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COMMISSION ON HUMAN RIGHTS

Thirty-fourth session

SUMMARY RECORD OF THE 1468th MEETING

held at the Palais des Nations, Geneva,
on Monday, 6 March 1978, at 3.15 p.m.

Chairman: Mr. M' BAYE (Senegal)

CONTENTS

Rights of persons belonging to national, ethnic, religious and linguistic minorities (agenda item 21) (continued)

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) (continued)

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

- (a) torture and other cruel, inhuman or degrading treatment or punishment;
- (b) the body of principles for the protection of all persons under any form of detention or imprisonment (agenda item 10) (continued)

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RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC, RELIGIOUS AND LINGUISTIC
MINORITIES (agenda item 21) (E/CN.4/L.1367/Rev.1, E/CN.4/L.1381;
E/CN.4/Sub.2/384 and Add.1 to 7) (continued)

1. Mr. YOUSSEF (Observer for Iraq), continuing the statement he had begun at the 1467th meeting, said that the principle of the loyalty of members of minorities to the State of which they were citizens, which was mentioned in paragraph 5 of the working group's report (E/CN.4/L.1381), was a basic principle which guaranteed that action in favour of human rights would not jeopardize national integrity and that imperialistic policies designed to divide nations into easily dominated micro-States would not gain their ends.
2. In spite of the economic and social problems that beset developing countries such as Iraq, the revolutionary Government of Iraq had been able to find equitable and lasting solutions to the minorities problem, which was often a complex one. The laws, regulations and measures that had been taken in that connexion could serve as an example to other developing countries.
3. The Iraqi legislation on minorities was based on the following two principles: firstly, the protection of minorities was a form of opposition to racial discrimination and, secondly, the protection of minorities should not be purely formal - on the contrary, the State should, by suitable legislation, help the minorities to exercise their rights. His delegation was therefore in agreement with the Special Rapporteur that non-discrimination was a precondition for special measures in favour of minorities and that the obligations of States under article 27 of the International Covenant on Civil and Political Rights were binding. In that connexion, he referred the Commission to page 119 of the Yearbook on Human Rights for 1973-1974, where mention was made of the Kurdistan Territorial Autonomy Act, which conferred complete national rights on the Kurdish people within the territory inhabited by a Kurdish majority.
4. Furthermore, the other minorities enjoyed complete freedom to maintain their cultural heritage. For example, they had their own publishing houses and the Government provided them with all the means to promote their traditions and their culture. With regard to the Jews, there was a law allowing all Iraqi Jews to return to the country and fully guaranteeing their rights. All the laws he had mentioned were applied throughout the territory, i.e. in the autonomous region of Kurdistan as well as in the remainder of the country. The organs of the autonomous region were naturally entirely in the hands of Kurds. Moreover, the Vice-President of the Republic and five ministers, including the Minister responsible for co-ordination between the central authorities and those of the autonomous region, were all Kurds.
5. In 1977 the Iraqi Government had allocated \$500 million, representing a considerable proportion of the national budget, to the economic and cultural development of the autonomous region. It was noteworthy that the Iraqi Government had promulgated and implemented all the laws he had mentioned well before it had ratified the Covenant on Civil and Political Rights.
6. Mr. ERMACORA (Austria) said that the minorities problem was not a problem in Europe only, as had been thought some 20 years earlier. The statement they had just heard from the representative of Iraq showed that the problem existed in that part of the world, as it did also in African countries such as Namibia

or Zimbabwe where the whites were in a minority situation. The definition which the Special Rapporteur proposed in his study (E/CN.4/Sub.2/384/Add.5, para. 10) represented an advance on that which the Sub-Commission had proposed at its fifth session. The Special Rapporteur had retained the notions of minority groups being in a non-dominant position and numerically inferior, but he had abandoned the notion of loyalty to the State. That was more satisfactory, because the notion of loyalty raised difficult problems in so far as a minority group could scarcely be asked to show loyalty towards a State which was not willing to guarantee its rights. There were, however, some elements in the new definition which required clarification. The expression "group in a non-dominant position" needed to be defined more clearly so that the protection of minorities would not extend to dominant minorities such as the white minority in the apartheid regime. The "sense of solidarity" of a minority group should also be defined more exactly, as should the idea of that solidarity being shown "implicitly".

7. The Special Rapporteur's study mentioned the importance of the principle of self-determination, but did not touch on the problems of the mass expulsions of minority groups or of persons belonging to minorities, or of population transfers. Nor did it mention the question whether or not Aborigines should be treated as minority groups.

8. The Austrian delegation therefore considered that although the study was of considerable interest, it had a number of gaps and that, if the draft resolution proposed by the working group which provided for its dissemination (E/CN.4/L.1381, para. 12) was adopted, the public would have an incomplete picture of the minority problem.

9. In chapter V of his study (E/CN.4/Sub.2/384/Add.5, section 10) the Special Rapporteur recommended a series of measures to be taken at the international level. The Austrian delegation endorsed recommendation (a) concerning a draft declaration on the rights of members of minority groups. The Yugoslav delegation had already drawn up a similar draft which, in the opinion of his delegation, should have had prior consideration by the Sub-Commission. Such a declaration could only be a beginning and it was to be hoped that Member States would be able before long to reach agreement on an international convention on the rights of minorities.

10. His delegation also endorsed recommendation (b) on bilateral and regional co-operation, since, as had been pointed out, the situation of minorities varied from one region to another.

11. The Austrian delegation was glad that two regional seminars had been held in Yugoslavia and hoped that countries in other regions would consider organizing such seminars in accordance with the Special Rapporteur's recommendation (c). It also endorsed recommendation (e) on action by UNESCO and thought that ILO, too, should be encouraged to study the economic problems of minorities. With regard to recommendation (f) concerning the dissemination of the study, he considered that a study on minorities which did not take into account the publications in German on the question could not fail to be incomplete. Moreover, he thought that the Commission should keep the question of minorities on its agenda.

12. In his opinion, minorities could be a bridge between national entities and States, and between different States, provided that certain conditions were met and, in particular, that the human rights of minorities were guaranteed.

13. Mr. MARASLI (Turkey) said that the Special Rapporteur was to be congratulated on having produced a study on such a difficult subject as the rights of minorities. In view of the scope and the complexity of the subject, however, some adjustments should be made before the study took final form, not only to introduce into some parts of the report certain shades of meaning which might be missing in the present text, but also to provide for the possibility of updating the study, as would no doubt be necessary. His delegation was ready to contribute whatever it could to that process.

14. The CHAIRMAN said, that if there were no objections, he would take it that the Commission decided to adopt draft resolution A appearing in paragraph 12 of the report of the working group (E/CN.4/L.1381), it being understood that in operative paragraph 1 the words "rights of national" should be replaced by the words "the rights of persons belonging to national".

15. He noted that there was general agreement on that point.

Draft resolution A, as amended, was adopted.

16. The CHAIRMAN said that, if there were no objections, he would take it that the Commission decided to adopt draft resolution E appearing in the same paragraph of the working group's report.

17. He noted that there was general agreement.

Draft resolution B was adopted.

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) (continued) (E/CN.4/923/Add.11; E/CN.4/1261, E/CN.4/1262; E/CN.4/L.1402, E/CN.4/L.1405, E/CN.4/L.1406, E/CN.4/L.1407)

18. Mr. DANIELIUS (Sweden) said that his delegation was well aware that serious violations of human rights were taking place in countries other than Chile and that the confidential procedure prescribed under Economic and Social Council resolution 1505 (XLVIII) had been applied to some of them; however, contrary to the ruling by the Chairman of the Commission - by which his delegation would none the less abide - which had instructed participants not to discuss the situation in those countries in open meetings, his delegation considered that resolution 1505 (XLVIII) did not in itself prohibit such discussion; it merely laid down the procedure for dealing with private communications. While that procedure was genuinely confidential, it did not absolutely exclude the possibility of a discussion on the countries in question in open meetings, provided that the contents of the communications were not disclosed.

19. It was true that the Commission was swamped with information of every kind received from all parts of the world and that it was often difficult to verify its accuracy, but if the Commission seriously wished to put an end to violations of human rights wherever they occurred, it should at least try to look into the reports which seemed to be the most alarming. It should neither close its eyes on the pretext that they had not been confirmed nor accept uncorroborated allegations as facts.

20. Nor should it bow to political criteria. Whatever the preferences of the members of the Commission in that respect, they should be ready to state their views whenever human rights were violated and to request explanations wherever they appeared to be needed.

21. The United Kingdom had submitted a draft resolution concerning Democratic Kampuchea, about which alarming reports had been published, requesting that an investigation should be conducted by a special rapporteur on what had really happened in that country; there were many other ways of carrying out an investigation but, since no other proposal had been made, his delegation supported the United Kingdom's initiative and, since it was anxious for the situation to be clarified, it was even ready to co-sponsor the draft resolution. It wished to stress, however, that in asking for an investigation it did not in any way prejudge the outcome.

22. The situation in Argentina seemed equally alarming. Swedish public opinion and the Swedish Government were deeply concerned about the alleged disappearance, arrest or detention of numbers of people for political reasons and the cases of torture and other cruel treatment. The development of the human rights situation in Argentina should therefore be followed with the closest attention.

23. The consideration of the agenda item under discussion should give the Commission an opportunity of broadening the perspective in which it viewed violations of human rights in different countries. It was true that Governments were highly sensitive in that regard, but the fact that those issues aroused international concern and were discussed openly should in many cases be regarded as an incentive to Governments which sincerely wished to do something to improve the human rights situation in their countries. Violations, in fact, were not invariably committed by Governments; there might be other powers within the State which stood in the way of their desire for progress in the field of human rights. Constructive international action could then be valuable support for a Government which was endeavouring to redress the situation.

24. Mr. von BREDOW (Observer for the Federal Republic of Germany) said that his Government attached great importance to the protection of and respect for human rights in all parts of the world and found it encouraging that in recent years world public opinion had become increasingly interested in the question and that progress had been achieved within the framework of the United Nations, especially through the work of the Commission and the Human Rights Committee. Nevertheless, the Commission should not, even out of a mistaken idea of solidarity, close its eyes to the violations which continued to occur daily in a number of countries. The Commission on Human Rights should not, of course, pass judgement lightly and selectively, on the basis of mere allegations, but his Government and public opinion in his country would fail to understand if the Commission remained silent

in instances where there was an increasing number of reports of murders and other serious violations of human rights - as in the case, for instance, of Democratic Kampuchea. The discussion of those allegations in the Commission on Human Rights and their investigation within the framework of the United Nations, if possible with the participation of the Governments in question, would not prove detrimental to the human rights situation in those countries and would, on the contrary, enable the Governments concerned to make known their points of view. His delegation therefore welcomed the statement made by the United Kingdom representative at the 1466th meeting.

25. Mr. RIOS (Panama) protested against the accusation made by the Director of Information of the Canal Zone Non-Profit Public Information Corporation that his country had a racist régime. That accusation merely sought to discredit Panama in the eyes of international opinion because it was struggling to re-establish its sovereignty over the whole of the national territory. It was true that the Constitution of 1941 had prohibited the immigration of persons of certain races but the Government which had adopted it had very soon been overthrown by the Panamanian people and the Constitution had been abolished. It had been replaced in 1946 by a Constitution based on the concepts of justice and democracy to which the authors of the Charter of the United Nations had attached such faith, which expressly rejected any privilege based on race, birth, social class, sex, religion or political ideas and established the equality of Panamanians and foreigners before the law. Both those principles had been embodied in the Constitution of 1972.

26. It was ludicrous to think that discriminatory and racist principles could be applied in a multiracial country such as Panama, whose inhabitants, of Asian, European, African and American origin, were all of mixed parentage. A system of racial discrimination had, however, been imposed by a foreign Power in the part of the territory of Panama known as the "Canal Zone".

27. In order to save the Commission's time, he would not read out the official statement by the Ministry of Foreign Affairs of Panama on the question, but asked that the statement should be circulated as a Commission document.

28. Mr. DAVIS (Australia) said that his country, which had recently resumed its place as a member of the Commission, was resolved to participate actively in its work; although the task of examining serious violations of human rights was a sombre one, it was part of the obligations of Member States concerned to implement Article 55 of the Charter of the United Nations and to achieve the objectives of dignity, justice and tolerance proclaimed in the Preamble to the Charter.

29. The Commission had been set up for the purpose of defending the human rights enshrined in the Charter and all its members had the obligation, however difficult it might sometimes be, to draw the attention of the international community to violations of human rights wherever they occurred and to make known their concern to the countries in question. Regrettably, in recent years many States appeared to have seriously infringed the principles established by the international community in the treatment of their own citizens and, accordingly, the Commission had to take on increasingly heavy responsibilities: it could not shrug them off

by invoking Article 2 (7) of the Charter or by pleading lack of power. Furthermore, in resolution 32/130 the General Assembly had indicated the need for a more global approach which took into account the whole range of human rights and the circumstances of the society in which they were to be exercised. That new trend had an important bearing not only on the relative emphasis to be given to violations of different types of human rights, but also on the proper understanding of the specific problems which some countries might have in the practical observance of standards which they freely accepted in principle.

30. No country in the world could claim a perfect record in the observance of human rights and it was not for the Commission to pillory States against which allegations of violations had been substantiated. Its role was rather to encourage Governments which had not discharged the obligations devolving on them under the Charter to assume their responsibilities. In human rights questions, co-operation and mutual understanding should be sought as often as possible. Regrettably, there were cases in which that was simply not possible. It was true that consideration should be given to the total context of the society in which human rights were violated. Occasionally Governments were confronted with extraordinary situations - insurgency, revolution, civil war - which called for extraordinary measures, but that did not excuse excesses or justify denial of the right to life, the "disappearance" of persons, the use of torture and protracted periods of detention without trial. It was for each State, of course, to determine what was necessary for its own security, but those which applied measures in excess of what was strictly necessary should not be aggrieved if the international community drew their attention to the fact that they were pursuing a policy incompatible with the Charter.

31. In some countries, the Constitution authorized the Government to proclaim a state of siege or state of emergency; while measures of that kind were required in the event of war or natural catastrophe, it was disturbing to see them applied when there appeared to be no real justification for them other than a desire to muzzle political opposition. The study now being carried out by Mrs. Questiaux and Mr. Perdomo under the auspices of the Sub-Commission should provide valuable guidelines in respect of the limits to be set for such emergency measures. For example, article 4 of the International Covenant on Civil and Political Rights prescribed that States Parties might take measures derogating from their obligations "to the extent strictly required by the exigencies of the situation" and that there could be no derogation from certain articles dealing, for instance, with torture or freedom of thought.

32. Vis-à-vis a State which had failed to comply with its obligations, the Commission had no other means of action than to convey to it the concern of the international community and to rely on world public opinion, not with any political motive but in the hope of persuading the State in question and demonstrating to it that its purpose was not to criticize a Government but to relieve human suffering.

33. It was in that spirit that Australia had made abundantly clear its opposition to the policy of apartheid in southern Africa and had expressed its concern about the situation in Chile. It therefore welcomed the statement by the Chairman of the Commission that appropriate decisions had been taken in the confidential procedures relating to the nine countries he had named.

34. His Government was also concerned about the disturbing reports which had been coming out of Democratic Kampuchea for some time, alleging gross violations of human rights. It was true that those reports were not as reliable as they might be and that the world press had tended to publicize them in a sensational manner. The absence of an independent investigation made it very difficult to assess exactly the human rights situation in Democratic Kampuchea, but the very consistency of the allegations and testimony relating to mass executions lent them credibility. Moreover, recent statements by the spokesman of the Government of Democratic Kampuchea could only increase the Commission's concern. The uncertainty surrounding the fate of the citizens of that country aroused the keenest concern in Australia, where students from Democratic Kampuchea were anxious about their families. The best way of dispelling those anxieties would be to persuade the Government of that country to allow impartial observers to enter the country to see the situation for themselves and to report on what they had seen; for that reason the draft resolution before the Commission could not fail to command support. The Commission could not allow itself to ignore what was happening in Kampuchea since its role was to ensure respect for human rights throughout the world. The Government of Democratic Kampuchea must be given the opportunity to understand the humanitarian ideals which moved the Commission to seek its co-operation.

35. His country did not wish to convey the impression that it believed that serious violations of human rights did not occur in other parts of the world. Indeed, it condemned them wherever they occurred as being equally contrary to the provisions of the Charter, equally regrettable, equally harmful to the reputation of the State concerned and, in the long term, equally damaging to harmonious economic, social and political development.

36. Mr. ERMACORA (Austria) said that it was only necessary to compare the declaration of human rights drafted by the Institute of International Law in 1928 with the work now being done by the Commission to appreciate the progress that had been made. The documents of the Helsinki Conference, too, were to some extent a reminder of where responsibility for violations of human rights in the past lay. The world could no longer remain silent, as it had done during and before the Second World War, in the face of mass violations of human rights. The United Nations must therefore take the position that it would never disregard gross violations of human rights, wherever they might occur.

37. At the current session, the review of situations referred to the Commission in accordance with resolution 1503 (XLVIII) had been much more effective than in previous sessions. There were, however, similar situations in the world which were not considered by the United Nations, and reports on those other violations had not been studied by it. One case in point was the situation in Democratic Kampuchea, to which the Commission's attention had been drawn by the United Kingdom delegation. The Austrian delegation endorsed the remarks of the United Kingdom delegation and wished to co-sponsor the draft resolution it had submitted.

38. There was also collective responsibility with regard to the situation in Argentina. The Commission could not ignore the violations of human rights committed in that country. The Austrian delegation never considered violations

of human rights from a political point of view and could not accept that such violations could be justified, even in emergency situations. Moreover, in international law, a Government bore responsibility not only for the violations it committed, but also for the violations that, by negligence or omission, it allowed to be committed. As long as there were States which did not respect article 41 of the International Covenant on Civil and Political Rights, the United Nations and the Commission should speak out, even if the information received from non-governmental organizations or embassies was still subject to confirmation.

39. That led him to raise the question of information about human rights. Instead of having to rely mainly on reports by non-governmental organizations, it would be preferable to entrust the collection of information to a United Nations body by giving the responsibility either to a High Commissioner, to the Secretary-General, or to a panel of individuals whose task would be to act as monitor and mediator in the field of human rights. The best course would be that which enabled them to use their good offices in providing assistance to Member States instead of merely condemning them. He suggested that the matter should be discussed under agenda item 12.

40. Lastly, he referred to the question of the international responsibility of persons who committed violations of human rights and wondered whether States should not envisage international jurisdiction in that field.

41. Mr. WEIL (Pax Romana), speaking at the invitation of the Chairman, drew the Commission's attention to the facts which had been brought to his knowledge during two missions carried out in Latin America in December 1976. At Buenos Aires, he had learned that a number of nationals of one of the countries in question, who had taken refuge in Argentina, had disappeared.

42. The CHAIRMAN asked the speaker to specify the country concerned. He pointed out that it had been agreed not to discuss in an open meeting certain countries in respect of which decisions had been taken at a closed meeting.

43. Mr. LECHUGA HEVIA (Cuba) said that in his opinion there was nothing to prevent the discussion in an open meeting, of aspects other than those which had been considered in a closed meeting.

44. The CHAIRMAN pointed out that in resolution 1503 (XLVIII), reference had been made to "situations": i.e. a series of events which had taken place within certain geographical limits; it was not possible to isolate certain elements of a situation. Agreement had been reached among almost all the members of the Commission that it would not reconsider, in an open meeting, situations examined in a closed meeting, unless the decisions taken in the closed meeting were no longer applicable. A non-governmental organization could not ignore an agreement reached by the members of the Commission.

45. Mr. ZORIN (Union of Soviet Socialist Republics) said that he was surprised at the position taken by the Chairman. At a previous meeting, the representative of Sweden had said that, whenever a study of certain situations was required pursuant to resolution 1503 (XLVIII), it was impossible to prevent such situations

from being considered in an open meeting even if they had already been discussed under the confidential procedure. Other countries had taken a similar position, in particular the United States, which stated in document E/CN.4/1273/Add.4 that "the confidential nature of the procedures under Economic and Social Council resolution 1503 (XLVIII) does not prohibit the public discussion of a situation within a country which is being discussed under resolution 1503 (XLVIII) as long as the public discussion does not refer to information acquired during the confidential discussion or to communications dealt with, views expressed, or confidential decisions taken thereunder".

46. He did not remember that it had been agreed not to consider the situation in any particular country in an open meeting if that situation had been considered in a closed meeting. The title of the agenda item made it clear that the violation of human rights "in any part of the world" was to be examined. He wondered whether, if the closed meetings had covered not nine countries but 15, that would mean that they could not be discussed in an open meeting. If South Africa had been discussed at a closed meeting, would it be impossible to discuss it any further in an open one? Such a procedure would not further the consideration of the various questions and would not be in accordance with the rules. He admitted that it was necessary to safeguard the confidential nature of certain information and decisions taken in closed meetings, but to go so far as to refrain from mentioning a country in public for that reason tended towards the absurd.

47. The CHAIRMAN reminded the representative of the Soviet Union that during private negotiations his delegation had agreed that the situation concerning a certain country, examined in a closed meeting, should not be discussed in an open meeting. It seemed logical that other countries whose situation had been discussed in a closed meeting should receive the same treatment. It had not been a formal decision but simply a tacit agreement, a gentleman's agreement, which had been reached for the thirty-fourth session. The representative of Sweden, whose statement the USSR representative had mentioned, had said that he would abide by that agreement. Of course, the Commission could always go back on what it had agreed in private, but in that case the necessary inferences would have to be drawn. Such a course would probably prove harmful to the procedures set out in resolution 1503 (XLVIII).

48. Sir Keith UNWIN (United Kingdom) agreed that it had been decided to keep certain cases confidential in order to enable contacts to be established with the Governments concerned and to ensure the effective implementation of the measures which the Commission would take, and that that decision should apply in all cases. He was therefore in complete agreement with the Chairman. In any event, there was no need to deal with the same case twice.

49. Mr. DIEYE (Senegal) said that he was surprised that some delegations insisted on giving Economic and Social Council resolution 1503 (XLVIII) an interpretation tailored to fit the circumstances, thus giving it a political bias. Yet it was a clear resolution, which presented no difficulty of implementation. It specified that only after submitting a final recommendation to the Economic and Social Council on a situation referred to it, and after discussing it at a closed meeting, in accordance with the procedure established by Economic and Social Council resolution 1503 (XLVIII), could the Commission discuss the situation at a public meeting, in accordance with the procedure established by Economic and Social Council resolution 1275 (XII). As his delegation had stressed at the previous session, the Commission should avoid using both those procedures simultaneously.
50. Mr. BEAULNE (Canada) said that he noted with pleasure that the representative of the Soviet Union was now supporting the thesis that the Canadian delegation had defended at the Commission's thirty-third session, although he had opposed it at that time. For the moment, however, the point at issue was not the coexistence of the public and the private procedure, a matter on which the Secretary-General should invite comments from Governments, and which, moreover, the Commission would have an opportunity to discuss. As the Chairman had pointed out, it was a matter of respecting the agreement reached.
51. Mr. SOYER (France) endorsed the remarks made by the United Kingdom, Senegalese and Canadian delegations. The Commission should respect the rules of the game.
52. Mr. DAVIS (Australia) said that he too supported the points of view of the representatives of the United Kingdom, Senegal, Canada and France. The Commission should abide by what had been agreed, on the understanding that that did not commit it for the future.
53. The CHAIRMAN confirmed that the agreement was valid only for the current session and that it did not bind the delegations on the question of the compatibility of private and public procedures, a matter on which they would be able to give their views in due course. The non-governmental organizations which had been consulted must of course respect the agreement.
54. He invited the representative of Pax Romana to continue his statement, provided that he did not refer to any of the nine countries whose situation had been discussed at a closed meeting.
55. Mr. WEIL (Pax Romana) said that the conclusions reached by Pax Romana did not apply to one country alone. They covered violations of human rights in South America in general, which were not denied but justified in the name of the defence of Western Christian values. Pax Romana could not accept such an improper use of the Bible by countries where the Pope was criticized, episcopal letters banned and priests tortured.
56. That applied also to a country in Asia, where Catholic influence was considerable, which, in the name of the same ideology, violated human rights on the pretext of national security.

57. Mrs. FAUCHERE (World Confederation of Labour), speaking at the invitation of the Chairman, said that her organization, several of whose active members had been victims of the repression practised by various dictatorships, had already had recourse to the various United Nations procedures to denounce violations of human rights, particularly trade union rights.

58. The World Confederation of Labour hoped that the consideration of the case of Chile would lead to some reflection on the root causes of the institutionalized violence which flouted the most fundamental principles of human dignity, justice, peace, freedom and democracy. The case of Chile, however, or that of southern Africa, should not let the Commission lose sight of the fact that there were other régimes in the world, in Latin America, in Africa, in Asia and even in Europe, which were just as guilty - if not more so - of violations of human rights.

59. The World Confederation of Labour denounced all political régimes which were spreading fascist totalitarianism, which constantly violated the freedoms and the rights of workers and the most basic human rights, and which not only propagated but also established a new typically totalitarian philosophy: a philosophy that was designed to make people believe that the only realities were the State and the nation, and from which the concept of the reality of the people had completely disappeared; - a philosophy which had given birth to régimes based on total repression combined with the economic liberalism of the past century, and which had permitted the inordinate exploitation of workers and the mass penetration of transnational corporations. Thus, while protests had been heard throughout the world and the Chilean military Junta had been organizing its "consultation", the transnational corporations had been buying back undertakings in Chile and everyone was aware of the important role that such corporations played in the coming to power of military dictatorships.

60. In addition, the arms trade played a major role in maintaining fascist dictatorships in power. Between 1961 and 1973, military expenditure had increased by 37.3 per cent in the industrialized countries and by 300 per cent in the developing countries.

61. There was no procedure in the United Nations system which was effective enough to prevent such crimes against mankind. The Commission should therefore urgently set up an organ which would really have the power to impose a total embargo on arms deliveries to countries governed by fascist régimes and the means to impose mandatory economic sanctions against the régimes which continuously violated human rights.

62. The World Confederation of Labour categorically rejected the arguments of those who said that the problem of human rights was within the exclusive jurisdiction of States and that any action to ensure their respect represented interference in the internal affairs of States. Human rights were not the property of the State, they were the heritage of each individual and of mankind.

63. The World Confederation of Labour hoped that the Commission would one day succeed in eliminating all those things which demeaned mankind.

64. Mr. DE ANGELI (World Federation of Trade Unions), speaking at the invitation of the Chairman, drew the Commission's attention to flagrant and continuing violations of human rights in trade union affairs and to the problems affecting freedom of association, the full enjoyment of which was bound up with full enjoyment of civil and political freedoms and of economic, social and cultural rights.

65. He had in mind, in particular, the banning of the activities of national workers' organizations on extrajudicial grounds, the imprisonment of trade unionists and the issue of warrants for the arrest of workers and their leaders against whom no charges had been brought.

66. Direct contacts made with a view to investigating violations of human rights and trade union freedoms often proved too slow and too ineffectual in the case of mass repression not only of trade unionists but also of thousands of workers. The World Federation of Trade Unions therefore urged the Commission to condemn the practice of using the police or military or para-military organizations against trade unionists and workers and the mass arrests without trial which were being made under the guise of security measures. It denounced clandestine arrests of trade unionists, who remained in military detention centres for more than five, and even ten years. It also denounced the fact that trade unionists under arrest could not, in the rare instances in which they were brought before a judicial body, appear before impartial and independent civil courts, which had been ousted by emergency military tribunals.

67. The cases in question were so serious that the Governing Body of the International Labour Office had unanimously adopted the report of the Committee on Freedom of Association and had expressed its concern about the situation regarding human rights. Again, on 3 March 1978 the ILO Governing Body had decided, with a view to guaranteeing more effective protection of human rights, to invite international organizations⁶⁶ giving consultative status with ILO to take part in closed meetings of the Committee on Freedom of Association in order to discuss the situation in countries against which such organizations had submitted complaints. That was a positive move which the Commission would do well to follow. His organization was convinced that communication of information by non-governmental organizations engaged in the struggle to protect trade union rights in particular and human rights in general opened the way for more effective co-operation and should not be regarded as negligible from the juridical point of view or from the point of view of the procedures of the Commission.

68. Mr. SOYER (France) said that the French director of an industrial corporation had been assassinated and that two French nuns - well known for their work on behalf of the families of missing persons and of organizations for the defence of human rights - had been kidnapped in Argentina in December 1977. The victims of such mindless and singularly cruel acts perpetrated by persons who were still officially unknown formed a long list, as did the victims of violations of human rights by Governments.

69. Such a situation was not new and was far from getting any better. The families of the victims were making more and more representations and their Governments had interceded. His own Government had expressed its intense concern again and again, both on its own and in conjunction with its partners in the Europe of the Nine. Those countries, however, like the countries of Eastern Europe, were compelled to respect the sovereignty of Argentina, which pleaded the existence of troubles that were sometimes uncontrollable and even of obscure forces that were seeking to overturn the régime; hence, they had been obliged to confine themselves to measures of an exclusively humanitarian nature.

70. Nevertheless, hopes had been dashed and the deterioration in a de facto situation which jeopardized human rights now warranted infinitely more urgent steps. Moreover, it was inconsistent on the part of the Argentine Government

to invoke its sovereignty but to claim that it was incapable of guaranteeing the safety of persons on its territory. It was no less illogical to claim that it had the support of the people and, at the same time, to take refuge behind subversive elements which were allegedly uncontrollable. It was time for the Argentine Government to give proof of a genuine wish to restore normal conditions and, to that end, to take part in the international co-operation in which all States Members of the United Nations were engaged with a view to promoting the observance and protection of human rights. Furthermore, it should not be forgotten that the Argentine Government, like any other Government, was responsible for ensuring, in conformity with the Charter, the peaceful coexistence of ideologies among all citizens.

71. In the name of such co-operation, his Government was making a heartfelt appeal to the Argentine Government to take the necessary steps to find those who were missing and to protect its nationals, and to receive, inform and assist all those who were endeavouring to put an end to the sufferings of the victims and the anguish of their families.

72. His delegation also wished to point out that the underlying cause of the violation of human rights was the violence from all quarters that had been rife in Argentina for a number of years and it was a mistake to believe that respect for human rights could be fully restored in Argentina until such violence, no matter what its origin or the ideology on which it was based, was denounced and condemned.

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

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (b) THE BODY OF PRINCIPLES FOR THE PROTECTION OF ALL PERSONS UNDER ANY FORM OF DETENTION OR IMPRISONMENT (item 10 of the agenda) (continued)
(E/CN.4/1205; E/CN.4/Sub.2/393 and Add.1, E/CN.4/Sub.2/394; E/CN.4/NGO/211, E/CN.4/NGO/213; E/CN.4/L.1400)

73. Mrs. PANDIT (India), speaking as Chairman/Rapporteur of the Working Group on item 10, introduced document E/CN.4/L.1400. The Working Group had held four meetings and had had before it a most useful draft convention submitted by the Swedish delegation. Two major difficulties, however, had hindered the Group in its task. Firstly, delegations had not had time to study the draft in depth or to consult their Governments. The second and more serious difficulty had been the little time available to the Group: four meetings of barely one hour, held at lengthy intervals, had proved wholly insufficient for such an important topic.

74. In view of the urgent nature of the task, most of the members of the Working Group had taken the view that it would be necessary to hold an inter-sessional meeting so that the work could move ahead. The draft resolution in the Group's report (E/CN.4/L.1400) set out three different methods for the holding of such a meeting. It was for the Commission to decide which of them seemed the most appropriate.

75. Mr. JEANRENAUD (Observer for Switzerland) said that, although it was the first time that his country was participating in a session of the Commission, that was not for lack of interest in its work. On the contrary, his Government had always followed the Commission's activities closely and was aware of the important role that it had played in the drafting of the International Covenants on Human Rights and of its untiring efforts to promote universal respect for human rights and fundamental freedoms.

76. The item under consideration was of special interest to his delegation. In resolution 52/121, the General Assembly had requested Member States to take effective measures to safeguard the rights and freedoms of persons arrested for offences committed by reason of their political opinions. The concern to ensure that they received better protection, particularly protection against torture, was widely shared by the authorities and the public in Switzerland. Further to a parliamentary initiative, his Government had considered the advisability of taking steps to bring about the signing of an international convention on the protection of political detainees and had submitted its conclusions to Parliament in June 1977. Both Chambers had approved the aim of the Swiss authorities to continue to seek the most effective means of affording greater protection for political detainees.

77. In that respect, it was not the intention of his country either to act in isolation or to thwart the plans of other Governments. It was ready to associate itself with all reasonable initiatives which took account, in particular, of the legal instruments in force. It had therefore noted with interest the draft conventions against torture submitted by the Swedish Government and by the International Association of Penal Law. Switzerland had as yet no precise views regarding the contents of a convention against torture. Such a serious problem should be tackled responsibly, realistically and without preconceived ideas. It was in that spirit that his delegation was ready to contribute to the measures taken by the international community to ensure observance of the principles enunciated in the Universal Declaration of Human Rights, and especially the principle that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

78. Mr. van BOVEN (Director, Division of Human Rights) drew attention to the proposals for recommendations to the Economic and Social Council that it should authorize the Commission to establish, at its next session, plenary working groups on torture (item 10) and on the Commission's programme of work (item 11), and an intersessional working group on migrant workers (item 23).

79. Three other working groups would be meeting at that time: the Working Group responsible for considering situations in accordance with Economic and Social Council resolution 1503 (XLVIII), the Working Group responsible for considering periodic reports on human rights and the Working Group responsible for considering the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

80. It would only be possible, however, to service one working group in addition to the three he had just mentioned. It could be open to all members of the Commission, a fact that would mean prolonging the Commission's work by one week. The Commission should therefore establish an order of priorities and co-ordinate its activities before coming to a decision.

The meeting rose at 6.5 p.m.