernando Volio Jiménez, would certainly also devote himself fully to his task.

70. Mr. SOFINSKY (Union of Soviet Socialist Republics) said that the names of Salvador Allende and Popular Unity were written in letters of gold in the history of the peoples of Latin America and the whole world, summoning Chileans to free themselves from the yoke of the Fascist dictatorship and terror of Pinochet and his foreign protectors. The blood shed by Chilean patriots over the past 12 years was a sad indication of the negation of the most elementary human rights.

71. The flagrant and massive violations of civil, political, economic, social and cultural rights in Chile had become State policy and were a matter of continual concern to the United Nations bodies which had frequently denounced repression in Chile and demanded, in vain, that the Chilean authorities should put an end to it and restore and guarantee human rights and freedoms. In resolution 39/121, the General Assembly had concluded, on the basis of the report of the Special Rapporteur (A/39/631), that it was necessary to keep the situation of human rights in Chile under consideration (paragraph 13). The Special Rapporteur had reported the worsening of that situation and particularly the intensification of terror and repression, as could be seen from his conclusions.

72. Rather than reply to the legitimate claims put forward by the Chilean people during the days of national protest, the Pinochet régime had on 6 November 1984 once again decreed a state of siege, which had led to the closing down of opposition publishing houses, the strengthening of censorship, a ban on political meetings, searches by the police in the premises of the People's Democratic Movement and the trade unions and also, in retaliation, in the slum-settlements of the towns where the demonstrations had been most active. Since then more than 12,000 persons had been arrested and more than 700, mostly trade union leaders, students and slum-dwellers, had been exiled or interned in concentration camps, while many others had disappeared without trace. In February 1985, the Junta had by decree extended the state of siege for a further 90 days.

73. However, the Chilean people had decided to respond to those acts of war, which heralded the inevitable end of the régime, and was resolved not to bow to tyranny. It had increased the number of national days of protest and organized a general strike which had been very widely observed. It would not rest until it had overthrown the dictatorship and recovered all its rights. It was in that perspective that the National Council of the People's Democratic Movement had appealed for national unity with a view to setting up a provisional democratic Government.

74. Chilean patriots and democrats were determined to put an end to the Fascist Pinochet régime, which had been generously supported by the ruling circles and large companies or public bodies in the United States, including ITT and the CIA, which had also played a prominent role in the organization and financing of the coup d'état of 11 September 1973, carried out in response to the democratic policy followed by Salvador Allende and to the nationalizations, particularly of the copper mines. It should be noted that through its copper industry legislation, the Junta had committed the infamous act of placing in foreign hands all Chile's copper resources, its main wealth amounting to 30 million tonnes of reserves, which was of capital importance for world economic and industrial development.

75. The Commission should therefore condemn repression and terror in Chile and demand the lifting of the state of siege. It should without delay take the most appropriate steps for the effective restoration of human rights and fundamental freedoms in Chile, under the mandate entrusted to it by the General Assembly in paragraph 15 of its resolution 39/121.

76. Mr. LACLETA (Spain) recalled that the Spanish Government had made the protection of human rights a vital objective of its domestic and foreign policy. Human rights violations took place in various countries across the globe, and their denunciation and consideration could in no way be based on selective criteria. Similarly, the argument of selectivity should not be put forward as a

pretext for discouraging the United Nations from considering serious and systematic cases of human rights violations wherever they occurred. The respect and protection of those rights was a universal obligation which had neither geographical nor political frontiers.

77. The Spanish Government had no wish to set itself up as a judge or to give lessons in democracy, but it could not be silent before violations of human rights like those which continued to be perpetrated in Chile and, which were a matter of particular sensitivity because that country had in the past been a model of solid respect for democratic institutions and one of the most illustrious examples of constitutional stability in the entire American hemisphere.

78. The Spanish delegation was deeply concerned by the lack of interest shown by the Chilean Government in General Assembly and Commission resolutions concerning the situation of human rights in Chile, particularly as the Chilean authorities were required to respect and protect human rights in accordance with the international instruments to which Chile was party and the deep-seated democratic beliefs of its people. The Spanish Government urged the Chilean Government to co-operate with the Commission's new Special Rapporteur, Mr. Volio, who was an eminent Latin American jurist and for that reason particularly qualified to understand the problems of the region. It took the opportunity of thanking the former Special Rapporteur, Mr. Lallah, for the way in which he had carried out his mandate. The co-operation of the Chilean authorities with the Special Rapporteur would prove their desire - hitherto non-existent - to establish constructive relations with the Commission, which certainly had the authority to be informed of the situation of human rights in Chile.

79. The situation was undeniably serious in various respects. In particular, the proclamation of the state of siege had given rise to an alarming proliferation of human rights violations, particularly of the right to life and the safety of the individual, and infringed basic freedoms such as freedom of expression, freedom of information and freedom of assembly and association. The arbitrary arrests made on the pretext of the state of siege were inadmissible, as was the imprisonment of detainees in such unconventional places as sports stadiums or clandestine prisons. Often, the latter practice encouraged torture or the disappearance of persons, and in some cases it led to extrajudicial executions. The Spanish delegation similarly condemned what could be called secondary forms of violation of freedom of the individual, such as internal banishment, which was a kind of restricted residence, and exile.

80. Although the denial of freedoms affected the Chilean people as a whole, some sectors were more directly involved than others. The Spanish delegation was very concerned about violations of trade union rights as basic as the right to strike, the right of collective bargaining and the right to belong to a trade union, and also the subtle undermining of the right to work, which had been proclaimed in the 1920 Constitution and had been transformed in the current 1980 Constitution into "freedom to work". His delegation was also concerned about the dangerous trend to encourage the so-called freedom of association of the workers so as to deprive the traditional trade unions of their rank-and-file support.

81. Despite a long and prestigious tradition, the judiciary was not immune to pressures aimed at obstructing the normal course of justice; applications for amparo had frequently been rejected; the penalties for offences against the armed forces had been very heavily increased following the amendment of the Code of Military Justice, and the jurisdiction of the military had been extended.

82. The Church, at all levels, had on occasion had to make up for the absence of any means for the people to express themselves and to transmit the claims of a society which was not allowed to express its firm democratic beliefs. The Vicaría de la Solidaridad, whose Vicar, Father Ignacio Gutiérrez, had been expelled, and other institutions of the Catholic Church devoted to the defence of human rights and the legal protection of prisoners and persons affected by repression had been particularly active in that respect.

83. The systematic violation of human rights and fundamental freedoms in Chile had led the Chilean people to organize national days of protest and a general strike. Those demonstrations had been met with repression that was out of all proportion: it had caused death and injury and had also taken the form of a great many arrests. That repression was based on the alleged legal basis of the triple state of "exception" which under various names - state of emergency, state of danger of disturbance of internal peace or state of siege - had led to the systematic prolongation of exceptional measures. According to the authorities, it was justified by "internal troubles", but the argument was not convincing. Article 41, paragraph 2, of the current Constitution provided that:

"By virtue of the declaration of the state of siege, the President of the Republic may transfer persons from one place to another within the national territory, arrest people in their own homes or in places that are not jails nor those used for detention or imprisonment for common criminals, and expel them from the national territory. In addition, he may restrict freedom of movement and prohibit certain persons from entering or leaving the territory. He may also suspend or restrict exercise of the right to assemble, freedom of information and opinion, the rights of association and unionization, and may impose censorship on correspondence and communications".

In view of that list of restrictions on individual and collective freedoms, the international community could well ask whether there was still any freedom in Chile which was not restricted, particularly in view of the fact that the measures adopted under the above provisions could not be the object of any application for amparo or protection.

84. The Spanish delegation wished to appeal to those in authority in Chile, particularly the Chilean Government, to make a courageous effort to improve that situation, which inspired so much concern, and to re-establish human rights.

85. The Spanish delegation had faith in the solidly-rooted democratic traditions of the Chilean people, which constituted the best guarantee for the uniting of wills to re-establish the rule of freedom of which that nation had been deprived.

86. Mr. DICHEV (Bulgaria), referring to Commission resolution 1984/63, recalled that his delegation had been in favour of its adoption, in the profound conviction that it constituted an efficient means of mobilizing States and world public opinion in the fight against flagrant and massive violations of human rights in Chile.

87. It was still a fact that the fascist military régime of Chile continued to pay no attention to resolutions in which the United Nations bodies requested the restoration of and respect for human rights and fundamental freedoms. Since the last session of the Commission, the situation of human rights in that country, far from improving, had worsened, as the Special Rapporteur noted in his excellent report to the General Assembly (A/39/631). It was precisely on the basis of that report and other relevant information that the General Assembly in resolution 39/121 had once again expressed its grave concern at the general persistence of the serious situation of human rights in Chile which, as it had noted, had continued to deteriorate. In view of the many undeniable facts which were evidence of that deterioration, his delegation protested vigorously against the attempts made by certain delegations to minimize its extent and divert the discussion.

88. The days of national protest organized in the past year against the régime of General Pinochet had proved once again that the Junta had still not acquired the slightest legitimacy after 11 years of terror and repression. As for the alleged merits of the Constitution which had come into force in March 1981, his delegation shared the opinion of the Special Rapporteur that "discrimination on political grounds is established as a principle in the Constitution" (A/39/631, para. 358). It was precisely that kind of Constitution which, far from guaranteeing human rights and fundamental freedoms, denied, suspended or restricted their exercise. His delegation was extremely concerned by the institutionalization of the state of emergency and the extension of military jurisdiction, which only prolonged the suffering of the Chilean people. The Junta continued to reinforce its arsenal of legislative and administrative measures to prevent all Chileans without discrimination from exercising their right to take part in the conduct of the country's political affairs and to choose the type of democratic régime under which they wished to live.

89. In his report, the Special Rapporteur had noted the increase in the number of mass, arbitrary and illegal arrests, flagrant violations of the right of individuals to physical and psychological integrity, the large number of enforced or involuntary disappearances, persecutions, and in particular violations of the primary right, the right to life. According to an article published in Newsweek on 26 November 1984, on the latest acts of intimidation - the raids in La Victoria in November 1984 - 5,000 men, including a large number of youths, had been transported en masse to the San Eugenio stadium. The alleged justification of the round-up had been the fight against Marxist insurrection in Chile. To that end, according to Newsweek, the President had not only imposed a curfew from midnight to 5 a.m., but had given Government authorities the power to tap telephones, open correspondence and keep persons in prison indefinitely without preferring charges. Three magazines published by Catholic organizations, Newsweek had added, had been seized on the pretext that the Church was being infiltrated by the communists and that all priests were Communists. That proved that fascism and reaction still tried to justify their sinister acts by brandishing the threat of communism.

90. Everyone knew that the dictatorship of General Pinochet had been imposed by a Fascist coup d'état with the assistance and direct participation of a foreign State which openly denounced terrorism and was officially committed to combating it, while in actual fact it used terrorism as its favourite political instrument. The Fascist coup d'état in Chile, the invasion of Grenada, and the insidious war against Nicaragua were only some of the most striking examples. They exposed the hypocrisy of those who claimed to arrogate to themselves the right to

interfere in the internal affairs of sovereign States on the pretext of saving or establishing democracy. For that purpose, those democracy-loving forces resorted to all possible means of upholding dictatorial régimes like that in Chile, training mercenaries, and calling for and resorting to violence, while calling the lawful struggle of oppressed nations for self-determination, independence and democracy "terrorism", and the aid granted to that just and legitimate combat "collaboration with international terrorism".

91. His delegation stressed the fact that with an unemployment rate of 24.6 per cent, the soaring rate of inflation, the deterioration of working conditions, the lack of social security, inequality in schools, etc., the Chilean people continued to be deprived of its most elementary economic and social rights. As the Special Rapporteur had noted in paragraph 277 of his report, "any questioning of the economic model chosen by the Government tends to be construed as an exclusively political reaction attracting the sanctions which infringement of the ban entails".

92. The Bulgarian delegation supported the recommendation of the Special Rapporteur that the Government should put an immediate end to the "state of emergency" and the "state of danger of disturbance of internal peace" and take urgent steps for the re-establishment of the country's traditional democratic order (para. 393).

93. The Bulgarian delegation considered that the mandate of the Special Rapporteur should be extended and would actively support the inclusion of a provision to that effect in any resolution on Chile submitted to the Commission.

The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.53/Add.1.