COMMISSION ON HUMAN RIGHTS

Forty-fourth session

SUMMARY RECORD OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 March 1988, at 3 p.m.

Chairman: Mr. SENE (Senegal)
later: Mr. MEZZALAMA (Italy)

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Question of the violation of human rights and fundamental freedoms in any part
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at this session will be consolidated in a single corrigendum, to be issued
shortly after the end of the session.
The meeting was called to order at 3.15 p.m.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1988/7 and 68; E/CN.4/1988/NGO/7, 9, 29 and 44; A/42/556 and Corr.1)


(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued) (E/CN.4/1988/27)

1. Mr. LILLIS (Ireland) said that, during the session, many representatives of Governments had approached his delegation and requested it to refrain from criticizing their country or their group of countries, on the grounds that such criticism would merely make their position more vulnerable and impair their ability to promote human rights. Although it was difficult, particularly for Irish people, not to appreciate the often sincere arguments of those delegations, it was absolutely essential to refuse their requests, since no one could remain silent in the face of the sufferings of hundreds of thousands of men, women and children whose fundamental rights had been or were still being violated and who had no means of making their voices heard. The Commission was not a forum for diplomatic co-operation, but rather a vulnerable mechanism that had been established specifically to defend the victims of murder, abduction, torture, intolerance or other forms of oppression.

2. While respectfully considering the concerns of those Governments whose difficulties were great but whose policies were well intentioned, his delegation was bound to react. It had no alternative, particularly in the case of a country such as South Africa where there was no justification for policies that were an outrage to humanity. His delegation had already categorically rejected the system of apartheid on countless occasions and had called upon the South African authorities to take the requisite measures before it was too late. However, the new restrictions that had recently been placed on fundamental rights and freedoms in that country, and the authorities' determination not to enter into a dialogue with the black majority, although that was the only way to solve the problems, boded ill for the future of South Africa. On the other hand, his delegation welcomed the encouraging progress that had recently been made in regard to human rights in other African countries, particularly in view of the entry into force in 1987 of the African Charter on Human and Peoples' Rights, and the establishment, in a number of countries, of independent bodies to monitor the human rights situation. However, there had been disturbing reports from Uganda of political killings and torture by the army during anti-rebel operations, and also from Kenya of a lessening of regard for human rights over the past two years. Many persons had also been sentenced to death in Guinea after summary trials early in 1987, and his delegation therefore urged the Government of Guinea to extend to the Special Rapporteur the co-operation expected of all States Members of the United Nations with the monitoring machinery established by the Commission.
3. His delegation hoped that the Afghan problem would soon be solved and that all the refugees would at last be able to return home in freedom and dignity and to exercise their right to self-determination. However, as the Special Rapporteur had emphasized in his report (E/CN.4/1988/25), it should not be forgotten that the exercise of that right was not an end in itself, since it was also important to ensure respect for all human rights. Although some progress had been made in that field, the situation remained far from satisfactory. Incidents had been reported involving the torture and execution of political prisoners and members of opposition groups and, according to United Nations statistics, the number of refugees had not diminished. In fact, a quarter of the Afghan population was currently living outside Afghanistan.

4. His delegation welcomed the new and encouraging initiatives that had been taken by the Soviet authorities, but was conscious of the fact that hundreds of persons were still detained in the Soviet Union merely because they had sought to exercise their rights as free men. It therefore urged the Soviet authorities to remove all remaining constraints on freedom of thought and expression, since that would also hasten the achievement of the important economic and social objectives that the Soviet leaders had set themselves. His delegation noted with interest that articles 70 and 190 of the Soviet Penal Code, which were often used against dissidents, were being reviewed. There was greater tolerance of religious activity in the Soviet Union than in the past, and it was to be hoped that the authorities would continue their policy of liberalization in that sphere. In Eastern Europe in general, some Governments were showing a willingness to moderate the severity with which restrictive legal provisions were applied, although the situation continued to be disquieting in the German Democratic Republic, where citizens who wished to leave the country or to exercise their inalienable right to freedom of expression and association were still treated harshly. His delegation also regretted that there had been no improvement in the human rights situation in Romania, where the law prohibited the non-violent exercise of universally recognized human rights, or in Czechoslovakia, where repressive measures were still being taken against citizens struggling for their fundamental rights and freedoms.

5. The Commission must endeavour to find a solution to the serious problems that the countries of Latin America were still facing in the field of human rights, regardless of the political consequences. The violations that were being committed were frequently a consequence of social injustice on an alarming scale; in other words, the concentration of power and resources in the hands of a small minority. All countries should join in efforts to put an end to the tyranny not only of the military but also of the terrorists, and to secure respect for human rights throughout Latin America.

6. The final report on the human rights situation in El Salvador (E/CN.4/1988/23) indicated a resurgence in the activities of "death squads" and indicated that, under the Amnesty Act of 27 October, no member of the regular army or security forces would be prosecuted and punished for involvement in the thousands of political killings perpetrated since 1979. In his delegation's view, the Salvadorian Government should prove its good faith by ensuring that the persons responsible for the murder of Mgr. Romero and Mr. Anaya Sanabria, co-ordinator of the Salvadorian Human Rights Commission, were duly brought to justice. It should also resume the political dialogue with the FMLN, within the framework of the accords signed in
Guatemala, with a view to establishing peace and putting an end to the violations of human rights in El Salvador. With regard to Chile, although his delegation welcomed, as Mr. Volio Jimenez, the Commission's Special Rapporteur had done, in his report on the human rights situation in Chile (E/CN.4/1988/7), the fact that some positive measures had been taken to promote human rights, as exemplified by the re-emergence of political parties and the replacement of military by civilian university rectors, those measures should not be viewed as a benevolent act on the part of the Government but rather as the mere reinstatement of ordinary rights and safeguards that should never have been withdrawn. Moreover, armed gangs had resumed their activities, new disappearances had been reported and the security forces were still committing excesses with full impunity. In view of the special links between the Irish and Chilean peoples, which were due primarily to the fact that a number of Irishmen and Chileans of Irish origin, notably Bernardo O'Higgins, had contributed to the liberation of Chile and to the establishment of Chilean democracy, Ireland was looking forward to an early end to the tragic episode that had overshadowed the lives of Chileans in recent years.

7. In the case of Guatemala, his delegation endorsed the clear-sighted conclusion reached by the Expert, Mr. Gros Espiell, in paragraph 57 of his report (E/CN.4/1988/42). The Guatemalan Government was obviously making an effort to ensure respect for human rights in Guatemala and, in general, the situation had improved in that regard. However, serious violations of human rights, especially murders and involuntary disappearances, were undeniably still taking place and neither the Government nor the judiciary had taken any action to put an end to them. His delegation strongly supported the renewal of the mandate of the Expert on Guatemala, since the Commission must continue to monitor the human rights situation in that country if it was to contribute to improving it. Accordingly, his delegation was in favour of the immediate implementation of a broad programme of assistance to the Guatemalan Government based on the components enumerated in paragraphs 58 and 59 of Mr. Gros Espiell's report.

8. According to various sources, there were currently as many as 140 death squads in Colombia, apparently operating with full impunity, more often than not in collusion with the authorities. It was therefore essential that the Colombian Government should take urgent and drastic measures to restrict the scope of military justice, which was allegedly turning a blind eye to those crimes. Although institutional and legislative reforms had been introduced in Colombia since President Barco assumed office in 1986, the implementation of those reforms throughout the country was vital for the survival and strengthening of Colombian democracy. In Paraguay, in spite of the fact that the state of siege, which had provided the legal framework for repression for more than 30 years, had lapsed in 1987, arrests and detentions of students, journalists, trade-unionists, rural leaders and opposition party activists continued and police brutality had become the rule. The elections of 14 February, which had returned General Stroessner to power, had taken place without the minimum safeguards constituted by a free press and freedom of assembly and expression, and his delegation appealed to the Paraguayan authorities to allow the exercise of the political freedoms that were vital for a rapid and smooth transition to democracy.

9. In Peru, 118 further cases of involuntary disappearances, 79 of which had apparently occurred in 1987, had been reported to the Peruvian Government by
the Working Group on Enforced or Involuntary Disappearances and other forms of violence by the Government forces had increased. The Peruvian authorities had at least acknowledged that human rights were being constantly violated by Government authorities. His delegation urged the Peruvian Government to lose no time in returning political control in the provinces situated in the emergency zone to the civilian authorities, and prohibit compulsory recruitment into civil defence patrols.

10. In Haiti, in spite of the overthrow of Jean-Claude Duvalier on 7 February 1986, human rights abuses had not ceased, as had been borne out by the polling booth massacres perpetrated on 29 November 1987 by gunmen acting with the consent of the army. His delegation believed that the Commission had acted in haste in respect of Haiti two years ago and should show effective vigilance and support for a people that had been subjected for too long to the arbitrary authority of its rulers.

11. His delegation continued to be concerned at the serious violations of human rights occurring in a number of countries in the Middle East, particularly in the occupied territories and in Iraq, the respective situations of which had been considered under other agenda items. Violations had also been occurring for many years in Syria, where the number of political prisoners was said to run into thousands. Torture, arbitrary arrests and summary executions had also been reported in those areas of Lebanon under the control of the Syrian armed forces. His delegation therefore urged the Syrian Government to exercise its authority to end those practices and to punish the persons responsible.

12. His delegation had supported, in the Commission, resolutions concerning the Kampuchean people's right to self-determination. However, that was not the only right that was being violated in that country, where thousands of persons were being detained without charge or trial and many political prisoners were subjected to ill-treatment, torture or "re-education". Human rights were also being violated in areas under the control of certain members of the Democratic Kampuchea Coalition.

13. In East Timor, the authorities had taken noteworthy measures to facilitate family reunification, but many problems remained, and Ireland considered that real progress in resolving them would contribute to advancing the efforts of the Secretary-General of the United Nations to encourage all parties concerned to co-operate with a view to reaching a durable solution.

14. His delegation also viewed with disquiet the establishment, in Fiji, of a new Government that drew its support from a single racial community, to the detriment of others. It hoped that the Government of Fiji would acknowledge that such a system was unacceptable and take action to allow the restoration of their full rights to all Fijian citizens, irrespective of race.

15. While recognizing the right of the Iranian peoples to establish their own system of government and to conduct their country's affairs as they saw fit, and while appreciating the difficulties which Iran was currently facing, externally as a result of the war with Iraq, and internally due to the socio-economic changes that were taking place in the country, his delegation remained gravely concerned at the major violations of human rights, such as summary executions, the torture and ill-treatment of detainees and the serious deficiencies in the administration of justice, which had been noted by the
Commission’s Special Rapporteur in his reports to the General Assembly on the human rights situation in the Islamic Republic of Iran. In that regard, his delegation shared the opinion of the Special Representative that the obligations contracted by the Islamic Republic of Iran, as a State Member of the United Nations and as a party to the two International Covenants on Human Rights, were fully binding on that State and did not allow any derogation on constitutional, legislative, statutory, cultural, historical or other grounds. However, his delegation noted with satisfaction the cooperative attitude that the Iranian Government had shown, and looked forward to even greater co-operation in the future. Accordingly, the Iranian Government should permit the Special Rapporteur to visit Iran in order to acquaint himself with the situation, and it should order an investigation of the allegations that had been made, in order to provide substantiated official replies.

16. Finally, his delegation was concerned at the problem of refugees and missing persons in Cyprus. It would like to see full respect for the human rights of all Cypriots, including their right to self-determination, freedom of movement, freedom of settlement and to property. The election of a new President of Cyprus, as well as the recent improvement in relations between Greece and Turkey, were positive elements that should provide an opportunity for a fresh start in approaching that complex issue. It called upon the international community to make every effort to encourage all the parties concerned to resume the dialogue with a view to finding a solution to that tragic problem.

17. The CHAIRMAN noted, in respect of the situation in Afghanistan, that the Commission had made considerable progress towards improved co-operation with the Afghan Government. For the first time, Mr. Ermacora was submitting a report which he had prepared from data collected at first hand. That promising development which was linked to the unflagging efforts deployed by the Commission, the Secretary-General of the United Nations and his Special Representative, Mr. Diego Cordovez, and the forward-looking attitude adopted by Mr. Gorbachev in a recent statement, should be welcomed. A tribute should also be paid to Mr. Ermacora for his courage and his dedication vis-à-vis the major issues confronting mankind.

18. Mr. ERMACORA (Special Rapporteur of the Commission on the situation of human rights in Afghanistan) said that the report (E/CN.4/1988/25) which he had been invited to prepare by Commission resolution 1987/58 and Economic and Social Council resolution 1987/151, followed upon a visit he had made to Afghanistan in January 1988 and to Pakistan in February 1988. He thanked the Governments of Afghanistan and Pakistan, as well as the humanitarian organizations, for the co-operation they had extended to him during his visits. As all were aware, it was essential for a special rapporteur to be able to undertake inquiries in the country concerned. In view of the situation prevailing in Afghanistan, he had been able to visit Government-controlled areas and combat areas. In Pakistan he had been able to visit once more refugee camps and hospitals. In Afghanistan, lack of time had prevented him thus far from visiting areas not under Government control, although the Government had given him permission to do so in principle and he had also been invited by the leaders of the opposition movement.

19. In the Government-controlled areas, the Government had shown its determination to improve the human rights situation as a whole, by applying
what was called a policy of reconciliation which had resulted in amnesty
decrees leading to the release of thousands of prisoners. He had visited
important prisons and had been informed that, after being suspended in 1987,
the inspection of prisons had now resumed, in accordance with ICRC criteria.
That was a welcome development since the presence of ICRC delegates might help
to lessen the number of cases of torture and, in general, ill-treatment of
prisoners, while under interrogation. Unfortunately, he had received reports,
whose reliability he wished to emphasize, referring to cases of torture
outside Kabul as well as cases of ill-treatment of prisoners. From a cable
transmitted to press agencies throughout the world, he had also learned of the
alleged execution of political prisoners in Kabul. As the ICRC was about to
start inspecting prisons, it was hard to believe that such an act could have
taken place. However, as mentioned in paragraph 33 of his report, he
concluded that despite the Government's desire to put an end to acts of
violence, it might be possible that such acts had occurred, without the
Government being involved. In any case, he appealed to the Government to
undertake an immediate investigation of those allegations.

20. Despite the unilateral cease-fire proclamation, the armed conflict had
continued during the period under review and had caused many casualties among
the civilian population. In his report to the General Assembly (A/42/667), he
had expressed his satisfaction at the decrease in cases of brutality in the
conduct of the war. He had not received any further reports of the use of
booby-trap bombs. On the other hand, he had received information about the
use of anti-personnel bombs which were said to have the same effects as
buckshot. He had been able to see those effects for himself. In addition, he
had been able to investigate a particularly shocking instance of the violation
of humanitarian law, namely, the alleged killing of nine members of opposition
movements and seven children in the village of Kolalgu, in the province of
Paktia, in January 1988. Two eye-witnesses he had interviewed and photographs
taken by journalists indicated that the prisoners had been handcuffed before
being killed. There had also been reports about the deliberate killing of the
ex-Governor of Baghlan by opposition forces. In his report, he stressed the
fact that innocent civilians were being killed by acts of terrorism committed
outside the areas of hostilities and imputed in Afghanistan to opposition
movements and in Pakistan to Afghan armed forces and others. An example had
been the murder, two days after he had met with him, of the former Dean of the
University of Kabul, Mr. Sayd Mashrooh, a well-known personality and a man of
the highest integrity.

21. The problem of the five and a half million refugees was unchanged.
During his visit to Afghanistan, he had been able to see for himself the
efforts being made by the Government to persuade refugees to return home.
Only 120,000 had done so. The longer the armed conflict continued, the less
refugees were willing to return to Afghanistan.

22. The situation of human rights in Afghanistan could change drastically,
from the factual as well as from the legal viewpoint if, thanks to the efforts
of Mr. Cordovez, the Special Representative of the Secretary-General of the
United Nations, and the wisdom of the political leaders, the foreign troops
left the country. Such a withdrawal would not only be a political event of
the first order but would be as important as the withdrawal of foreign troops
from Austria in 1955.
23. He once again emphasized the fact that the withdrawal of foreign troops was a precondition for the establishment of human rights in Afghanistan. The refugees outside Afghanistan should be completely free to decide about their return and there should be no obstacle to prevent them from crossing the border at any of the official posts. Only in those conditions could the Loya Jirgah and National Assembly provided for in the new Constitution be truly representative and reflect the outcome of the full exercise of the right to self-determination.

24. He had made a number of proposals and recommendations in his report. He wished to stress in particular the recommendation contained in paragraph 82 concerning the way in which the United Nations could contribute to the restoration of human rights in post-war Afghanistan. While it was true that human rights could be viewed in a variety of ways, they ought not to be used for political ends. The United Nations could not be involved in a country's social and political structure, although it could plead for a dialogue. Peace through human rights must be the guideline to be followed in the present situation. Fundamental rights must be fully restored, violations must cease and the human rights enshrined in the new Constitution and in the international instruments must be guaranteed regardless of the type of Government and the system of Government established in Afghanistan. That was the responsibility of all the authorities concerned and also of the United Nations.

25. In order to comply with his mandate, he was duty-bound to make recommendations on the situation of human rights in Afghanistan during and after the withdrawal of foreign troops. In conclusion, he noted that the problem of human rights was a moral problem for all the politicians involved, and that the cause of human rights should not be forgotten once political solutions had been applied to the problem of Afghanistan.

26. Mr. GALINDO POHL (Special Representative of the Commission on the human rights situation in the Islamic Republic of Iran) said that his interim report (A/42/648) and his final report (E/CN.4/1988/24) formed a whole, both in relation to events and to the comments and explanations on controversial issues on which the Iranian Government had wished to state its point of view. The final report contained the allegations of violations of human rights notified since the submission of the interim report to the General Assembly. The persistence of allegations, written and oral, and the details provided pointed to the prevalence in the Islamic Republic of Iran of practices that were not consonant with the international obligations contracted by the Iranian Government. However, apart from comments of a general character, the Government had made no reply.

27. He found the comments made by the Iranian Government on certain of the activities he had undertaken under his mandate very valuable, since they had given him an opportunity to shed light on his activities and to explain them, basing himself strictly on the international instruments in force and on the practice of international bodies responsible for monitoring respect for human rights. As far as the mandate entrusted to him by the Commission was concerned, it was up to the Commission to respond if it wished to the opinions expressed on the subject by the Iranian Government.

28. In the section of his report that dealt with general considerations and conclusions, he reverted to the issue of the co-existence and complementarity
of two elements concerning respect for human rights, namely, the aspect of implementation and the normative aspect. The normative aspect was constituted by international instruments and municipal law. In the event of the conformity of municipal law with international instruments, the latter aspect did not give rise to any criticism. However, it was not enough to prove that States discharged their obligations. Indeed, when the level of implementation frequently deviated from the normative level, States could not claim that they were complying with their obligations. Both aspects must therefore be in perfect harmony to ensure that the international obligations contracted by States were respected.

29. In the case of the Islamic Republic of Iran, his attention had been drawn on several occasions to the fact that certain provisions of the Penal Code might be incompatible with the international provisions relating to human rights. Since those texts had not been translated into any of the working languages of the United Nations, he would continue to refrain from making any judgement on those provisions, since a word or even a punctuation mark might well change the meaning of a legal text.

30. The final report contained considerations on the views expressed by the Iranian authorities regarding the binding force of certain international standards and their conformity with Islamic law. In order to consider those arguments, he had referred to the travaux préparatoires for the Universal Declaration of Human Rights and the positions adopted by the Islamic countries that had been members of the United Nations in 1948. He had come to the conclusion that the instruments in force were fully binding on all members of the United Nations unless they had been amended through the appropriate channels.

31. He had also studied the question of the selective acceptance of certain international standards and had arrived at the conclusion that, in view of their nature, uniqueness and purpose, the provisions of those instruments were all applicable. That position of absolute principle did not conflict with the fact that it was both useful and promising, from a pragmatic viewpoint, that the Iranian Government had accepted as compatible with Islamic law those rules set forth in the International Covenant on Civil and Political Rights relating to the five categories of violation brought to his attention. Any gradual improvement at the normative or implementation level, and even a rapprochement of national positions, on one side, and the interpretations or the practice of international organizations, on the other, could and should be welcomed with satisfaction at the practical level. At the same time, obviously, such progress should form part of a continuing process moving towards the position of principle to enable them to be accepted from a pragmatic viewpoint.

32. The Iranian Government had made available to him information on the principles and the rules set forth in the Constitution and the Penal Code applicable to officials and employees who ill-treated prisoners, whether "ordinary" or political prisoners. In addition to the provisions of the international instruments, those rules of municipal law warranted the request made to the Government to investigate the allegations concerning ill-treatment and torture which had been brought to its attention on several occasions and concerning which there was as yet no detailed reply.

33. Witnesses who had had direct experience of the trials and who were well acquainted with the Iranian prison system stressed in their statements the
inhuman treatment meted out during the investigation and during the trial itself. Their evidence was unquestionably truthful and should be carefully considered in the interest of the Iranian Government.

34. Recent information reported the occurrence of summary executions. Such allegations could not fail to cause concern in international circles, since the right to life was the most important of human rights and the International Covenant on Civil and Political Rights authorized the death penalty only in exceptional and clearly specified circumstances.

35. There had also been reports that more prisoners, both ordinary and political, had received a pardon, for the most part in February 1988. The political prisoners had apparently been forbidden to engage in any activities of opposition to the Government.

36. It should be stressed that prominent Baha'is, whose lives were feared to be in danger, had been released unconditionally. However, the information received continued to indicate that members of the Baha'i faith were still treated as pariahs and subjected to all kinds of pressure to induce them to renounce their beliefs. In the final analysis, the situation of the Baha'is had improved notably as a whole in 1987, with a reduction in the number of acts of hostility and pardons granted to several prisoners.

37. In his interim as well as in his final report, he expressed appreciation of the partial co-operation extended to him by the Iranian Government, while stating that it was still less than that consistently called for by the General Assembly and the Commission on Human Rights.

38. The dialogue begun more than a year ago with representatives of the Iranian Government had continued with the Ambassador of the Islamic Republic of Iran at Geneva. It had been promising and instructive and had enabled the human rights situation to be clarified. On 5 February 1988, he had received a letter in which the Iranian Government, acknowledging receipt of his communication of 20 January, had stated that it had taken note of the contents and annexes of the communication and that it would do everything within its power to co-operate with the Centre for Human Rights by providing it with any information it considered relevant in respect of the allegations made against it. That letter reflected the goodwill of the Iranian Government.

39. He recommended in his report to the Commission that it should continue to study the human rights situation in the Islamic Republic of Iran. The information he continued to receive was detailed enough and some of it convincing enough to give rise to concern about respect for international instruments in the Islamic Republic of Iran. Even if it was felt that the information assembled contained some exaggerations, one was none the less morally convinced, on hearing it or reading it, of the reality of violations of international rules.

40. The control exerted by United Nations bodies offered a moral and political recourse for improving the implementation of the rules in force. The international system offered that remedy to persons who, in possession of recognized rights and protected at the national level, wished to have a guarantee in addition to that given to them by the institutions of their countries. The rights in question belonged to persons as human beings, without distinction and without reservation.
41. Mr. GRIEGER (German Democratic Republic), stating that he was speaking not only on behalf of his own country, but also on behalf of the People's Republic of Bulgaria, the Byelorussian Soviet Socialist Republic and the Union of Soviet Socialist Republics, said that, in the humanitarian field, the primary task of the United Nations was to promote co-operation among States in order to create optimum conditions for guaranteeing fundamental human rights and freedoms on a global scale, for advancing democracy and, on that basis, for enhancing confidence and understanding among nations. In many respects, the strengthening of confidence among States and peoples required unity in word and deed, and in political statements and acts. Such was the approach underlining the domestic and foreign policy of the States on behalf of which he was speaking.

42. Any policy must serve the welfare of man. But only in an environment of peace could man fully enjoy his fundamental human rights and freedoms. In the face of the threat of a nuclear catastrophe, it was a matter of urgency to assure the survival of mankind. Any serious human rights policy must of necessity be aimed at peace, disarmament and détente. The world could not be regarded as a safe place as long as human rights were trampled underfoot. Large parts of the world lacked elementary conditions for a decent and dignified life and millions of people were exposed to hunger, homelessness and unemployment. Every day, millions of peoples were denied the most fundamental human right, namely the right to life. That was a challenge which States could meet only by international co-operation.

43. All human rights must be universally guaranteed, on the basis of generally valid international instruments. As far as bilateral co-operation in the field of human rights was concerned, the socialist States were guided by the concept set forth in General Assembly resolution 32/30.

44. Massive and flagrant violations of human rights had to be dealt with as a priority issue. Consequently, the Commission had focused its work on the situation in regions and countries where the right of peoples to self-determination was flouted and where racial discrimination, apartheid, colonialism, aggression and occupation entailed gross violations of fundamental rights. In southern Africa, Pretoria's policy of institutionalized racism, colonial occupation of Namibia, aggression and destabilization vis-à-vis the frontline States was leading to mass violations of the most elementary human rights. The muzzling of all progressive organizations in South Africa, the arrest of Mgr. Desmond Tutu, Nobel Peace prize, and of other clergymen, as well as the imprisonment for over 25 years of Nelson Mandela, whose release the socialist States continue to demand, were striking examples of the violence and terror inherent in the apartheid régime. The Security Council should take strong measures to stave off the dangers thus posed to international peace and security, in the interests of human rights. Comprehensive and mandatory sanctions against Pretoria were needed to force the racists to implement the relevant United Nations resolutions.

45. The socialist States vigorously denounced the situation in the occupied Arab territories, the denial of the Palestinian people's right to self-determination and the attendant violations of human rights in the Middle East. The acts of terror recently perpetrated by Israel in the Arab territories illegally occupied by it had claimed numerous casualties among civilians. Those acts clearly showed that Israel intended to perpetuate its
policy of aggression as well as its occupation and annexation of Arab territories, begun in 1967. In pursuing that policy, it was flouting the Palestinian people's inalienable and sovereign right to independence. In the current situation, a comprehensive and just settlement of the Middle East conflict through an international conference held under United Nations auspices was more imperative than ever. All the sides involved, including Israel and the PLO, as well as the permanent members of the Security Council, should participate in such a conference.

46. In other parts of the world, the denial of the right of peoples to self-determination was triggering off severe human rights violations, as was shown by the situation in Micronesia, Puerto Rico and other territories under colonial domination.

47. The People's Republic of Bulgaria, the Byelorussian Soviet Socialist Republic, the German Democratic Republic and the Union of Soviet Socialist Republics were indignant at the State terrorism prevalent under such reactionary and militarist régimes as those in Chile, El Salvador, Haiti and South Korea. The policy of force and violence pursued by those régimes was characterized by the repression of democrats and the use of torture. One of the persons arrested, and afterwards convicted in a sham trial in Chile, was the General Secretary of the Socialist Party of Chile, Clodomiro Almeyda. Together with all other democratic forces in the world, the socialist countries demanded the immediate release of Almeyda and the other Chilean patriots.

48. The socialist countries also supported effective measures aimed at the elimination of mercenarism. Mercenary activities currently directed against Nicaragua, Angola, Mozambique and Afghanistan flouted the right of peoples to self-determination. The victims were more often than not innocent civilians, women and children.

49. The socialist States were deeply concerned at the growing tendency towards totalitarianism to be seen in some capitalist industrialized countries. Increased repression of opposition forces, police terror, politically-motivated arrests and detentions, racism and violations of the rights of national minorities, the shameless exploitation of migrant workers as well as other severe violations of human rights were exerting an increasing influence on life in those countries.

50. On the fortieth anniversary of the Universal Declaration of Human Rights, the international community was called upon to intensify the struggle against massive human rights violations and policies of force and violence. Constructive international co-operation needed to be strengthened in order to achieve the lofty ideals of the Declaration and the generally recognized international standards as enshrined in the Declaration and in the International Covenants on Human Rights. The socialist States were ready to engage in such co-operation.

51. Mr. SYTCHEV (Byelorussian Soviet Socialist Republic), in a statement on agenda item 5, said that the human rights situation in Chile continued to arouse deep concern in the international community, which the report of the Special Rapporteur, Mr. Volio Jimenez (E/CN.4/1988/7) refuted. As in the past, that situation was typified by the lack of political and legal structures guaranteeing the unimpeded enjoyment of human rights and
fundamental freedoms. The totalitarian and fascist dictatorship was doing its utmost to perpetuate a political and legal structure which would ensure its absolute sovereignty. Flagrant violations of the right to life, to physical integrity, to political liberty, to the safety of the citizen, to fair elections, to freedom of speech, and to freedom of assembly and information had continued.

52. The authorities had continued to have recourse to measures designed to bring the Junta out of its isolation. Thus, the state of siege had been lifted, the activities of a number of political parties had been authorized, and 3,500 Chilean exiles had been allowed to return to their country. However, those measures had been taken purely for the sake of their popular appeal. Although the state of siege had been lifted, many repressive laws, notably the law governing internal security, had been maintained. The law legalizing political parties in fact excluded all left-wing parties and parties representing the workers, namely, the Socialist Party, the Communist Party and left-wing revolutionary movements. Persons accused of violating article 8 of the Constitution were denied access to the media. In regard to the return of political exiles, it should be noted that the list of persons authorized to return to Chile had been drawn up by a special commission appointed by the Junta. In addition, some of the Chilean exiles who had been given such an authorization had been harassed on their return, as had happened in the case of the Secretary-General of the Chilean Socialist Party, Mr. Clodomiro Almeyda, who had been arrested and brought to trial almost immediately after his arrival in the country.

53. The Chilean régime crushed any token of protest, by carrying out multiple arrests and torture. It orchestrated a campaign on the theme of the elections to be held to choose Pinochet's successor. Government representatives arguing in favour of the retention of the régime claimed that support for the régime was confirmed by the results of dubious public opinion polls which predicted victory for Pinochet. The dictatorship was using every possible means to keep the régime in power, and it was misleading those who placed their hopes in negotiation, frankness and dialogue. Chilean political parties considered the Electoral Registration Act as a subterfuge, since the effect of it was to authorize inclusion on the register of voters who were basically supporters of the régime, such as ex-servicemen and carabineros.

54. Nevertheless, there were signs of an intensification of the struggle against the dictatorship, and opinion polls had shown that over 30 per cent of Chileans were opposed to it. In November 1987, an important demonstration hostile to General Pinochet had been held in Santiago de Chile, (O'Higgins Park) at which demonstrators had called for the removal of the military Government and the holding of free elections. However, neither the situation in the country nor the needs of the Chilean people concerned General Pinochet. The economic situation of the Chileans was so wretched that 60 per cent of them did not have an income sufficient to meet essential needs. The country's GNP had fallen by 21 per cent. Instead of tackling socio-economic problems, however, the Junta was strengthening its apparatus of repression. New paramilitary groups were emerging, such as the 11 September Commandos, who were indulging in pogroms, torture and beatings. The lack of liberty and of civil and political rights and the existence of hunger and poverty were violations which called for an urgent response on the part of the Commission on Human Rights. International society should demand that the
Chilean Government put an end to its policy of terror, repression, torture, murder and flagrant violation of human rights in general; it was the duty of every fair-minded person to subscribe to such a demand.

55. Mr. Mezzalama (Italy) took the Chair.

56. Mr. TANIGUCHI (Japan) said that the Universal Declaration of Human Rights and the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, respectively, which together constituted the International Bill of Human Rights, were the most important international instruments in the field of human rights and should always serve as a point of reference for the Commission in its work. However, the two international covenants had entered into force only in 1976, in other words nearly 30 years after the adoption of the Universal Declaration, and only 90 countries had acceded to them. Accordingly, efforts should be continued untiringly to promote truly universal adherence to those covenants.

57. Following a period of standard-setting activities, the Commission had entered a new era, seeking ways and means to implement the standards established. Its task was the gradual reduction of the considerable discrepancy that existed between standards set in international instruments and the extent of their actual implementation. In the course of its history, the Commission had heard countless testimonies of infringements of basic human rights and fundamental freedoms, and, despite repeated resolutions, massive and flagrant violations of those rights were continuing in various parts of the world. In order to promote respect for international instruments, the international community had developed the reporting system, introduced first in connection with international covenants, and adopted subsequently for other instruments. Despite some difficulties, the Commission on Human Rights had succeeded in establishing a constructive dialogue between the parties to the International Covenant on Civil and Political Rights.

58. The international community had another even more important mechanism available to it, in the role played by the Commission on Human Rights in focusing public opinion on specific human rights situations. Thus, Governments, international organizations and non-governmental organizations could freely discuss every aspect of the human rights situation in every part of the world. Such a democratic process was very valuable in giving people a wider view of reality, and above all in convincing the Governments concerned of the need to respect human rights and fundamental freedoms. In fact, effective implementation of human rights standards would not be possible without the willingness of the State concerned. The expression at international level of grave concern over specific human rights violations had often been the decisive factor in making a country decide to improve the situation in that regard. On the other hand, if the Commission refrained from pronouncing itself on situations where violations had been alleged, there was a danger that it might undermine its basic function, which was to enable the international community to voice its concern freely. Accordingly, his delegation did not consider it appropriate that procedural methods should be used to prevent the Commission from discussing a matter which concerned it.

59. The way in which the Commission discussed human rights problems was perhaps not perfect, notably in regard to its selection of the case of one country rather than another. Nor could the Commission be expected to play a strictly fact-finding role, comparable to that of judiciary bodies. However,
there were occasions when it had succeeded in obtaining genuine cooperation on the part of the country concerned in securing an improvement in the human rights situation. That had been the case for Guatemala, a situation which was considered under the item on advisory services, in order to have more concrete cooperation from the Government. The case of Haiti, which had previously been discussed under Economic and Social Council resolution 1503 (XLVII), had also been brought under the heading of advisory services. That trend was encouraging, and the Commission should continue its efforts to obtain a commitment on the part of every State to protect and promote human rights and fundamental freedoms. The ideal would be if one day there were no countries to be considered under agenda item 12.

60. In order to enable the Commission to strengthen constructive cooperation between States, the Commission's secretariat - namely, the Centre for Human Rights - needed to function effectively, which meant that sufficient funds needed to be allocated to its programmes. Japan had a special interest in the advisory service programmes. It therefore welcomed the establishment of the Voluntary Fund on Advisory Services, and was considering making a contribution to it, although it hoped that appropriate allocations to the programmes would also be made under the United Nations regular budget.

61. Japan had adopted a policy of protection and promotion of freedom and democracy, and firmly believed that human rights and fundamental freedoms should be respected and protected equally in every part of the world. In its view, the Commission, when considering the situation in a particular country under agenda item 12, should try to collect factual information. In that connection, first, the appointment of special rapporteurs and representatives could enable it to form a more objective picture of the situation in a country, and Japan approved that practice. Secondly, the cooperation of the Governments concerned was essential. The Commission should accordingly adopt a realistic approach, taking into account the particular circumstances of the country concerned, in order to explore ways in which the international community might help that country to improve the situation. It was not the Commission's role to pass judgement on a particular situation, nor simply to deplore or condemn the practices followed in certain countries.

62. His delegation wished to refer to a particular case which should be a subject of common concern to all members of the Commission: the tragic incident of the destruction on 29 November 1987 of a Korean airlines aircraft (flight No. 858), resulting in the deaths of 115 passengers and crew members. His delegation believed that such a brutal loss of innocent lives constituted an unpardonable violation of the most basic human right, the right to life. Japan had already explained its position in detail at the Security Council meetings held on 16 and 17 February 1988. Since it was indirectly involved in the incident to the extent that the two North Korean agents arrested had claimed to be Japanese nationals, and were carrying false passports, Japan had carried out its own investigation, and had gathered important evidence which led it to believe that the North Korean authorities were involved in the incident. No one could deny that the act had been barbarous, and above all, senseless. If such an incident were to happen again, no one could have any guarantee of safety in civil aviation. Everything possible should be done to prevent the recurrence of such a tragedy.

63. Mr. GATERA (Rwanda) said that the United Nations, being aware that if the protection and promotion of human rights was to be effective, it would have to
be enshrined in legislation that was international in scope, had initially
concentrated on establishing standard-setting texts. Between the adoption of
the Universal Declaration of Human Rights and the adoption of the Convention
Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
the United Nations had adopted over 20 international instruments which were
binding in either the legal or moral sense for all Member States. The work of
codifying international humanitarian law was continuing. Following the
adoption by the General Assembly of the international instruments relating to
human rights and their ratification by Member States, the United Nations had
continuously monitored their implementation by setting up a number of
supervisory mechanisms.

64. However, despite the efforts made to codify and to promote respect for
the principles of international humanitarian law, the fact was that human
rights were being systematically flouted in certain parts of the world.
Situations arising from disregard of the universal principle guaranteeing all
peoples full enjoyment of human rights and fundamental freedoms, and which
resulted in the repression of peoples claiming their legitimate and
inalienable rights, notably the right to self-determination, were sources of
concern. The situations prevailing in southern Africa, in the Western Sahara,
in the Middle East and in Asia were examples of the persistence of flagrant
and systematic violations of human rights, amounting to acts of defiance,
which should be denounced and condemned by the international community and the
Commission in the strongest possible terms.

65. The Republic of Rwanda, after gaining its independence and joining the
United Nations in 1962, had subscribed to the principles enshrined in the
Charter and in the Universal Declaration of Human Rights. The Constitution of
Rwanda reaffirmed the commitment of the Rwandan people to the principles of
democracy and the Government's undertaking to ensure protection of the
individual and to promote respect for fundamental freedoms. The President of
the Republic of Rwanda had referred to that undertaking when he had stated
"Rwanda is a State subject to the rule of law, which respects the fundamental
rights and freedoms of its citizens, guarantees free expression, and condemns
persecutions of individuals, a State in which no one is physically eliminated
for any reason, and in which those who are in prison are there as a result of
a trial held publicly and in full respect for the law".

66. At international level, a concrete result of the Government's undertaking
was that Rwanda was one of the countries which had ratified the largest number
of international conventions or instruments concerned with human rights. In
so doing, it had fully recognized its obligations under those instruments. It
was working on the Commission to help guarantee the dignity and worth of the
individual, and regarded the Commission as the humanitarian body best suited
to monitor strict implementation of human-rights instruments, and to take
appropriate measures to stimulate renewed action by the international
community in that regard.

67. Mrs. LOPEZ (Colombia) said that her delegation shared the deep concern
expressed that morning by the delegation of the Republic of Korea at the
appalling crime committed on 29 November 1987 against the passengers of
Korean Airlines flight No. 858. The international community should not only
deplore and condemn such offences, but should take steps to prevent and combat
such acts which were contrary to international law. Colombia's position with
regard to that serious problem was dictated by its traditional policy of the
rejection of all forms of terrorism, the veritable scourge of the contemporary world; that policy had led it, together with other countries, to sponsor General Assembly resolution 40/161 in 1985. Colombia considered that the measures to be taken should be based on humanitarian law, and on the relevant General Assembly resolutions, and should complement action taken by other international bodies on the basis of the Convention on Offences and Certain other Acts Committed on Board Aircraft (Tokyo, 1963) and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 1971).

68. Mr. NAFAA (Observer for the Lebanon) said that the war being waged in the Lebanon was not in fact a civil war, but rather the consequence of a combination of factors which had led to a conflict on three levels. At national level, the war was the result of differences of opinion among members of the same family; at regional level, it was the result of conflicts caused by the creation of Israel by a resolution adopted by the United Nations 40 years earlier, and at global level it was the result of the major conflicts currently dividing the world. It was well known that Lebanon had twice been invaded by Israeli forces - the first time in March 1978 and the second time in June 1982 - and that, following those invasions, the Security Council had adopted resolution 425 (1978) and subsequently resolution 509 (1982), both of which had indicated that Israel should withdraw unconditionally from Lebanese territory, and the decision to restore peace and security and to assist the Lebanese Government to exercise its sovereignty. In addition, the United Nations had decided to establish an international force, the United Nations Interim Force in the Lebanon (UNIFIL), with a view to achieving the objectives set out in resolution 425 (1978). Nevertheless, Israel continued to occupy the southern part of Lebanon and to use it as a base for acts of aggression; it had set up a local force, which it had financed and armed, with a view to preventing the international force from carrying out its task.

69. He quoted a number of examples of indiscriminate shootings and bombardments by air, sea and land which had left Lebanese dead and wounded. He also castigated the Israeli "scorched earth" policy, which made use of phosphorous bombs and were intended to harass the villagers in order to prevent them going to work in the fields. He referred specifically to the case of a village in the governorate of Nabatiyet, which had 16,000 inhabitants who made their living chiefly by growing tobacco, citrus fruit, cereals and vegetables. For three years the people of the village, who had no other source of income, had been unable either to cultivate their land or to harvest their crops because of indiscriminate bombardments from Israeli military positions overlooking the area. The shootings and bombing had caused 60 deaths among the villagers and had cut off the roads giving access to the village.

70. Israeli practices took other equally unacceptable forms, including attacks on the cultural identity of the region. For instance, the Israeli authorities interfered in the activities of educational establishments using financial contributions to put pressure on them to agree to the teaching of Hebrew. In addition, when Palestinians were expelled from the occupied territories, in violation of international law and of Security Council resolutions, the Israeli authorities transferred them to southern Lebanon, despite refusals and protests on the part of the Lebanese authorities. Such
practices constituted a violation of human rights and also an infringement of the sovereignty of the Lebanon, where Israel was endeavouring to impose a policy of fait accompli.

71. Lebanon wished to thank the International Committee of the Red Cross, which was seeking to lessen the sufferings of the Lebanese population, the League of Red Cross and Red Crescent Societies, all the countries which were helping the Lebanese population in their efforts to live a normal life and to achieve development, the United Nations and its specialized agencies, which were granting assistance to the Lebanon, and finally to UNIFIL, whose presence contributed to the protection of human rights in South Lebanon. He also wished to pay a tribute to the memory of the martyrs who had sacrificed their lives to enable others to live in freedom. Lastly, he wished to thank all those States which had helped the Lebanon by providing military or financial assistance. The fire would spread unless action was taken by those who were capable of putting it out.

72. Israel should withdraw from Southern Lebanon in accordance with Security Council resolutions and in order to respect the wishes of the international community and the right to existence of peoples weaker than herself. The argument of so-called "security" invoked by the Israeli authorities set a serious precedent, and was a distortion of the right of self-defence enshrined in Article 51 of the Charter. Lebanon appealed to the conscience of the world community. Although bowed under the weight of the contest between the armed forces and the force of law, it continued to prescribe, because of its historical tradition and status, to the eternal principles of democracy, freedom and human rights. His delegation intended to submit a draft resolution based on an appeal for right and justice, which it hoped would be adopted by consensus.

73. Mr. CALDERON (Observer for Chile) said that once again, certain parts of the report on the question of human rights in Chile (E/CN.4/1988/7) gave rise to substantive and formal objections. Because it was convinced of the Special Rapporteur's good intentions, Chile had continued to co-operate with him notwithstanding the abnormal and discriminatory treatment it had received at the hands of his principal, the Commission on Human Rights, whose credibility left much to be desired. Chile, which had no reason to complain of the Centre for Human Rights, had continued to show a spirit of co-operation, despite its growing scepticism concerning the legitimacy and effectiveness of that annual exercise, because it was committed to the cause of human rights and because it had nothing to conceal. That spirit of co-operation had been underscored on numerous occasions by the Special Rapporteur in his reports and in his public statements, particularly in April 1987 in Santiago, when he had stressed that if all countries with human rights problems were as co-operative as Chile, the situation would improve considerably.

74. In his current report, the Special Rapporteur stated that once again he had been afforded extensive co-operation by the authorities and given complete freedom of action, also in drawing up his programme of work. The same latitude was shown to all individuals in Chile wishing to make contact with the Special Rapporteur, who attested at length in his report to the complete good faith of the Chilean Government. To be sure, there continued to be problems, due mainly to foreign terrorism which the Special Rapporteur acknowledged and condemned and which the authorities sought to suppress as was
right and proper using legal methods. And that necessary activity of repression served to fuel the campaign of allegations concerning violations of human rights.

75. With regard to sections II and III of the report, his delegation wished to state once again its total disagreement with the method of recording in detail the content of all complaints received, before the Chilean authorities had had an opportunity to state their point of view. Although the Special Rapporteur stressed that he was merely recording the facts without drawing any conclusions, while awaiting the response of the Chilean Government, it was obvious that such a procedure was highly prejudicial to the Government. Equally prejudicial was the fact that the complaints and allegations in question were presented meticulously and drafted, in many instances, by lawyers, and that such obvious legal precision drew even more attention to the absence of counter-arguments. His delegation's criticisms were therefore directed more towards the procedure used by the Commission than towards the Special Rapporteur himself.

76. Chile had frequently pointed out that the ad hoc procedure used by the special rapporteurs was an unregulated procedure which failed to observe the minimal procedural guarantees to which States concerned were entitled. For example, there were no rules concerning the admissibility of complaints, the exhaustion of domestic remedies, the arrangements concerning competence, the non-offensive nature of the allegations and their plausibility. Those rules appeared in some form or other, in all the systems of the competent international organizations, including the procedure envisaged in Economic and Social Council resolution 1503 (XLVIII), which had never been applied to Chile. A procedure as extensive and arbitrary as that of the special rapporteurs was prejudicial and unfair not only to the country concerned, but to the very prestige of the Commission, which had completely lost sight of its main objective, namely the promotion and respect of human rights through co-operation and dialogue with States Members, but never through condemnation. In his report on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1988/24), the Commission's Special Rapporteur had emphasized that the international protection of human rights had a co-operative character which derived from the Charter. He had indicated that such co-operation among States and Governments sought to ensure compliance with international obligations. It was not a judicial procedure, but appealed to good will, to moral and political standards and to legal norms whose enforcement was, for the time being, imperfect. The goal of the procedure was not to condemn a Government, but to redress a given situation. In his introductory statement at the opening of the current session, the Under-Secretary-General for Human Rights had spoken in similar terms.

77. In his conclusions and recommendations, the Special Rapporteur had endeavoured to present a balanced picture of the situation in Chile by referring to the Chilean Government's determination to promote the institutional process and not to tolerate any excesses. The Special Rapporteur also made positive comments on the ongoing electoral process as well as on the measures taken in the legislative field and in regard to persons in exile, the conduct of the police forces, the normalization of the situation in the universities, and so on. In short, the Special Rapporteur said that he had noted substantial progress towards the achievement of the
objective sought by the Chilean Government, namely, the full restoration of a representative, strong and stable democracy. The Commission should not misunderstand the views of its own appointee.

78. After making several visits to Chile and collecting information from a wide variety of sources, the Special Rapporteur therefore arrived at conclusions that were mainly positive. The Government had embarked on the path prescribed by the Political Constitution which would culminate that year in a plebiscite to allow the Chilean people to make a sovereign decision on its future. Political laws had been enacted, there were free political parties and an electoral process had been developed which would assure honest and free elections, by secret ballot, supervised by independent legal entities and with a large-scale participation by the electorate. The Special Rapporteur had seen all that at first hand. The plebiscite scheduled would be held within the time-frames envisaged by the Constitution and the number of registered voters might total 6 million or more out of a total of 8 million persons entitled to vote. There were a large number of publications and radio stations, and all trends of opinion had access to the television, particularly in the pre-electoral period, in conformity with a law the text of which had been transmitted to the Special Rapporteur. All that had been achieved by the Chilean Government is in conformity with its constitutional mandate, and the process would continue.

79. The Special Rapporteur had explicitly acknowledged, in his reports to the General Assembly and to the Commission and in Chile, the progress made in the observance of human rights, and he had stressed that it had proved impossible to persuade the opposition leaders that the Chilean Government was making progress in the area of respect for human rights. The Special Rapporteur had gone on to say that he very much regretted that the progress in question was not acknowledged.

80. The Chilean Government would pursue its policy despite the threat of international terrorism which, in the view of the Special Rapporteur, constituted the most important obstacle to the restoration of democracy in Chile. Indeed, activities were currently taking place in Chile that were directed from abroad, the declared aim of which was subversion using violence in order to restore an extreme left-wing régime. Its members were exceedingly well armed and were responsible for considerable loss of life and material destruction. All that was very well known to those who criticized the Chilean authorities and for whom the only victims were the terrorists themselves when they were punished under legislation which was probably no different from the legislation in force in the countries which had the temerity to criticize Chile. For those countries, the victims of terrorism did not exist and were second-class victims, as the Special Rapporteur had very pertinently noted. His delegation had, however, indicated its total disagreement with the way in which the Special Rapporteur discussed the administration of justice in Chile and, in particular, military justice, since on the one hand he urged the Government to combat terrorism using every legitimate method, and on the other he criticized the Government when it did precisely that. In its struggle against terrorism, the Chilean Government applied the legislation currently in force, most of which dated back to a period much earlier than that of the present Government, for which the activities of military justice had to be confined to certain types of offences. Anyone who made an objective analysis of the cost in human life of the suppression of terrorism in other parts of the world was compelled to conclude that the policy of the Chilean authorities was
far less harsh than that of other States confronted with the same problem. Contrary to what the Special Rapporteur said, the powers of the military courts had not been increased unreasonably. It was true that the spectrum of offences coming within the scope of military justice had been enlarged, but the Special Rapporteur himself stressed in his report that a process was under way to remove certain cases from military courts and to bring them before the civilian courts. It was therefore completely unfair to criticize the administration of justice in Chile.

81. The Special Rapporteur expressed concern at the existence of armed bands, whether of the extreme left or the extreme right, which committed atrocious excesses in the name of justice. Those acts caused great concern to the Chilean Government, which was seeking to ascertain the truth about all the complaints in order to be able to take the action prescribed by law. To the extent that no reasonable Government could foment or tolerate such acts, it was possible that they all formed part of the provocations of the international terrorism already mentioned.

82. It should also be emphasized that anyone who was, or who felt threatened, irrespective of his political sympathies, could apply to the police for protection, which had been immediately granted to him. Since that policy had been implemented, no threat of that kind had been put into effect. The Special Rapporteur had underscored in his report the fact that the number of allegations concerning ill-treatment in prisons had decreased, even in the view of the opposition, and that the Government had given standing instructions that excesses of that kind should be avoided. The Special Rapporteur also acknowledged the effectiveness of the agreements concluded with the ICRC, which demonstrated once again the desire of the Chilean authorities to co-operate with the humanitarian international organizations.

83. His delegation wished to draw attention to a shocking occurrence which offered telling proof of the irresponsibility with which certain persons discharged their obligations in the Commission. As in the previous year in the General Assembly and in the Commission, the draft resolution on the situation in Chile had been prepared and distributed confidentially at the present session among the members of the Commission before the report of the Special Rapporteur had been officially distributed. The report in question had been distributed on 23 February, whereas the draft resolution had been circulating informally since 16 February. In other words, the draft had been prepared without its sponsors having troubled to read Mr. Volio Jimenez's report. The draft resolution, which was virtually identical with the draft adopted by the General Assembly last December, was therefore drawn up in the light of political instructions. In order not to give too much offence to the Special Rapporteur, a sentence had merely been inserted to the effect that the Commission took note of his report with interest and thanked him for his work, without any reference being made to the contents of the report. What was involved was a draft resolution that was political in character, like everything related to the procedure applied in the case of Chile, in which human rights were no more than a mere pretext. Why did the Commission appoint a Special Rapporteur if each member already had his opinion on the question or did not wish to have other information because he was pursuing other objectives? His delegation had formally requested the Secretary-General of the United Nations in Geneva as well as in New York to condemn not only those who had taken the aforementioned initiative, but also those who so supported it. His delegation saw no point in continuing to take any further part in the
debate, since the draft resolution had been drawn up even before the debate had begun! It merely reserved the right to take the floor in order to explain its position before the resolution was put to the vote.

84. Mr. Sene (Senegal) resumed the Chair.

85. Mr. INGLES (Philippines), speaking in exercise of the right of reply, said that his delegation's reply to the representative of the International Federation of Rural Adult Catholic Movements on 24 February could also serve as a reply to the representative of the World Alliance of Reformed Churches, which had made the same attacks against the present Philippine Government. That was in no way surprising, since both those representatives belonged to the United Church of Christ in the Philippines and were members of the three-man delegation which, according to a Philippine newspaper, had been sent by the Philippine Alliance of Human Rights Advocates to denounce before the Commission alleged systematic violations of human rights committed by the Government of the Philippines.

86. Without citing either facts or figures, the representative of the World Alliance of Reformed Churches had merely stated that various international fact-finding missions, such as that of the Regional Council on Human Rights in Asia had confirmed the existence of those violations. The representative of the Council, in his statement to the Commission on 23 February, had made accusations against other Asian countries, but in the case of the Philippines, he had simply stated that the repeal of martial law had not ended the gross violations of human rights, without specifying by whom and against whom those violations had been committed. Also, at the earlier meeting, the Commission of Churches on International Affairs of the World Council of Churches had stated that the human rights situation continued to deteriorate in the Philippines and had referred to the activities of the vigilantes and the military escalation to counter insurgency.

87. When his delegation had stated, on 24 February, that the Philippine Government faced serious internal threats to its very existence, it had not been seeking to justify violations of human rights, as the representative of the World Alliance of Reformed Churches inferred, but it had simply wished to place the incidents in their proper context. The Special Rapporteur of the Commission entrusted with the question of summary or arbitrary executions, Mr. Wako, had distinguished, in document E/CN.4/1986/21, between killings in situations of internal conflicts, killings by the excessive or illegal use of force by law enforcement agents and deaths in custody. In his latest report (E/CN.4/1988/22), Mr. Wako had also considered the question of non-respect for the right to life by groups opposing a Government or not under its control. The Special Rapporteur had recalled that primary responsibility for ensuring respect for the right to life rested with the State, under national and international law, but that did not exonerate groups other than Governments from observing the right to life. The Special Rapporteur had requested the Commission, in the same report, to give urgent attention to the responsibility of such groups. According to the Philippine Secretary of National Defence, there was an "undeclared war" situation in the Philippines, and communist insurgents now controlled 20 per cent of the barangays. It was inevitable that innocent civilians should be hurt in the cross-fire between the government forces and insurgents, but why blame the first and not the second? The Presidential Committee on Human Rights, created by President Aquino one month after assuming office on 25 February 1986, had been empowered to
investigate only military abuses, but the Philippine Commission on Human Rights, established by the President in May 1987, had been expressly empowered to investigate human rights violations by civilian groups, including communist insurgents, in conformity with the 1987 Constitution.

88. The representative of the World Alliance of Reformed Churches had said that there was a reign of terror in the Philippines, but it was a reign of terror imposed by the communist insurgents and not by the vigilantes, who were ordinary citizens who had voluntarily banded together to assist the armed forces by supplying intelligence, denying safe-houses to the insurgents and depriving them of the "taxes" they extorted from the people.

89. Why were the International Federation of Rural Adult Catholic Movements and the World Alliance of Reformed Churches so vehement in advocating the disbandment of the vigilantes? Was it because those groups had succeeded in preventing the communist insurgents from achieving their aim of overthrowing the Government by 1990? Was it because the Federation and the Alliance rejected President Aquino's present policy of "total war" against the terrorists of both right and left? Why was there a conspiracy of silence between the two organizations on the subject of NPA death squads which had infiltrated the region of the capital, where they took their daily fill of victims?

90. Why did the representative of the World Alliance of Reformed Churches not see that it was inconsistent to blame President Aquino alone for the fact that, according to him, more than 70 per cent of the Philippino people lived below the poverty line, and to recognize shortly after that such a situation was the outcome of centuries of elitist and imperialist domination, and then to go on to say that the Government had not done anything concrete in those circumstances?

91. He noted that, in a statement made on 18 February, the representative of Pax Romana had stated that the Philippine Government was doing nothing to secure respect for the rights enshrined in the International Covenant on Economic, Social and Cultural Rights. He would not repeat the remarks he had made on the following day describing the extraordinary efforts being exerted by his Government to alleviate the plight of the poor. The World Alliance of Reformed Churches could not expect miracles from the present Government of the Philippines, which after the February 1986 revolution, had had to tackle the task of restoring democracy by a new Constitution adopted in October 1986 and ratified in February 1987 and by the organization of national elections to the Congress on 27 July 1987. Local elections had also been held to elect provincial governors and city and municipal mayors, and barangay or barrio elections would soon be organized to activate popular participation.

92. President Aquino's first act had been to promulgate the Freedom Constitution, which emphasized civilian supremacy over the military and guaranteed respect for human rights. She had then had to dismantle the apparatus of martial law set up by her predecessor and to repeal the oppressive decrees promulgated by the latter. The Philippine Commission on Human Rights was the first such national commission established by constitutional mandate. There was therefore adequate machinery to deal with complaints of violations of human rights, not to mention an independent and impartial judiciary and a system of compensation to victims.
93. The constitutional structure had recently been amended in a manner that was welcome, and henceforward the President of the Philippines remained as the executive power, but could no longer legislate as in the past. There was not a legislative power in the classical democratic tradition. Allegations of human rights violations were considered without delay by the Committees on Justice and Human Rights of both Houses of Congress, which were composed of champions of human rights. How, in those circumstances, could the representative of the World Alliance of Reformed Churches assert that the three powers installed by the people themselves were engaged in a process of systematic violation of the rights of the Philippine people? He once more urged the representatives of the two non-governmental organizations concerned to exhaust domestic remedies before they appealed to the tribunal of world opinion.

94. The World Alliance of Reformed Churches seemed to belittle the Philippine Government's ratification of or accession to all the human rights instruments adopted under the auspices of the United Nations. However, that was the best proof of the Philippine authorities' wish to comply with the precepts of the Charter of the United Nations and the Universal Declaration of Human Rights. The existing international conventions and covenants on human rights contained provisions for their implementation. He asked the non-governmental organizations concerned to act in good faith and to deal with specific violations of human rights, and to refrain from indulging in generalities. If those organizations had concrete evidence to support their charges, they could notify the appropriate international organs, such as the Human Rights Committee or the Committee against Torture.

The meeting rose at 6.20 p.m.