

Mr. TOSEVSKI (Yugoslavia) said that the Commission should base its approach neither on the notion of a Government faced with organized subversion nor on that of people terrorized by an oppressive régime, but on the ultimate responsibility of Governments and the applicability of international instruments. Under the circumstances, his delegation, although in general opposed to setting up further bodies, accepted in principle the idea of a group of experts to tackle the problem, and proposed a group within the Commission with a mandate for one year.

Miss EMARA (Egypt) said that, although the protection of citizens was the responsibility of Governments alone, the international community must concern itself with the fate of disappeared persons and should seek to adopt, by consensus, a procedure which, by its impartiality and recognition of State sovereignty, would ensure the full co-operation of all concerned.

Viscount COLVILLE (United Kingdom) said that the Commission had failed, at its thirty-fifth session, to agree on action concerning disappeared persons; but General Assembly resolution 34/175 left no excuse for further inaction. It was inescapable, both from the facts available and from international opinion, that courts everywhere must insist on due process of law in all situations, and that some form of international investigating body should be appointed, with powers to intervene urgently if necessary. But the authorities in countries where disappearances were reported should be given a fair hearing and, where appropriate, allowed to show the steps taken to remedy matters. It should not be ignored, however, that disappearances constituted a breach of certain fundamental rights in the Covenants from which no derogation was permissible.

Mr. SAHM (Federal Republic of Germany) said his country was concerned about the fact that many authorities had used their power to build up a system of injustice and insecurity for the individual citizen and that individuals disappeared without trace. Concerning Argentine Law No. 22062, he said that the provision concerning the issue of death certificates after 90 days prompted misgivings that that law might be abused. It was to be hoped that the Argentine authorities would amend the text of that law so as to avoid its abuse. He also referred to the Amnesty International pamphlet entitled "Testimony on Secret Detention Camps".

Mr. TRUCCO (Observer for Chile) gave details of Chile's collaboration with the International Committee of the Red Cross since 1976, and said that ICRC's acknowledgement of Chile's collaboration was in sharp contrast with the Ad Hoc Working Group's arbitrary approach to the Chilean authorities.

Not until 1979 had the Ad Hoc Working Group admitted that no disappearance had been reported since May 1977 in Chile and that the total number of allegedly disappeared persons was less than one third that which the Working Group had been claiming for the previous three years. In view of those facts, it was incredible that Chile's detractors should persist in maintaining that the situation in Chile was deteriorating. The Chilean Government would continue to discharge those obligations which it had entered into freely and to reject those which had been arbitrarily imposed on it, together with any interference in matters which should be resolved by its own authorities. It would continue to co-operate with technically competent bodies with genuinely humanitarian aims and to reject those with ulterior political motives.

Mr. NUCETE (Observer for Venezuela) said that the enormous increase in disappearances was a matter of grave concern. Those disappearances inflicted terrible suffering on both the individual and his family and were a direct contravention of fundamental human rights. His delegation shared the view that it was within the power of the Commission to ensure that effective action was taken in respect of such cases.

He congratulated the various organizations, in particular, the International Commission of Jurists and Amnesty International, which had been actively engaged in investigating cases of disappeared persons. Those organizations should be encouraged to continue their work.

Mr. HARPER (Commission of the Churches on International Affairs) recalled that, in 1975, the World Council of Churches had protested against the systematic increase in violations of human rights in Latin American countries, in particular disappearances and unexplained deaths. It was important to give universal exposure to such national situations.

Disappearances were primarily a denial of the basic guarantees of the right of life. The practice of arbitrary abduction and subsequent disappearance was used most often, but not exclusively, against real or imagined political opponents of a given régime. The resources of the churches and the international community should be mobilized to combat the practice.

Governments denied knowledge of the unexplained disappearances of individuals carried out by their own security forces, or blamed such disappearances on political parties, marginal movements or delinquent groups. The overwhelming experience of churches in that regard was that such assertions were inaccurate and self-serving. The World Council of Churches also possessed dossiers on 116 children who had been abducted and had disappeared, or who had been born in detention, in five Latin American countries. Some had been adopted by military personnel, others were presumed dead. It was inadmissible that such patently innocent victims of adult inhumanity should be deprived of lasting protection.

The Commission must establish an adequate and appropriate mechanism, able to take prompt and effective action in response to the problems. The World Council of Churches would fully support the establishment of such a mechanism at the current session of the Commission.

Mrs. de QUINTEROS (Pax Romana) said that the number of disappeared persons continued to increase. Pax Romana received daily numerous communications reporting cases of disappeared persons in Latin America and other parts of the world.

She expressed deep concern at the disregard for the most fundamental civil, political and economic rights in some areas of the world. Many of her own compatriots had disappeared, some of them several years earlier, and had not been heard of since. Moreover, many of them had disappeared in other countries in the region where they had been under the protection of the United Nations High Commissioner for Refugees. Her own daughter had been abducted in the Venezuelan Embassy in 1978. In April 1979, her country's ambassador to the United States had told her that her daughter was alive and in detention, and on 2 March 1979, the

representative in the Commission of the country whose officials were responsible for the abduction had informed her that her daughter was in detention and would be handed over to the country from whose embassy she had been abducted. Since that time, she had received no further news of her daughter, apart from denials that she was in detention.

She requested the Commission to set up machinery which could take rapid and flexible action with regard to cases of disappeared persons and to seek information from the representatives of Uruguay on the specific case of her own daughter.

Mrs. ZUMSTEIN (International Federation of Human Rights) said that, in a particular country in the southern hemisphere, the practice of disappearances as a method of repression was carried out by the military and security forces, acting on the instructions of the Government. Although the victims were arrested publicly, the authorities nevertheless denied any knowledge of the arrest or of the subsequent fate of the victims. A common feature of abduction was the ransacking of the residences or offices of the victims by armed groups. The arrest of up to 12,000 persons, their detention in secret concentration camps, their subjection to every type of abuse and torture and the execution of the majority of them could not be tolerated by a free democratic world. Such a situation was a denial of the most fundamental principles of any legal order and constituted a crime against humanity.

She called on the Commission to establish a working group on disappeared persons, to consider cases of grave violations in public, rather than in private, and to appoint a committee or a special rapporteur to consider such cases in depth.

Mr. GIAMBRUNO (Uruguay), speaking in exercise of the right of reply, recalled that, when a number of Governments had requested information on the case of Elena Quinteros Almeida, he had stated that he had no further information on the subject, despite the investigations carried out by the Uruguayan authorities. At the time of her disappearance, his Government had instituted a meticulous investigation into the circumstances surrounding it and was continuing such an investigation. He himself had never had any knowledge of her whereabouts; as he had said the previous year, he would undertake to inform the authorities of the concern that had been expressed in order that the result of the investigations might be made available.

Mr. ROS (Argentina), speaking in exercise of the right of reply, said that the observations made by the representative of the Netherlands with respect to Argentina demonstrated a completely distorted view of the situation in Latin America in general and in Argentina in particular. A number of Western countries adopted a superior attitude to the question of human rights in Argentina and regarded terrorists responsible for abduction and intimidation as heroes.

His Government rejected the report of the Amnesty International as a pure fabrication.

Mr. van der STOEL (Netherlands), speaking in exercise of the right of reply, said that he had referred to the matter of missing or disappeared persons in Argentina simply as an example, and that he could supply evidence in support of his statement. There was no basis for the idea that the statement - in which he had stressed that similar disappearances had also occurred in other continents - was politically motivated. The Argentine delegation ought to have assured the Commission that its Government would do its utmost to find out what had happened to disappeared persons and to bring to justice those responsible for abductions.

Mr. ROS (Argentina) said that the members of the Commission, as the representatives of sovereign States, were entitled to place whatever interpretation they deemed the most correct on any statement which directly concerned them. Argentina had not acceded to independence only to remain silent while being put in the dock for political reasons. It believed in dialogue in a spirit of true co-operation, free from intolerable pressures aimed at distorting reality in furtherance of another country's internal policy.

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Mr. SOYER (France), introducing draft resolution E/CN.4/L.1502, said that its purpose was to establish a specialized and flexible system to deal urgently with cases of disappearance anywhere in the world.

Basically, the system would consist of a group of experts able to look at the subject as a whole and to deal with individual cases. He would welcome any suggestions aimed at improving its practical application.

Mr. AL-JABIRI (Iraq) said that the amendments to draft resolution E/CN.4/L.1502, submitted by the delegations of Cyprus, Iraq, Senegal and Yugoslavia in document E/CN.4/L.1505 were prompted by the wish to solve the problem of missing or disappeared persons in co-operation with the Governments concerned and to guarantee that cases submitted to the Commission would be considered without any prejudice. The amended text represented a compromise which all the members of the Commission should be able to support.

Mr. SALAH-BEY (Algeria) noted that the problem of missing or disappeared persons was not only a human but also a political problem, since it involved States in regard to the operation of their institutions. The Commission must therefore take care to ensure that the problem was examined impartially and objectively. The machinery provided for by the draft resolution must take that requirement into account and must not become a tool used by a particular country or group of countries to stir up tension in certain regions of the world or to create difficulties for certain States. If those guarantees were afforded, the machinery envisaged under the amended draft resolution could provide a solution to the problem of disappeared persons.

He proposed that, in operative paragraph 1, in document E/CN.4/L.1505, the words "the question of" should be replaced by the words "questions relating to". He hoped that the draft resolution, as amended, would be supported by the Commission as a whole and adopted by consensus.

Mr. OYEDELE (Nigeria) supported the amendment submitted by the Algerian representative.

Mr. SOYER (France) supported the amendments in document E/CN.4/L.1505 and the Algerian subamendment; those proposals seemed to him to be most constructive and aimed exactly in the direction of the French draft resolution, whose purpose was to establish specialized and flexible machinery offering every guarantee of objectivity.

Mr. CALERO-RODRIGUES (Brazil) proposed that, in operative paragraph 3, in document E/CN.4/L.1505, the words "as envisaged in its resolution 5 B (XXXII) and to report thereon" should be replaced by the words "with a view to making general recommendations", in accordance with Economic and Social Council resolution 1979/38.

Mr. CALATAYUD BOSCH (Uruguay) said he found the Brazilian proposal sensible, since it would avoid conflicts of competence between the proposed working group and the Sub-Commission. For his part, he thought that the amendments (E/CN.4/L.1505) to draft resolution E/CN.4/L.1502 did not offer all the requisite safeguards to States whose situations might be examined by the Commission. In his opinion, the Working Group should not submit its conclusions regarding any State to the Commission until that State had had an opportunity of expressing its point of view to the Commission.

He therefore requested the sponsors of the amended draft resolution to postpone consideration of the draft in order to enable him to submit an amendment.

Mr. van BOVEN (Director, Division of Human Rights) made a statement b/ concerning the administrative and financial implications of draft resolution E/CN.4/L.1502, as amended in document E/CN.4/L.1505.

The CHAIRMAN announced that Costa Rica and Iran had asked to be included among the sponsors of the draft resolution as amended.

Mr. SOYER (France) accepted the subamendment submitted by Brazil.

Mr. AL-JABIRI (Iraq) also accepted the subamendment submitted by Brazil, and asked the representative of Uruguay not to insist on his proposal.

Mr. CALATAYUD BOSCH (Uruguay) agreed to withdraw his proposal, on the understanding that a State whose situation was to be considered would have an opportunity to give an explanation and that its observations would be submitted to the Commission at the same time as the Working Group's report.

Mr. ZORIN (Union of Soviet Socialist Republics), having expressed concern regarding one aspect of the problem under discussion, said that, as the Soviet delegation interpreted the resolution adopted, the Working Group would naturally be established on the basis of the principle of equitable geographical distribution, after consultation of all the regional groups, and for a period of only one year; it would use only information which met the criteria of admissibility defined in resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; it would meet for a period of two or three weeks immediately prior to the Commission's next session and adopt its decisions by consensus; it should not serve as a precedent; and it must be able to look into situations of missing persons in countries whose Governments had agreed to co-operate with it.

His delegation would attentively follow the Working Group's activities and their results.

Mr. SHESTACK (United States of America) said that, although his delegation would have preferred a more forceful text, it would like to become a sponsor of the resolution just adopted by a consensus which gave grounds for satisfaction, especially since it was clear that under the resolution material on individual cases would be accepted from families, non-governmental sources and other reliable sources.

Mr. DAVIS (Australia) said that his delegation had joined in the consensus since it thought the decision fair in every sense of the term. He also referred to the comments of the Soviet representative in explanation of vote on the way the Working Group should work, and outlined his delegation's views to the contrary.

Mr. EDIS (United Kingdom) welcomed the decision just taken by the Commission by consensus on that very serious problem. It was right that the international

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b/ E/CN.4/L.1521. For financial implications, ibid., annex III.

community should confront and tackle such questions effectively. The resolution was the continuation of a process begun with General Assembly resolution 33/177 and Economic and Social Council resolution 1979/38, which had also been agreed by consensus.

Mr. ROS (Argentina) said that, if the draft resolution had been put to the vote, his delegation would have voted against certain parts of it, which it considered vague and liable to give rise to misunderstandings. However, it had joined in the consensus in a spirit of compromise.

His delegation took it that the Working Group would be analysing the problem of missing or disappeared persons in depth and in all regions of the world, as stipulated in General Assembly resolution 33/173, that its members would be appointed by the Chairman of the Commission at its thirty-sixth session in consultation with the members of the Bureau, that its methods of work must not contravene the provisions of Economic and Social Council resolution 1503 (XLVIII) and related resolutions, that it must exercise all due discretion in carrying out its task and, finally, that the information it used must conform to the criteria of admissibility set forth in resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

Mr. CHAVEZ-GODOY (Peru) said it was his understanding that the Working Group would be established by the Chairman of the Commission under the same conditions as other, similar working groups of the Commission - that was to say, on the basis of the principle of equitable geographical distribution and in consultation with all the regional groups - and that, in determining its methods of work, it must take account of the rules already established for other working groups of the Commission and of observations made to the Commission; in other words, it should proceed wherever possible by consensus and act with discretion.

Mr. IVRAKIS (Greece) said that his delegation welcomed the consensus and would like to become a sponsor of the resolution just adopted.

Mr. POUYOUROS (Cyprus) welcomed the spirit of compromise and understanding shown by delegations in reaching a consensus concerning one of the most tragic of human problems, to which the international community could not remain indifferent.

Mr. van der STOEL (Netherlands) said that he found the resolution adopted excellent, and that the Working Group for which it provided must formulate its methods of work and meet as it saw fit. The Commission might extend the Group's initial one-year mandate, in view of the scale of the problem of disappeared persons.

Mr. NYAMEKYE (Ghana) said that his delegation, which had been hoping that the Commission, at its current session, would adopt effective measures to solve the problem of disappeared persons, welcomed the adoption of the resolution as amended.

Mr. LIVERMORE (Canada) said that, although the text adopted differed quite considerably from France's initial proposal, it was balanced and moderate and had thus been able to gain wide acceptance. The Working Group to be established must be guided by the provisions of General Assembly resolution 33/173, which,

inter alia, called for co-operation among Governments. It must also look into specific cases of disappearances, particularly those which seemed the most urgent. Since the doubts held by certain States concerning the original proposal had now been dispelled, it was to be hoped that all States would co-operate with the Working Group and that the Group would be able to begin its work as soon as possible.

Mr. VARELA (Costa Rica) said he welcomed the adoption of draft resolution E/CN.4/L.1502, with the amendments contained in document E/CN.4/L.1505; it would enable a humanitarian effort to be undertaken to reassure the families of disappeared persons.

Mr. AMARE (Ethiopia) said that his delegation had joined the consensus although it had strong reservations on the wording of certain paragraphs in the resolution. Those words, in the view of his delegation, were construed in a very general and ambiguous manner and could give rise to unforeseeable and unwarranted interpretations. In the circumstances, he recorded his delegation's reservation on those paragraphs. His delegation also expressed the hope that the Working Group would remain aloof from organizations whose motives were contrary to the objectives of the Commission.