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COMMISSION ON HUMAN RIGHTS

Fortieth session

SUMMARY RECORD OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 14 March 1984, at 10 a.m.

Chairman:

Mr. KOUIJMANS

(Netherlands)

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The meeting was called to order at 10.20 a.m.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1984/7, 20 and 24; E/CN.4/1984/L.94; E/CN.4/1984/NGO/8, 12, 36, 43, 47 and 48; A/38/385 and Add.1)

1. Mr. GOMEZ GONZALES (International Indian Treaty Council) said that his organization was alarmed at the deterioration in the human rights situation in general and the rights of the indigenous peoples in particular. The latest report of the Special Rapporteur on the situation of human rights in Chile (E/CN.4/1984/7), bulletins and reports of humanitarian organizations showed that the situation in Chile was becoming worse. In 1983, although the Chilean authorities had announced a "political opening", the Chilean Human Rights Commission had reported that 15,078 persons had been arrested, both in mass sweeps and individually, for political reasons. That figure was in itself frightening and far exceeded the figures for the two preceding years.
2. Decrees Nos. 2568 and 2750, concerning the indigenous population, enacted in 1979 by the military Government, had immediately been denounced by indigenous, ecclesiastical and humanitarian organizations at the national and international levels because they failed to take into account either the interests or the ethno-cultural characteristics of the indigenous population. On the pretext of legitimizing title deeds, the decrees were intended to legitimize the unlawful appropriation of Indian land, to split up the indigenous community (reserves) and to destroy the cohesion of the Mapuche people. It was through its communities that the Mapuche people had preserved its culture, in whose name it had for over three centuries been fighting against the invaders of its territory. The communities concerned were being divided up without the consent of the legitimate owners, with the aid of the police (*carabineros*) and at the instigation of the National Institute for Agricultural Development, which had not hesitated to resort to pressure and threats. His organization was therefore insisting on the repeal of the decrees, which were condemning a whole people to extinction.
3. The sole organization representing the Mapuche people, Ad-Mapu, had received 21 death threats after denouncing the situation. On 26 February 1984, Ad-Mapu had accused an organization called ACHA (Anti-Communist Chilean Action), which had sent death threats to Ad-Mapu leaders and killed one of them: Manuel Melin. It seemed that ACHA could act with impunity since it had been able to hold demonstrations in front of the Swedish diplomatic mission and the Apostolic Nunciature without being disturbed.
4. The situation of other Indian peoples had remained the same. The previous year, his organization had denounced the situation of the Aymaras from the north of Chile, whose water supplies were still being used and polluted by mining companies. The Huilliches and Pascuans had also suffered a great deal from the measures taken by the Chilean authorities against Indian cultures.
5. It was most disquieting to note from the report of the Special Rapporteur (E/CN.4/1984/7) that the human rights situation in Chile had deteriorated in every respect and that the very survival of the Indian population in the country was under threat. The Commission should therefore extend the mandate of the

Special Rapporteur for a further year and consider the situation of human rights in Chile as a matter of high priority at its next session.

6. Mr. CZEMPINSKI (Observer for Poland) said that, in his most recent report on the situation of human rights in Chile (E/CN.4/1984/7), the Special Rapporteur had drawn a very disconcerting picture of the systematic violation of the rights of the Chilean people by the Pinochet junta.

7. Mr. SCHIFTER (United States of America), speaking on a point of procedure, noted that the Chairman had already insisted on various occasions that countries should be referred to by their official names.

8. Mr. HEREDIA PEREZ (Cuba), also speaking on a point of procedure, expressed surprise that the United States, which had contributed towards destroying democracy in Chile, should be opposed to hearing that usurping Government referred to as the "Pinochet junta".

9. Mr. CZEMPINSKI (Observer for Poland) said that for the past 11 years the Pinochet Government had used repression, mass arrests and violence to fight anyone who expressed the slightest disapproval of it. Political opponents were eliminated or arrested and abuses of power were the daily lot of the population, almost all of whose rights were violated, including the right to life. The Special Rapporteur had reported on a multitude of violations of fundamental human rights in Chile, including cruel, inhuman or degrading treatment and physical and mental torture. He had confirmed in his report, as had many other impartial sources, that Chile was still under the yoke of one of the most repressive regimes in the world. It was therefore the duty of the United Nations to inform world public opinion by giving that report the greatest possible publicity.

10. Eleven years of effort to improve the situation in Chile had been to no avail and the Chilean Government, in defiance of the appeals and decisions of the United Nations and many other governmental and non-governmental organizations, continued to persecute the Chilean people. It could not act in that way without the tacit but active support of the United States, which had also contributed to the failure of the progressive reforms of the previous legitimate Government of Chile under the leadership of President Allende. The international community must therefore mobilize in favour of the increasing number of Chileans protesting against the inhuman practices of the Pinochet Government.

11. In the face of the arrogance, cynicism, moral nihilism and indifference of the Chilean regime, it was the duty of the United Nations, all States and intergovernmental organizations to take immediate and concrete measures to halt torture, inhuman treatment, arbitrary arrests and persecution for political reasons. If man was no longer outraged when other human beings were tortured or subjected to inhuman treatment, he lost all right to consider himself a civilized human being. It was a political, social, moral and human imperative of the times to put a stop to the atrocities in Chile.

12. Mr. SZELEI (Observer for Hungary) said he regretted that the situation of human rights in Chile was deteriorating. It was urgent to re-establish respect for human rights in a country which had suffered for so long from dictatorship and brutal oppression. In accordance with the Charter, his Government had always spoken out,

in all international fora, against mass and flagrant violations of human rights and fundamental freedoms. It would continue to spare no effort to help those who were deprived of their most elementary rights.

13. The most recent report on the human rights situation in Chile (E/CN.4/1984/7) gave cause for alarm. In Chile, where democracy had been destroyed for over 10 years, the so-called constitutional framework restricted the exercise of rights and freedoms instead of guaranteeing them. The Chilean authorities should urgently restore legality and democracy and guarantee all rights and freedoms without discrimination.

14. His delegation was particularly concerned by the fact that the right to life had been violated on many occasions over the past year and that the right to physical and moral integrity also continued to be infringed. The Special Rapporteur had drawn attention in his report to the fact that torture and other cruel, inhuman or degrading treatment were commonly practised by the Chilean military authorities and that medical personnel participated in those acts.

15. The right to freedom was still being violated and the number of arbitrary and illegal arrests had increased substantially. According to the Special Rapporteur, such arrests were made to discourage discontent and peaceful protest. During the recent national days of protest, in particular, there had been thousands of cases of unlawful arrest and detention. Economic and social rights, the right to work and the right of equal access to employment were not respected either. The Chilean authorities should also ensure respect for cultural rights and allow the indigenous population to maintain its identity.

16. If the Chilean military authorities had been able to continue for so long in their policy of institutionalized State terror, it was because they had the benefit of support from certain outside forces which were only concerned about human rights when their own strategic interests were at stake. His delegation therefore supported the Commission's initiatives aimed at improving the human rights situation in Chile and hoped that, in the immediate future, the Special Rapporteur's mandate would be extended.

17. Mr. EYA NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that his organization had been closely following the human rights situation in Chile since the coup d'état by General Pinochet. It was clear from the information contained in the reports of the Special Rapporteur to the Commission and the General Assembly (E/CN.4/1984/7 and A/38/385 and Add.1) that the situation had deteriorated over the previous 15 months. Following the announcement in 1983 by the Pinochet Government of a new, encouraging "political opening", what had happened? In what respect had that process led to increase enjoyment of human rights and, in particular, civil and political rights? It was well known that, immediately after the proclamation, the Ministry of the Interior had been put in the hands of a former leader of the National Party and that, two days later, 18,000 soldiers had suppressed a demonstration for democracy, leaving over 100 victims. It was also well known that the National Party grouped two traditional parties: the conservative and the liberal parties. The only true opening consisted in uniting all political parties without discrimination, allowing the Chilean people to decide on its own future, engaging in discussion with all opposition groups and abolishing the laws and decrees which were contrary to the interests of the Chilean people, as steps towards the restoration of civil peace.

18. Unfortunately, there was no internal peace in Chile. In January 1984, the Chilean Human Rights Commission had emphasized that in 1983 there had been 97 deaths, 15,078 arrests, 130 cases of banishment, 4 expulsions, 92 cases of refusal of permission to return to the country, 437 cases of torture and 794 attempts at intimidation. The military Government of General Pinochet was massacring the population and practising arbitrary detention and torture, while at the same time announcing a so-called political opening and talking of allowing refugees to return to the country. The "return of refugees" had been announced and lists published in which were included the names of dead and missing persons or persons who had never left the country, but they were merely intended to deceive the Chilean people and the international community. The few exiles who had returned to Chile had either been turned back at the frontier or expelled subsequently, and the Government had later contradicted itself by stating that the lists in question were not valid.

19. The international community must help the Chilean people to exercise its civil, political, economic, social and cultural rights and continue to put pressure on the military Government of Pinochet to allow the people breathing space. If the Chilean Government reviewed the situation since 11 September 1973, it would be bound to note that it had failed politically, economically and socially and that the only remaining solution was to step down and permit the Chilean people to decide its own future.

20. His organization once again denounced the fascist-type relations which existed between the Government of General Pinochet and the South African apartheid regime. It should further be noted that most Governments in the southern hemisphere took the Chilean military junta as an example. The fact that Governments of the Chilean type could calmly maintain relations with other countries where the situation of human rights and fundamental freedoms was satisfactory was a challenge to the international community. The Commission should extend the Special Rapporteur's mandate in order to keep the human rights situation in Chile under review.

21. Mr. LAURIJSEN (International Confederation of Free Trade Unions) said that, after over 10 years of dictatorship, Chile was living through the worst economic, political and social crisis of its history, with restrictions on freedoms, a ban on political activities, mass unemployment and the paralysation of production, affecting the life of the whole population. In the face of that dramatic situation, the majority of the Chilean population, including many of those who had expressed support for the military putsch 10 years earlier, had united against dictatorship. None the less, the appointment of a new Minister of the Interior some months previously had created new hope among some sectors of the population, and some liberalizing measures had been taken to restore some civil liberties, allow a larger number of exiles to return and bring an end to one of a series of states of emergency. However, progress was far from sufficient considering that radical democratic change was called for.

22. Whoever disagreed with the regime came under the threat of transitional article 24 of the Constitution. Political activity was still prohibited by law and solely dependent on the tolerance of the authorities. Demonstrations and other non-violent forms of protest were increasing in Santiago and other major cities, and workers and trade unionists were still the main victims of the Pinochet regime. On 14 December 1983, a number of demonstrations had been held in Santiago to protest against the use of torture and against the decision taken by the Government on 6 December to deprive 200,000 unemployed persons of their monthly allowance of \$US25 to \$US43. About 100 persons had been arrested, one worker killed and another seriously wounded.

23. An ICFTU mission to Chile the previous summer had also been able to witness that trade unionists were subjected to violence and intimidation, trade union leaders arrested and tortured, trade union premises searched, and workers and their families threatened and banished to inhospitable parts of the country. A growing number of complaints had been addressed to United Nations bodies, particularly the International Labour Organisation, by the international trade union movement, especially ICFTU, on behalf of Chilean workers. During demonstrations on 24 March 1983, Chilean security forces had arrested 227 demonstrators in Santiago, 40 in Valparaíso and 14 in Concepción. Some demonstrators had been detained for lengthy periods. May Day celebrations in Santiago in 1983 had been brutally dispersed by the police and armed paramilitary groups, and many workers had been injured, several of them seriously. Seventy-eight workers had been arrested, among them the leaders of the National Trade Union Co-ordinating Body, del Canto and Calderón. The previous day, the offices of that organization had been searched and its Vice-President arrested. On 7 October, Raúl Montecino, a member of the National Council of the Chilean Copper Workers' Federation, had been abducted in the street by plain-clothes policemen. After being interrogated and tortured, he had been abandoned in a serious condition and threatened with death if he continued his trade union activities. Another trade unionist, José Ruiz di Giorgio, President of the Petroleum Workers' Federation, had been injured and arrested the preceding month at a demonstration for human rights and democracy. It seemed that he was still in detention.

24. His organization had also reported to the ILO on the findings of its mission to Chile with regard to the systematic use of torture and harassment by the intelligence services to extract information from trade unionists and hinder the development of the trade union movement. It had just been learned that General Pinochet himself had ordered the dismissal of the President of the Chilean Copper Workers' Federation, Rodolfo Seguel.

25. Chilean workers and democratic trade unionists had made a great deal of sacrifices during the 10 years of dictatorship and counted on the support and protection of international public opinion. His organization thanked the Commission for what it had done in that regard and expressed the hope that the Special Rapporteur's mandate would be extended.

26. Mrs. BRIDEL (International Association of Democratic Lawyers) said that, since the overthrow of its constitutional Government in 1973, Chile had been the scene of grave, mass, systematic and institutionalized violations of human rights and fundamental freedoms. The military junta which had seized power ...

27. Mr. SCHIFTER (United States of America) asked the Chairman to request the representative of the International Association of Democratic Lawyers to refer to States Members of the United Nations by their official names.

28. The CHAIRMAN said that States Members of the United Nations should be referred to by their official names.

29. Mrs. BRIDEL (International Association of Democratic Lawyers), continuing her statement, said that the current Chilean Government, after taking power by a bloody coup d'état, had immediately arrogated to itself constitutional and legislative powers and subjected the judiciary to its diktat, with the result that the latter,

abdicating in the face of the arbitrary exercise of military power, had renounced its fundamental duties, particularly in relation to the protection of the individual. The labour tribunals, which had protected the interests of workers since the early 1930s, had been suppressed. The ordinary courts, which had always administered a slow and costly justice in practice inaccessible to the working classes, had come to assume the responsibility of defending their interests.

30. Military courts had progressively encroached on the powers held by ordinary courts in civil matters. The process had been undertaken initially by governmental decrees and orders and subsequently by "constitutionalization" and extension of such decisions by means of the 1981 Constitution, which had come into force following a so-called plebiscite, the democratic legitimacy of which the General Assembly and the Commission had rejected because it failed to reflect the will of the population and contained provisions which eliminated, suspended or restricted the exercise of human rights and fundamental freedoms. That Constitution was merely emergency preconstitutional "legislation" improved in various ways. It served as a legal framework for the violation of human rights and freedoms and, in conjunction with complementary "laws", set itself up as an attempt at legality for Chileans and international public opinion.

31. However, such semblances of "legality" deceived no one. As the Special Rapporteur had noted in his most recent reports (A/38/385 and Add.1 and E/CN.4/1984/7), repression in Chile had intensified. The Chilean authorities, not content with persevering in their efforts to destroy democratic public order, legality and the bases of a democratic and pluralist rule of law, were continuing to scorn international legality and morality and to defy the United Nations.

32. To arbitrariness and unlawfulness - in other words, to the fact that the Chilean Government was violating its own "Constitution" - should be added the vulnerability of the population at the hands of the authorities, whose agents enjoyed complete impunity when they infringed individual rights and freedoms. It was true that the Santiago Court of Appeals had stated on 22 November 1982 that the National Information Agency (CNI) did not have the power to make arrests in circumstances not provided for in the decree related to such activities but, unfortunately, decisions of that kind were very few.

33. The Chilean authorities had elaborated a draft "law" on terrorism to complement article 9 of the Constitution. Persons suspected of terrorist acts would at no time have the benefit of being presumed innocent. Courts which heard cases involving terrorist offences would not be subject to the rules of evidence and would have discretionary powers. Whenever offences were described as "non-political", there would be no possibility of diplomatic or territorial asylum. Moreover, the law on terrorism would mean that decisions on the facts would be in the hands of military justice and that searches and detention would be in those of the security agencies, thereby expressly excluding the involvement of criminal courts and, consequently, the requirement for a judicial warrant for arrest. Habeas corpus would be suspended, which would make detention possible in police or army premises.

34. Her organization had noted that the successive or in some cases concurrent constitutional states of emergency which had been imposed without interruption since 1980 had had the effect of severely restricting or even suppressing the exercise of the most fundamental freedoms and rights.

35. It was evident that the Chilean Government's permission to refugees to return to Chile, flaunted as the beginning of a "political opening", was a violation of international law in that it was accompanied by restrictions, was subject to the arbitrary decisions of the Chilean Government and entailed a risk to the life and physical integrity of refugees.

36. The Chilean Government had once again accused the United Nations of "selectivity", "discrimination" and "political motivations". It did so to deny the competent bodies the right to examine the situation of human rights and fundamental freedoms in Chile, whereas, in 1978, it had opened the way to co-operation by permitting a small delegation of the Ad Hoc Working Group to enter the country to investigate the human rights situation in Chile. The situation had worsened and it was more important than ever for the Commission to continue, as a high priority, its study of the human rights situation in Chile and, for that purpose, to extend the Special Rapporteur's mandate. It should be borne in mind that violations were not merely incidental occurrences; they were inherent in the regime established in 1973, which was based on the suppression of representative democracy.

37. The CHAIRMAN said that the Commission had completed its general debate on agenda item 5.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 23)
(E/CN.4/Sub.2/1983/29; E/CN.4/1984/L.91)

38. Mr. HERNDL (Assistant Secretary-General for Human Rights), introducing agenda item 23, said that the General Assembly, the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities had regularly considered the question of the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

39. Pursuant to General Assembly resolution 37/187, the Commission had adopted resolution 1983/40 - subsequently endorsed by the Economic and Social Council - by which it had requested the Sub-Commission to undertake a comprehensive and thorough study of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief and had requested the Secretary-General to hold, within the framework of the advisory services programme in the period 1984/1985, a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief. By its resolution 1983/31, the Sub-Commission had recommended to the Secretary-General that the seminar should discuss the development of programmes of education designed to foster religious tolerance which encompassed studies reflecting a number of elements set out in the resolution. He was pleased to announce that preparations for the seminar had begun.

40. It should also be noted that the Sub-Commission, in resolution 1983/31, had decided to appoint Mrs. Odio Benito as Special Rapporteur to undertake the comprehensive and thorough study in question.

41. At its most recent session, the General Assembly had again discussed the issue of religious intolerance, and in particular the question of the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. By resolution 38/110, it had requested the Commission to continue its consideration of measures to implement the Declaration and to report, through the Economic and Social Council, to the Assembly at its thirty-ninth session.

42. Mr. BEAULNE (Canada) said that the adoption, in 1981, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had been a major landmark and was evidence of the determination of the international community to take all the requisite measures as soon as possible. In that connection, he recalled that a draft convention had been prepared in 1964, constantly re-worked and finally abandoned in 1972, when the General Assembly had decided to suspend consideration of that text and give priority to a draft declaration.

43. As the General Assembly had invited it to investigate ways and means of implementing the Declaration, the Commission had requested the Sub-Commission to make a comprehensive study of the question of religious intolerance in the contemporary world. His delegation hoped that the study would be completed as soon as possible and urged the Special Rapporteur appointed by the Sub-Commission to examine ways in which the specialized agencies could co-operate effectively in implementing the Declaration.

44. In connection with the seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief, which the Commission had requested the Secretary-General to organize, his delegation drew attention to the comments which it had made during discussion of the agenda item on advisory services in the field of human rights.

45. His delegation was awaiting the Special Rapporteur's study and the seminar with interest, even though it considered the proposals in that regard to be clearly insufficient. That rather academic approach to the problem of religious intolerance would not lead very far. The Commission must not let the question become bogged down in studies and seminars. The best means of implementing the Declaration was to adopt a convention, the elaboration of which had only been suspended in 1972. With a legal text in the form of a convention, which would have its place among the range of legal instruments already prepared by the United Nations to protect fundamental freedoms, Governments would commit themselves to applying the principles of the Declaration. He hoped that the Commission would return to its original calling and that it would be able to rise above sterile quarrels involving clashes of State interests in order to dedicate itself once again to the defence of human rights and to that most precious of human assets, the conscience of the individual.

46. Mr. PARKER (United States of America) said that the number of hours which the Commission devoted to the subject of religious intolerance was in inverse proportion to the enormous amount of interference throughout the world with the fundamental freedom of religion. There were men and women suffering in prisons and labour camps, even in psychiatric hospitals, whose only crime was to have honoured, in their own fashion, their concept of God despite the order of the State not to do so. There were others who suffered psychological constraints and could not worship their God in public or read religious works, the sale of which was sometimes prohibited. Such religious persecutions affected most tragically the frail, the aged and intellectuals. Those who were persecuted accepted their fate and kept their trust in the future and often, when released, returned to the same practices, because faith was stronger than repression.

47. Religious intolerance manifested itself in a variety of forms. There was one which had taken on alarming proportions in recent years, namely State interference in

the parent-child relationship. Too often, the primacy of the State and usurpation of the parental teaching function went hand in hand. In other words, too often the State was attempting to erase religious values and practices taught in the home. That gross violation of the principle of religious tolerance was in many ways one of the most serious violations of human rights, because it interfered with the natural law and the inclination of parents to raise their children according to their own moral code and system of beliefs. There was nothing in the Charter of the United Nations or the International Covenants on Human Rights which authorized violations of that kind, and they must be brought to an end.

48. Those who believed in heaven must be given the opportunity to reach it. The implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief was the means of assuring the exercise of that right, and the Commission must continue its work in that direction.

49. Mrs. COLL (Ireland) said that discrimination based on religion or belief was an affront to human dignity, a disavowal of the rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and an obstacle to friendly and peaceful relations between nations.

50. The 1981 Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief contained a definition of those forms of intolerance and discrimination and stipulated the obligations of States and rights of parents and children with respect to religion and belief, at the same time defining the scope of the right to manifest one's religion or belief. Regrettably, that right often continued to be violated in the modern world.

51. For an individual who professed either, religion or belief was a fundamental element in his conception of life, which it was important to respect, inter alia by education. Her delegation was of the opinion that positive efforts should be made to foster tolerance in regard to religion or belief. That was why, at the thirty-ninth session of the Commission, it had, together with other delegations, taken the initiative of requesting the Secretary-General to hold a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief (see Commission resolution 1983/40). It was pleased at the arrangements now being made in that respect. It supported the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities that the seminar should discuss the development of programmes of education designed to foster religious tolerance, which would include studies taking different elements into account (see Sub-Commission resolution 1983/31). Her delegation noted that among the elements proposed by the Sub-Commission were the spiritual and human rights principles underlying all major world religions as well as an appreciation of the different ways in which those principles were manifested in different religions and cultures. However, it was of the opinion that tolerance and respect must be extended to all religions and could not be conditional on the perception of one individual that certain elements of the religion professed by others were similar to elements of his own religion. Experience had shown that a proper understanding of those who sincerely held different opinions could help individuals to shed prejudices based on ignorance, distrust and suspicion. That was equally true of religion or belief. A seminar organized with that in mind would be worth-while.

52. Her delegation was equally aware of the importance of the second element of the 1981 Declaration: the elimination of discrimination based on religion or belief. It favoured the elaboration of a convention on the elimination of discrimination based on religion or belief, while at the same time acknowledging that strict adherence to the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, as well as the principles of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, would adequately insure against that form of discrimination. Her delegation also thought that it would be useful to undertake a realistic appraisal of the current scale of the evil to be combated and its root causes. It therefore welcomed the appointment by the Sub-Commission of a Special Rapporteur to undertake a comprehensive and thorough study of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief. Together with other delegations, it had prepared a draft resolution which would take a further step towards that appointment.

53. Her delegation drew attention to an encouraging measure which came within the scope of another agenda item, namely the agreement, reached by the Working Group on a draft convention on the rights of the child, on an article defining the rights of parents and children in the matter of religious belief. It was pleased to note that the article was in conformity with article 6 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

54. Mr. RICHTER (German Democratic Republic) said that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted in 1981 by the General Assembly in resolution 36/55, was a document acceptable to all States and provided orientation to them. In the German Democratic Republic, religious freedom was not only a constitutional principle but a living reality. That had been confirmed on many occasions by church leaders in his country.

55. In 1983, the commemoration of the quinqucentenary of the birth of Martin Luther had been the occasion for successful co-operation between the Martin Luther Committee, under the patronage of the Chairman of the Council of State, and the Luther Committee of the protestant churches of the country. Representatives from some 100 churches in 44 countries who had visited his country on that occasion had been able to note how Marxists and Christians worked together daily to build a socialist society. Bishop Werner Leich had emphasized that State and Church in the country were prepared to co-operate on questions of common concern, with each partner observing the other's independence and responsibilities.

56. In his country, the separation of State and churches had enabled the churches to regulate their own affairs freely, particularly as far as the appointment of pastors and bishops and membership of administrative bodies were concerned. The churches imposed their taxes as they considered appropriate and members of the clergy did not take an oath to the Constitution. On the other hand, as Horst Gienke, Protestant Bishop of Greifswald, had said, the Church should not give advice, let alone directives, on how to shape political reality.

57. Those principles had been agreed upon on 6 March 1978 in discussions between the Chairman of the Council of State of the German Democratic Republic and the Executive

of the Conference of Protestant Church Administrations; they also formed a basis for co-operation with the many other churches and religious communities in the country. Religious publishing houses in the country had a considerable reputation, and tribute had been paid to the churches' care of the sick. The Protestant and Catholic churches were responsible for hundreds of well-managed hospitals, sanatoriums, old-age homes and day-care centres. For example, Caritas employed some 7,350 persons, of whom about 1,500 were nuns. The Seventh Day Adventists and the Jewish communities also had their social services. As a result of the favourable development of relations between Church and State, 1983 had been not only the year of the official commemoration of the birth of Martin Luther but of seven conventions and other important religious events organized exclusively by the churches but with significant State support. His country was therefore putting the Declaration into effect and would continue to do so.

58. Mr. GUTSENKO (Union of Soviet Socialist Republics) said that his country had always participated actively in the consideration of the question of discrimination based on religion or belief and attached particular importance to freedom of opinion. The Soviet Constitution guaranteed freedom of belief for all citizens, including the right to practise any religion or to practise no religion. The State never interfered in church affairs, nor the church in State affairs. Freedom of belief was guaranteed both in legislation and in practice. Legislation did not permit any restriction of the rights of believers and protected the rights of non-believers; to treat a person with hostility, refuse him employment or prevent his children from going to a specific school or subject him to administrative harassment or deprive him of various benefits because of his belief were matters dealt with in the Criminal Code. No church was forbidden in the Soviet Union, where there currently existed 20,000 religious associations representing some 40 creeds, among them Russian Orthodox Church and Muslim, Buddhist, Hindu, Catholic, Georgian, Seventh Day Adventist and Pentecostal religions. Each church was free to publish writings and teach its doctrine.

59. As a result of social and economic progress in the Soviet Union, many citizens had turned away from religion, but believers could practise their religion freely.

60. While the rights of believers should be protected, so should those of non-believers. In some countries non-believers were plainly victims of discrimination and it was not uncommon in countries whose leaders had the most to say about human rights and God for atheists to be subjected to all sorts of unacceptable restrictions; in such countries only the moral values of Judeo-Christian civilization were recognized. His delegation intended to co-operate actively to ensure respect for the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

61. Mr. SEBAZUNGU (Rwanda) said that since its foundation, the United Nations had prepared a growing number of international instruments to try to reach its objectives and to ensure respect for human rights. The General Assembly's adoption by consensus in 1981, after 20 years of negotiation, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief had marked an important stage in the development of public international law in that field. The precision of the principles set out in the Declaration and its clear definition of intolerance and discrimination made it possible to hope that there would be no major difficulty in implementing it.

62. Since becoming independent, Rwanda had always respected freedom of religion, in accordance with its Constitution of 20 December 1978. The Criminal Code made religious intolerance and religious discrimination punishable offences. In accordance with article 393, denying a person, inter alia because he belonged or did not belong to a specific religion, a service or right which he could claim was considered an offence. The same article made it an offence to dismiss or appoint a person for those same reasons. Similarly, the law of 27 August 1966 on secondary and primary education afforded an important place to freedom of worship, with religion or moral instruction being included in State school curricula and the religious authorities concerned having the power to appoint teaching staff to give religious instruction to pupils. The legal representatives of different denominations could also appoint an inspector to monitor the teaching of the religion concerned.

63. Freedom of religion was guaranteed in prisons, and legal provisions ensured that clergymen could minister to detainees in accordance with the regulations of each prison.

64. The principle of equality of human beings excluded all discrimination based on race, colour, sex, origin, religion or any other grounds, and his delegation deplored persecution or discrimination based on religion or belief wherever it took place. It supported resolution 1983/31 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and was in favour of the holding of a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief and endorsed the elements to be studied under that resolution. It had taken note of the appointment of a Special Rapporteur to undertake a comprehensive and thorough study of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief. It hoped that the Special Rapporteur would also study the consequences of abuses committed under the pretext of the exercise of freedom of religion and belief, which, there could be no doubt, could act as a brake on a country's economic and social development; for example, where religious sects forbade their followers access to school, burial of their dead or respect for national emblems, that should be declared unacceptable in the same way as religious intolerance and discrimination, because it was incompatible with the Charter of the United Nations and other relevant United Nations instruments.

65. The effective implementation of the Declaration depended essentially on the good faith of the States which had supported it. The Declaration should be circulated as widely as possible and included in civic education programmes. In its future work the Commission should apply itself to preparing a convention in that crucial field, because it was necessary to have a legal instrument which was more binding than a declaration.

66. Mr. EL KASMI (Libyan Arab Jamahiriya) said that freedom of conscience and religion was embodied in article 18 of the International Covenant on Civil and Political Rights, which it was essential to respect by never restricting freedom of worship and by permitting all parents to give their children the religious education of their choice. There were hundreds of unrevealed religions and a limited number of revealed religions, which should all aspire to the well-being of man and the furtherance of morality inducing the individual to turn away from egoism and respect his fellow men. Imbued with those principles, his Government had, in 1976, hosted a seminar on Islamic-Christian dialogue, to which it had invited representatives of the Vatican. The participants at the seminar had concluded that peace was a divine message and they had drawn a distinction between Judaism as a religion and zionism as a doctrine. In that respect, it should be

recalled that in the Muslim world colonialist crusaders were plotting dangerous conspiracies to undermine Islam, as could be seen from the military campaign being waged by the United States, France and the United Kingdom in Lebanon, in collusion with the Phalangists. Those forces were attempting to expel Lebanese Muslims from their homes and replace them by crusaders who would co-operate with the Zionist entity and establish themselves on the ruins of the Islamic world.

67. Israel had been used to put these conspiracies into practice, and had done so by desecrating and destroying Islamic and Christian holy sites and places. It had committed a whole series of crimes against Muslims and Christians, including the murder of a peaceful Christian nun as well as women, children and men, and the bombing of mosques and churches. Even cemeteries had not been spared: the Tel Aviv Hilton had been built on the remains of the cemetery of Jaffa and many other new buildings had been built on the ruins of ancient Muslim cemeteries.

68. The creation of Israel was based on a mistaken and racist religious concept and a distorted interpretation of the Bible, which for underhand purposes had had verses added and removed. Some books of the Bible thus modified incited Jews to make usurious loans to non-Jews or to subjugate them. It might well be asked how God could at the same time command man to be good and virtuous and advocate such clearly racist measures. According to the modified texts, Jews had a right to everything and non-Jews should be satisfied with what remained.

69. Mr. SCHIFTER (United States of America) asked whether the item under discussion was still religious intolerance.

70. Mr. EL KASMI (Libyan Arab Jamahiriya) said that he was giving some extracts from the Bible to show how much it had been deformed to serve the interests of the State of Israel. Another eloquent example was that the distorted Bible said that Jews had trodden the region from Lebanon to the Euphrates, which therefore belonged to them. Consequently, all peoples must submit to the chosen, Jewish people. God thought only of Israel, others had only to serve it.

71. The Zionist regime was based on a racist practice which the entire international community must make every effort to eliminate. Moreover, the General Assembly had declared Zionism to be a form of racism. Zionism was dangerous even for Israel. An Israeli had published a work entitled "The racism of the State of Israel", in which he had emphasized that to have a decent life in Israel a person had to prove that his mother, grandmother and great-grandmother were Jewish. It was clear that it was not faith that was important and the citizens of that country were therefore forced to make false declarations to conform to the rules laid down by the State. It had rightly been said that those who persecuted others could not themselves be free. It was clear that the Sephardim had always been and would always be oppressed in Israel, a State created with Western Jews who inflicted discriminatory treatment on Oriental Jews.

72. For its part, his Government had asked all Jews previously living in Libya to return to the country, granting them all the rights and guarantees enjoyed by Libyan nationals. The representative of the Israeli delegation had spoken of Arab anti-Semitism, an absurd affirmation since the Arabs themselves were Semites. The United States delegation had condemned the Soviet Union for not permitting Soviet citizens who were Jews to leave the Soviet Union, seeing in that evidence of anti-Semitism and a violation of human rights. That was nothing other than a

lie; what that delegation actually wanted was increased immigration to Israel, which wished to populate the occupied Arab territories from which it would expel the local inhabitants. It was a mockery to hear the United States delegation defend Muslims throughout the world, and in particular in the Soviet Union and Afghanistan, when the persecution to which Muslims in the United States were subjected was well known; they had the highest rate of unemployment, did the lowliest jobs and lived in the worst areas.

73. Without the benefit of United States support, Israel could never have engaged in its imperialist policy in the Middle East. The United States delegation should cease its lying because the Islamic world was only too aware that the United States was one of the sworn enemies of Islam. Evidence of that was to be found in the desecration of Muslim places of worship which that country was committing through Israel in the occupied Arab territories and elsewhere, as well as the bombing of Palestinian refugee camps in Lebanon.

74. The Commission should make a thorough study of the extent of the serious problems of religious intolerance of which he had just given some examples, and their dangerous consequences for the freedom of man.

75. Mr. EKBLOM (Finland) said that the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, adopted in 1981, was a long overdue addition to the body of international standards in the field of human rights. The next step was obviously to focus attention on the implementation of that Declaration. The detailed formulation of its articles helped in the interpretation of the various relevant norms; it helped to harmonize the interpretation of existing instruments and to make them more effective. That was very useful at a time when violations of the principle of non-discrimination on the basis of religion continued to occur on a large scale in many parts of the world.

76. The report by the Secretary General in document E/CN.4/Sub.2/1983/29 made reference to work on a convention. For a number of reasons, a declaration had had to come first. Although a convention had the advantage of creating obligations for the States parties, it often took a long time before a significant number of States ratified it. Moreover, as the Secretary-General had emphasized in his report, there were already many binding obligations concerning the elimination of discrimination based on religion or belief, particularly in the two International Covenants; the Declaration contributed to the enforcement of those obligations, even in the absence of a convention. It must be seen as an interpretation and elaboration of certain rules contained in the Covenants and other legal instruments. Furthermore, a declaration had great moral authority from the moment of its adoption by the General Assembly.

77. The steps taken so far in order to promote implementation of the Declaration seemed to be well adapted to their purpose. Firstly, it was important to disseminate information about the contents of the Declaration as widely as possible. His delegation supported the idea of holding a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief, as mentioned in Commission resolution 1983/40. It also looked forward to the comprehensive study - referred to in the same resolution - of the current dimensions of the problems of intolerance and of discrimination on grounds of religion or belief, which was currently being undertaken.

78. Mr. LACK (World Jewish Congress) said that it was more important than ever to ensure that the principles contained in the Declaration were implemented by all States Members of the United Nations. With that in mind, the idea of holding a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief was commendable. The seminar would be called upon to discuss educational programmes which would emphasize the universal spiritual principles underlying the major religions and the human rights themes implicit in them, as well as the social teachings of various religions. However, the reference to freedom of agnostic or atheistic beliefs in Sub-Commission resolution 1983/31 concerning that seminar was unfortunate. The Declaration, adopted after many years of discussion, made no mention of that freedom, which was already guaranteed in article 18 of the International Covenant on Civil and Political Rights and was, moreover, reflected in the second preambular paragraph of the Declaration itself. Inclusion of the reference might be regarded as a reopening of issues which had no place in a seminar devoted to the theme of religious tolerance.

79. There were several ways in which the Declaration could be implemented. Firstly, General Assembly resolution 3027 (XXVII) already envisaged the elaboration of a convention, but so far no firm decision on that had been taken by either the Commission or any other organ of the United Nations. In the prevailing international climate, it was obviously a difficult task but should be pursued even if it had to be a protracted effort. Secondly, the Human Rights Committee might take the principles of the Declaration as the yardstick when considering the reports of States parties under article 40 of the International Covenant on Civil and Political Rights concerning their compliance with article 18 of the Covenant. A third avenue would consist of elaborating regional conventions. The Council of Europe would be well placed to undertake such a task for the European region since most, if not all, of its 21 members were bound by common traditions in that field. Lastly, the Commission might give consideration to the creation of an independent monitoring mechanism which would periodically examine the question of implementation of the principles of the 1981 Declaration.

80. He welcomed the Sub-Commission's decision of September 1983 to appoint a Special Rapporteur, Mrs. Odio Benito, to undertake the study requested by the Commission in resolution 1983/40. It was to be hoped that the Special Rapporteur would take account of the major study conducted by Mr. Krishnaswami on the subject almost 25 years previously and of developments since that date. His organization would willingly co-operate with Mrs. Odio Benito in her task.

81. Mr. CONCEPCION (Christian Democratic World Union) said that his organization was concerned by the situation of human rights in the Philippines. Along with trade unionists, political opponents of the regime and religious minorities, Catholic priests and nuns were being subjected to severe persecution. Fifty of them had been arrested since January 1982. Father de la Torre, of the Society of the Divine Word, had already been in prison for seven years. Even foreign missionaries were being arrested. Five of them were currently in prison. Father Brian Gore, Father Niall O'Brian and Vincent Danagan, along with six other persons, were being tried on the ridiculous charge of murdering four Jesuits. Father Kangaleon had died under mysterious circumstances, after having been tortured in a military prison - an all too frequent occurrence in that type of prison. In addition, there were constant police raids on religious establishments, in particular on the Sacred Heart Novitiate, where nuns and priests had been harassed. Religious and lay workers involved in Christian community programmes in rural areas had also been severely persecuted and subjected to arrest, torture, disappearances and even killings.

82. The reason for that persecution was that priests and nuns had spoken out in favour of human rights and thereby criticized the Government. Three years previously, martial law had been officially lifted, but in fact military repression had escalated from that time. The dramatic situation thus created had moved Cardinal Jaime Sin to ask President Marcos to step down because, after 18 years, he had not been able to solve the country's problems. Military repression, corruption in the administration and economic bankruptcy raised fears of a bloody revolution. The death of Senator Benigno Aquino had shocked the country; the Government had reacted by appointing a commission, but after more than six months it had still not presented a report.

83. On 8 March 1984, his organization had sent the United Nations a statement on recent events in Poland. The police had removed crosses at a school in Garvolin despite the protests of students. That act, stemming from a flagrant contempt of the religious feelings of Polish youth, constituted a violation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and of article 18 of the International Covenant on Civil and Political Rights. In a country with a thousand-year-old attachment to Christianity, that act merely deepened the division between the Christian population and the Marxist Government.

84. Mr. YELLOWHAIR (Four Directions Council) said that the experience acquired by his organization in the United States of America and Australia showed that the protection of indigenous peoples' religious freedom was inseparable from land rights. The religious practices of the indigenous peoples of North America and of Australia were associated with natural sites, such as caves, rock formations and mountain tops. To attack those sites was practically to destroy their religions.

85. At its first meeting in 1982, the Working Group on Indigenous Populations had emphasized that aspect of its study and in a report had given as an example of a serious violation of human rights the annexation of the Black Hills, a range of mountains particularly sacred to the Lakota Sioux and Cheyenne peoples. The most holy shrine of those two peoples, Bear Butte, to the north-east of the Black Hills, had recently become a tourist centre despite vigorous opposition on the part of the indigenous population. Roads had been built to allow tourists to observe the religious practices of the Lakota Sioux and the Cheyenne. In 1983, United States courts had refused to stop that desecration, saying that recreation and "education" were more important than the protection of indigenous peoples' religious freedom; they had told the Lakota Sioux and the Cheyenne that they would have to learn to co-exist with more than 100,000 tourists a year. In the south-west of the United States, San Francisco Peak, sacred to the Hopi people, had been developed as a ski resort; the courts had similarly said to the Hopis that recreation and tourism were legitimate priorities.

86. In Canada, Mikmaq lands at Kejimikujik Lake had been expropriated some years previously to develop a national park which, according to the Canadian Government, would make it possible to preserve sacred petroglyphs surrounding the lake. For centuries, Mikmaqs had lived on that land and protected their religious treasures, whereas within a year of the park having been opened many of the petroglyphs had been stolen, defaced or destroyed. There was no legitimate basis for States parties to the International Covenant on Civil and Political Rights to participate in the destruction of religious shrines in the name of recreation, tourism or "education".

87. In Australia, diamonds had been discovered in a formation of kimberlite rock sacred to the Barramundi Dreaming. The site had been destroyed in 1980 while a caretaker was in Melbourne seeking its protection and public support. Diamond mining was being conducted by an Australian subsidiary of the Rio Tinto Zinc, which was also active in Namibia. Also in Australia, the Pea Hill sacred site at Noonkanbah had been drilled for petroleum despite vigorous opposition from the Aborigines. In those and other cases, human rights had been subordinated to commercial projects which chiefly benefited non-indigenous peoples.

88. Such practices revealed discrimination against certain religions. In the United States, the Constitution guaranteed religious freedom, and the courts interpreted that provision as forbidding any Government interference except where there was an imminent threat to public health or safety. However, when it was a matter of American Indian religious practices, the courts merely required that the Government had some reason - any reason at all - to justify its interference. Under the provisions of the International Covenants and the 1981 Declaration it was unacceptable that some religions should be less deserving of legal protection than others. He drew attention to article 6 (a) of the 1981 Declaration in that respect. He hoped that the Commission would clarify those questions for the benefit of those States where lands which had been sacred for indigenous peoples for hundreds or even thousands of years were being confiscated.

The meeting rose at 12.55 p.m.