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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Fortieth session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 August 1988, at 3 p.m.

<u>Chairman:</u>	Mr. BHANDARE
later:	Mrs. KSENTINI

CONTENTS

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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CONTENTS (continued)

The administration of justice and the human rights of detainees:

- (a) Question of human rights of persons subjected to any form of detention and imprisonment;
- (b) Question of human rights and states of emergency;
- (c) Individualization of prosecution and penalties, and repercussions of violations of human rights on families.

The meeting was called to order at 3.15 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1988/8-10, E/CN.4/Sub.2/1988/37, 38 and 40; E/CN.4/1988/NGO/51 (continued))

1. Mr. DEMIRALP (Observer for Turkey) said that the item under discussion was of special importance to the monitoring mission of the Sub-Commission. No obstacle should be put in the way of the free exercise of its right to discuss all violations of human rights and to express concern or make criticisms, which should not be construed as interference in the internal affairs of States. However, it must also be fair, just and non-selective. The facilities accorded to participants should not be used for channelling deliberately false information to the Sub-Commission nor should the Sub-Commission be used as a platform for launching political attacks on a particular country. Any attempt to follow such practices should be combated by all those who wished to see the monitoring mission become an effective mechanism. The approach to information received should be based solely on human rights criteria and concentration on a few cases and countries should be avoided.

2. Some subjects, although technical, had important human rights aspects. One was the illegal traffic in toxic and dangerous products and wastes. Because of the increasing profits involved in waste disposal, that traffic, particularly from developed to developing countries, had attained alarming proportions and posed increasing risks to the health of the population and thus to its basic right to life. The inadmissible concept that the right to life of one category of mankind was less important than that of another introduced a human rights element into the subject, even though the technical aspects were dealt with in other bodies. He therefore welcomed the fact that Mrs. Bautista had referred to the matter under agenda item 7 and hoped that in future it would receive the attention its serious nature deserved.

3. Mr. COSTA LOBO (Observer for Portugal) said that his country did not intend to use its former position as the administering Power for East Timor to defend its own interests but rather the fundamental rights of the people of East Timor, including the right to self-determination. He was raising the question in the Sub-Commission because, in his view, it was particularly well-qualified to deal with cases where a Government which was presumed responsible for violations of human rights refused to co-operate with United Nations bodies and because the question of East Timor had first been studied from the human rights point of view at its 1982 session. As independent experts, members of the Sub-Commission were less likely than members of other United Nations bodies to be influenced by political considerations. In addition, the close contacts between the Sub-Commission and the non-governmental organizations made it possible to circumvent the unco-operative attitude of Governments. Although the problem had still not been solved after six years, he was conscious of a greater solidarity with the people of East Timor among the international community and a greater determination to act to protect their basic human rights; that development was mainly due to the persistent action of the Sub-Commission.

4. Reports of human rights violations in that territory continued to reach the Portuguese Government but it had no possibility of verifying them or of taking remedial action. Indonesia had established a veritable barricade around East Timor, controlling all communications with the outside world, refusing access to East Timor to the international press, humanitarian organizations and even individual observers, except those it itself invited. However, information did find its way out through Timorians who escaped from the territory and, despite threats to their families, decided to speak out, and through non-governmental organizations which managed to keep open lines of communication with the population. In view of the communication difficulties, the cases reported were probably only a very small proportion of those which actually occurred. One trustworthy non-governmental organization had reported that, in the years 1985 and 1986, 1 Timorian in 125 had been a victim of human rights violations. Violations admitted by the Indonesian Government and justified on the pretext of improving the standard of living related to birth control and forced relocation. With respect to relocation, it had been noted that the ratio of the indigenous population of East Timor and Irian Jaya to those coming from outside those territories was decreasing. He wished to draw attention to the fact that the four students whose request to leave the country had been reported at the preceding session of the Sub-Commission had still not been allowed to do so.

5. Those allegations were serious enough to require investigation but, as reported in the document prepared for the recent session of the Special Committee on Decolonization (A/AC.109/961), the Indonesian Government continued to deny access to journalists and members of non-governmental organizations, apart from those whom it actually invited and who were obliged to follow a programme prepared by the Government. The statement made by the representative of Pax Romana at the recent session of the Commission on Human Rights had mentioned the efforts made by the occupying Power to conceal the size of its military presence in those territories.

6. It was regrettable that the Indonesian authorities had so far failed to comply with the request made in Sub-Commission resolution 1987/13 that it should facilitate without restrictions the activities of humanitarian organizations in East Timor.

7. Mr. CORREIA (Observer for Angola) said that his country's participation in the work of the Commission on Human Rights and the Sub-Commission reflected its concern for human rights and fundamental freedoms after centuries of colonial domination.

8. He wished to draw attention to the violations of human rights currently being perpetrated in East Timor. The occupation of that country by Indonesia was an act of colonialism which flagrantly violated international standards. The recent report of the Special Committee on Decolonization concerning East Timor (A/AC.109/961) had noted the growing Indonesian military presence and the continuing human rights violations in the country. It was to be hoped that a just solution would be found through the good offices of the Secretary-General. The recent summit of the five Portuguese-speaking countries in Guinea-Bissau had condemned Indonesia's actions and welcomed the efforts of Portugal, as the former colonial Power, to enable the people of East Timor to realize their rights to independence and self-determination.

9. Ms. SINEGIORGIS (Observer for Ethiopia) said that many delegations had already expressed disappointment about the partisan nature of statements by certain non-governmental organizations. Such organizations took advantage of the consultative status granted to them by the Economic and Social Council to spread politically motivated propaganda against certain Member States.

10. At recent meetings, some non-governmental organizations had made allegations against her own country, which she categorically rejected. The International League for the Rights and Liberation of Peoples and the International Organization for the Elimination of All Forms of Racial Discrimination had referred to the "prisoners of war" in Eritrea and had said that they should be dealt with under the third Geneva Convention relative to the Treatment of Prisoners of War. However, as far as she was aware, the Convention applied only to prisoners captured during an international conflict, and had never been applied to acts of banditry within a single country. Expatriate staff from international relief agencies had been withdrawn from the northern areas of Ethiopia because of the destructive acts of the bandits. Relief operations were now being assured by local staff, as international aid donors had been able to establish. The sovereign Government of Ethiopia was restoring law and order to the north of the country, and was not maintaining a "deafening silence" about its activities.

11. The International League for the Rights and Liberation of Peoples had accused her country of spreading misinformation about the Government's relief convoys to the north of the country. In fact, the repeated acts of banditry against those convoys had been condemned even by the Western media, over which Ethiopia had no influence. Her country would not tolerate such interference in its internal affairs on the part of non-governmental organizations, and she considered that their remarks should be struck from the record.

12. Mr. YOUSIF (Observer for Iraq) said that his country had always been anxious to respect its commitments under international conventions, even in time of war. Iraq had not deviated from any of its obligations under the International Covenant on Civil and Political Rights, and had continued to submit its periodic reports under that instrument and the International Convention on the Elimination of All Forms of Racial Discrimination.

13. Some non-governmental organizations had tried to politicize the debate within the Sub-Commission by saying, for instance, that a Special Rapporteur had been appointed to study the situation in Iran, but not in Iraq. The representative of one non-governmental organization had suggested that the human rights situation in Iraq might actually deteriorate when the Gulf war was over, which was clearly a politically motivated observation. In the prevailing climate of optimism about a possible end to the war, it was essential to avoid political disputes which might jeopardize the peace negotiations.

14. The allegations made by the non-governmental organization in question were not new: his country had responded to similar claims at the last session of the Commission on Human Rights. The allegations that Iraq had used chemical weapons against its own civilians in Halabjah in March 1988 was a matter for the Security Council or the Conference on Disarmament, rather than the Sub-Commission. In fact, Halabjah had been occupied by Iranian troops which had used all kinds of weapons, including chemical weapons, against Iraqi

civilians. If the Sub-Commission wished to discuss such questions, his country could reopen its files on the treatment of prisoners of war and on rocket attacks on civilians.

15. If he had understood Mrs. Palley correctly from the interpretation of her remarks, she had said that the political régime of Iraq was "unacceptable". Such a statement would constitute interference in Iraq's internal affairs. Mrs. Palley had also appeared to describe Iraq as the aggressor in the Gulf war, which would be to prejudge the findings of the international commission of inquiry to be established under Security Council resolution 598 (1987). As for his country's treatment of the Kurds, it had been commended by the Committee on the Elimination of Racial Discrimination during the examination of Iraq's latest periodic report under the Convention on the Elimination of All Forms of Racial Discrimination.

16. In response to the remarks made by Mr. Eide, he wished to point out that Iraq was always anxious to co-operate with the United Nations and the Centre for Human Rights. Iraq had responded to the international call for peace in the Gulf war, and every effort should now be made to promote the peace process.

17. Mr. DE SILVA (Observer for Sri Lanka) said that, in a statement at an earlier meeting, the non-governmental organization, Human Rights Advocates, had claimed to be "especially alarmed" by attacks on two human rights activists in his country. The organization had, however, refrained from naming those thought to be responsible for the attacks, namely the group calling itself the Liberation Tigers of Tamil Eelam (LTTE). That group had failed to honour its obligations under the Indo-Sri Lankan peace accord. Although LTTE had called for a cease-fire, it had used such periods of respite in the past to regroup and acquire new arms supplies.

18. In answer to further points made by non-governmental organizations, he wished to state that a high-level delegation from the International Committee of the Red Cross (ICRC) had visited Sri Lanka to discuss ICRC activities in the country. The Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on torture were studying the situation in Sri Lanka, with the active co-operation of his Government.

19. The statements made by the non-governmental organizations had been nothing but a repetition of the views of LTTE. If those organizations would only direct their efforts towards persuading LTTE to abandon its campaign of terrorism and violence and join the mainstream of Sri Lankan politics, they would be doing something to promote genuine peace in the country.

20. Mr. WALDEN (Observer for Israel) said that he wished to reply to some of the points raised by Mrs. Palley. She had shown great concern for a 40 year old refugee problem, but she had entirely disregarded the human rights of hundreds of the thousands of Jews who had been driven out of Arab countries. Mrs. Palley's concern for the rights of the Palestinians did not take into account the fact that the organization which, according to the United Nations, represented Palestinian rights had conducted its campaign in a completely ruthless way. Its aim was not to achieve its own legitimacy, but to achieve the non-legitimacy of Israel.

21. Israel had made peace with the only Arab country which had been willing to do so; all other Arab countries had rejected the genuine offer to negotiate on the Palestine issue contained in the Camp David agreements. The refusal of the United Nations to recognize the peace treaty between Israel and Egypt was evidence of the double standards which the Organization claimed to deplore. Many speakers in the debate had referred to the problems of minorities, but it was difficult to see how the inhabitants of the Israeli administered territories could be called a minority.

22. A few days before, a petrol bomb had been thrown at an Israeli car in the Gaza district, injuring two women and four children. The day before, an Israeli girl of 18 had been shot and her body burned. Also the day before, an Arab had tried to drown an Israeli boy aged eight, and a boy of 13 had received head injuries when a rock had been thrown at him. He wondered whether any of those present would consider the victims of those atrocities worthy of commemoration. The very existence of Israel as a State was deemed to be a violation of human rights, and its citizens were not considered entitled to claim any human rights themselves. If any of the people to whom he had referred had been armed, they might have used force to defend themselves against their attackers, and that would have been seen as yet another example of Israeli brutality against the Palestinians. If Israeli citizens were confronted with petrol bombs and rocks, and by people who burned down forests in the land they professed to love, they would defend themselves. Many countries represented at the current session had shown less restraint than Israel in dealing with rioting and disturbances.

23. Many of the statements he had heard had been made in a spirit of sheer hatred, which certainly did not reflect a concern for human rights. However, some more rational remarks had been made in a spirit of friendly concern. To those speakers, he wished to say that Israel wanted to find a solution to the problem, but could not achieve anything while the other side refused to envisage any possibility but unconditional surrender to its demands. He did not claim that a solution depended on the other side, but that it depended on both sides. He understood that a draft resolution was being prepared on the situation in his country, but he doubted whether it would contain any constructive provisions.

24. Mr. CHIRILA (Observer for Romania) said that the somewhat confused allegations made by representatives of some non-governmental organizations concerning his country's activities in economic and social development were completely unfounded. Those activities were aimed at creating increasingly favourable conditions for the full exercise of all economic, social, cultural, political and civil rights by all members of the population, without any form of discrimination. One example was the programme of urbanization, the aim of which was to lessen the gap between the standard of living in the villages and the towns. Such long-term programmes were carried out in stages by each local community after discussion among representatives of all strata of the population. The Romanian Government attached special importance to the preservation of the cultural values of all parts of country; any attempt to misinterpret the nature of its programmes must originate from outside Romania and obviously pursued objectives other than the simple protection of human rights.

25. Two weeks earlier, his country had submitted its report to the Committee on the Elimination of Racial Discrimination and that document might be of interest to the Sub-Commission also.

26. Mr. CHEA URRUELA (Observer for Guatemala) pointed out that, according to the last report of the expert on Guatemala (E/CN.4/1988/42), the situation of the indigenous population in Guatemala still presented problems, especially in relation to human rights. The report recognized, however, that the Government was aware of that situation and that a comprehensive plan to tackle it from the political, economic, social and cultural points of view was being prepared and implemented.

27. He fully appreciated the useful role played by the non-governmental organizations in awakening the public conscience to matters concerning human rights and in renewing confidence in democracy and international law, and recognized the professionalism and impartiality of the great majority of those organizations. The worst enemies of democracy were those who expected all the problems which had existed for centuries to be solved over a short period. Complete democracy could not be established overnight.

28. With respect to the specific allegation formulated by one non-governmental organization, isolated instances of violence should not be confused with systematic violations of human rights. However, he would not wish to deny them categorically without a thorough investigation based on specific instances and detailed information. The Guatemalan Government's policy was certainly not aimed at violating human rights but rather at guaranteeing them. Any violations there might be were due to the complete disregard for human rights and the democratic process as a whole shown by the radical left and the extreme right.

29. In December 1987, the Working Group on Enforced or Involuntary Disappearances had recognized in the addendum to its report (E/CN.4/1988/19/Add.1) the great progress made by the new democratic system in Guatemala in re-establishing respect for basic human rights in general and the substantial decrease in the number of disappearances in comparison with the years of military government. The expert on Guatemala had also recognized the great progress made by the new Government in ensuring the recognition and protection of human rights. He deplored any efforts to undermine Guatemala's progress towards real democracy, which was genuine and should be encouraged.

30. Mr. WU Shanxiu said that the references to Chinese Tibet by the representative of Pax Christi International differed greatly from the actual situation. The incidents in Lhasa since September 1987 had not been peaceful demonstrations, which were permitted and even protected by the authorities if they complied with certain formalities, but violent riots organized by the separatists inside and outside the country, in which onlookers had been injured and one policeman killed. It was natural that they should be suppressed in order to protect public order.

31. The question of Tibet was not one of human rights but a political issue. Since the yoke of serfdom had been smashed, the people were enjoying human rights for the first time. The issue was raised by the separatists in an attempt to tarnish the image of the Chinese Government and achieve political aims, an attitude of which he hoped other members of the Sub-Commission and all those interested in human rights were aware.

32. Mr. LOEIS (Observer for Indonesia), speaking in exercise of the right of reply, expressed regret that, once again, the Sub-Commission's time had been wasted by certain speakers, especially the Observer for Portugal, making

allegations concerning Indonesia's violation of human rights in the provinces of East Timor and Irian Jaya. He reiterated that there had been no invasion or annexation of East Timor since the territory had been granted independence and had been integrated in the Republic of Indonesia in full accordance with General Assembly resolution 1514 (XV) and principles VI, VIII and IX set out in the annex to resolution 1541 (XV). Allegations of violations of human rights in that province conveniently ignored the independent findings of numerous visitors to the province, including foreign journalists and politicians, as well as the intensive activities of international humanitarian organizations, including the specialized agencies, which had been operating in the province for some years. They had also ignored the hard work done by the Government and people of the province to develop the economic infrastructure and the educational and medical services, all of which had been neglected during the colonial period. Such work could not have been carried out in an atmosphere of armed conflict.

33. A delegation from the European Parliament was currently visiting the province. It was a matter of principle for the Indonesian Government to allow visits from humanitarian organizations which were genuinely committed to promoting the welfare of the inhabitants. The conversations between Portugal and Indonesia under the auspices of the Secretary-General of the United Nations were a positive step forward but their success depended on sincere goodwill on both sides.

34. The people of the province of Irian Jaya had exercised their right to self-determination under the auspices of the United Nations on the basis of the agreement of 15 August 1962 between Indonesia and the Netherlands. The people's subsequent decision to reintegrate with Indonesia in 1969 had been approved by the General Assembly that same year. Since the province was an integral part of the Republic of Indonesia, his delegation categorically rejected any attempt to interfere with its internal affairs as a blatant violation of article 2, paragraph 7, of the Charter.

35. The allegation that the relocation programme was being carried out against the interests of the indigenous people was preposterous. It was a constructive national programme, which had been in existence ever since independence and even before; it was aimed at the attainment of nationally balanced economic programmes which took full account of the need to preserve the characteristics of the region within the framework of a national identity. In no way were the people of Irian Jaya regarded as inferior to other Indonesians, since they possessed equal rights under the Constitution.

36. It was regrettable that so much suffering and so many deaths had resulted from the actions of irresponsible people during the civil war but there the guilty party was not Indonesia but Portugal. With regard to the other allegations made concerning East Timor and especially concerning the restriction on communications, he would merely refer to the report of the Special Committee on Decolonization (A/AC.109/961), also mentioned by the Observer for Portugal.

37. That document similarly countered the allegations about birth control, since it quoted statistics to show that the birth rate between 1980 and 1986 had averaged some 3.6 per cent for East Timor, compared with 2.2 per cent for the rest of the country.

38. In short, he wished to point out that the Republic of Indonesia was a democratic country, the Constitution of which ensured respect for human rights, and he therefore categorically rejected the baseless allegations made.

39. Mr. KHORAMIAN (Observer for Iran), speaking in exercise of the right of reply, said that the tenor and language of the statement by the speaker sitting on his right, and his distortion of the facts, showed a lack of respect for an important international forum and its eminent members. His remarks were not worth answering.

40. Mr. VILLARROEL (Observer for the Philippines), speaking in exercise of the right of reply, said that his Government had recently investigated the death of a number of human rights advocates and had found that two of them had been killed for private reasons, not for activities related to human rights violations. A case involving a military officer had been investigated by a civilian agency, the Philippine National Bureau of Investigation, and by the Philippine Commission on Human Rights, and the officer had now been formally charged in a civilian court, President Aquino having waived the need for proceedings in the military courts.

41. The Philippine Government, through the Philippine Commission on Human Rights, assisted victims of human rights violations by providing free legal advice and protection for complainants and their witnesses. Furthermore, a programme of assistance, rehabilitation and compensation for victims had been established under the Constitution and funds appropriated for the purpose.

42. Mr. HAMDAN (Observer for Lebanon), speaking in exercise of the right of reply, said that he had been provoked, though not surprised, by the tone and content of the statement by the Observer for Israel and by his manifest hatred and aggression. He evidently wished to distract the Sub-Commission's attention from the atrocities committed daily, intentionally and systematically by the Government of Israel against civilians in all the occupied Arab territories.

43. He deeply regretted the civilian victims of violence, whether Arabs or Jews, but it was unjust to regard them as equal victims of aggression. He asked the members of the Sub-Commission what they would do if they were driven from their homes and their homes were burnt, as had happened to him, and had suffered the loss of members of their families, as he and hundreds of Arabs had done. If they had had to leave their homes, perhaps after their children had been killed, without the right even to dream of returning, would they go to the aggressor and ask to make peace with him? It was not for the victim to make peace. The Prime Minister of Israel refused to recognize the existence of an Arab territory occupied by Israel, saying that Israeli land was involved and that there was no room for the Palestinians. Did such an attitude reflect a will for peace?

44. Mr. COSTA LOBO (Observer for Portugal), speaking in exercise of the right of reply, said that the Observer for Indonesia had spoken as if it were an accepted fact that East Timor had been integrated in the territory of Indonesia. The fact was that the United Nations had never recognized the so-called consultations as a legitimate act of self-determination and still considered East Timor as a non-self-governing territory. That assertion showed a lack of respect for the whole United Nations system.

45. Regarding the reference to a visit to East Timor by a delegation from the European Parliament, a visit had been made by members of the European Parliament but not by a delegation from that body, whose committee on political affairs had recently approved a report condemning the occupation and reaffirming the right of self-determination.

46. Portugal was doing its best to help in finding a solution to the problem. Meanwhile, however, the situation concerning the human rights of the population needed urgent attention.

47. Regarding the reference to a document prepared for the Special Committee on Decolonization, the paragraph quoted had been taken from a press release issued by the Indonesian Embassy at Washington.

48. He welcomed the discussion of East Timor in the Sub-Commission, since that provided further evidence that the territory was non-self-governing.

49. Mr. LOEIS (Observer for Indonesia), speaking in exercise of the right of reply, said that his first reply was an adequate answer to all the allegations made against Indonesia by Portugal.

50. The CHAIRMAN assured the Observers for Portugal and Indonesia that the members of the Sub-Commission fully understood their cases.

51. He then said that the debate on agenda item 6 was closed.

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES (agenda item 9):

- (a) QUESTION OF HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION AND IMPRISONMENT (E/CN.4/Sub.2/1987/19 Rev.1 and Add.1 and 2, E/CN.4/Sub.2/1987/20; E/CN.4/Sub.2/1988/13-16, E/CN.4/1988/17 and Add.1, E/CN.4/1988/22 and Add.1 and 2; E/CN.4/1988/NGO/10 and 51)
- (b) QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY (E/CN.4/Sub.2/1988/18 and Add.1)
- (c) INDIVIDUALIZATION OF PROSECUTION AND PENALTIES, AND REPERCUSSIONS OF VIOLATIONS OF HUMAN RIGHTS ON FAMILIES (E/CN.4/Sub.2/1988/19)

52. Mr. van BOVEN, introducing his report on prevention of the disappearances of children (E/CN.4/Sub.2/1988/19) said that, as indicated in paragraphs 1 and 2, he had prepared the report at the request of the Sub-Commission, which was concerned about children who had disappeared in Argentina and been located in Paraguay. He had undertaken the task in a purely humanitarian spirit.

53. In Argentina, which he had visited from 12 to 15 July 1988, he had received full co-operation from the authorities and had noted the concern shown by everyone he had met, including the President, to tackle the problem effectively as a matter of human concern. He wished to place on record his appreciation to all the authorities and groups concerned in Argentina. Unfortunately, he could not say the same for Paraguay, whose Government, as indicated in paragraph 5 of the report, had refused to allow him to visit the country on the ground that a visit might be construed as interference in the judicial proceedings that were pending. That was a failure to respect the principle of international co-operation.

54. The Commission on Human Rights, in its resolution 1988/76, had referred to the lessons of the past and his report therefore contained a number of references to the report of the National Commission on the Disappearance of Persons (CONADEP) appointed by the President of Argentina. The report, published under the title "Nunca Mas", contained impressive evidence on practices under the military dictatorship in Argentina. His report also referred to the work of the United Nations Working Group on Enforced or Involuntary Disappearances, one of whose members was now a member of the Sub-Commission.

55. The problem involved a number of issues. In the first place, who were the children who had disappeared? Most of the children, as stated in the first report of the Working Group on Enforced or Involuntary Disappearances, quoted in paragraph 9 of his report, had been born or were presumed to have been born of mothers who were themselves missing and reportedly held in secret detention centres at the time of their delivery. Many had been born in atrocious conditions, in clandestine detention camps, of mothers who had been kidnapped while pregnant.

56. Secondly, who were the real parents and why had they disappeared? As reported in paragraphs 14 and 15, the proceedings instituted by the current Government of Argentina against members of three military juntas had brought to light evidence of the systematic elimination not only of members of armed organizations but of members of their families and relatives, who might carry the possible seeds of the opposition's continuity. The disappearances of very young children and children born during their mothers' captivity had been part of the scheme: children of "subversive elements" should not be returned to their families lest they grew up in the same moral and political climate that had made their parents "subversive elements": they were handed over to persons who would offer them an environment in keeping with the oppressors' ideology.

57. Thirdly, who were the persons who had illegally appropriated the children? Many belonged to the military or the police, in other words, to the system of repression during the military dictatorship, while some had been accomplices in the scheme of extermination. He drew attention to paragraph 16 of his report. Appropriations had in fact been carried out systematically by some, but not all sectors of the extermination machinery set up by the dictatorship.

58. Fourthly, there was the question of the location of the children. The quotation in paragraph 43 of his report from a study by a group of doctors conducting genetic research mentioned one case where a child born in captivity had been adopted in good faith by an innocent family now living outside Argentina. The family and the child's grandmother, his only remaining relative, who had also left Argentina, had subsequently met and the child continued to live with his adopted family, with frequent visits to his grandmother. On the other hand, human rights groups concerned had suggested that to abandon the search for the kidnapped children was to abandon a group of children who would not grow up in carefree innocence. They were concerned about the effect on those children as they grew older and suspected the truth. What would their attitude be to relatives who knew they had disappeared but had done nothing? What would their feelings be on learning that they had lived with people involved in the murder of their parents and their surviving relatives had taken no steps to find them?

59. For many years, the Grandmothers of the Plaza de Mayo had worked hard to find the children. By dint of tireless efforts and appeals for national and international solidarity, they had managed to set up an efficient humanitarian organization, assisted by advisers, doctors and psychologists with advanced scientific means of identifying missing children. Various authorities, as well as the judiciary were involved. Many judges had worked hard, but others had slowed down the process of finding the children. The Paraguayan judiciary, in particular, had moved slowly, as witness the cases referred to in paragraph 36 of his report concerning warrants for extradition under article 36 of the 1889 Montevideo Treaty, which had been under consideration by the Paraguayan courts since April 1987 without a final decision being taken.

60. Fifth, what was in the best interests of the children? That was a question he had asked in Argentina and an Argentine judge, Dr. Ramón Padilla, in a ruling on various aspects of proceedings for the return of a child born in captivity, had stated that the present situation, which was surrounded by fraud and forgery and in which there was no law or truth, but only the absolute power of the abductors, undermined what should be a parent-child relationship, with resulting damage to the child's psyche and to society as a whole. His own conclusion, after discussion with many people, was that, almost without exception, it was in the best interests of the child to be returned to his relatives and that was an imperative requirement of justice.

61. Lastly, why was the matter a subject of international concern? The cases described in paragraph 11 of his report made it clear that traffic in, and kidnapping of, children often involved a number of countries. The international elements of the problems were set out in his concluding observations in paragraph 55 of the report, especially sub-paragraph (d). He also drew attention to paragraph 56.

62. The conclusions he wished particularly to emphasize were the following: illegal appropriation could not be tolerated; return to the legitimate family was in the best interests of the child and an imperative requirement of justice; it was inadmissible for a country to become a hiding place for kidnappers and illegally appropriated children; firm international co-operation was essential to help relatives to locate children in full conformity with the humanitarian and human rights principles governing the protection of children and their families.

63. Ms. CHOROBİK de MARIANI (International Movement for Fraternal Union among Races and Peoples), speaking also as president of the Association of the Grandmothers of the Plaza de Mayo, said that she wished to concentrate on two points in explaining the serious problems involved in the search for the children who had disappeared for political reasons in Argentina between 1976 and 1983.

64. In the first place, regarding Argentine children held in Paraguay, the mission to Paraguay, which had been appointed under Sub-Commission resolution 1987/107 to investigate the situation of four children held there, had had to confine itself to obtaining information in Argentina, since the Government of Paraguay had indicated that a visit to Paraguay would not be opportune. That was an affront to the international community, as represented by the Sub-Commission, and the Grandmothers of the Plaza de Mayo were deeply concerned at yet another act of contempt for world opinion.

65. She appealed to the Sub-Commission, on behalf of those children, to renew the mandate of the mission and find ways of enabling it to carry out its task. She also appealed to the representatives of the nations of the world not to abandon the children but to give them protection and the possibility of returning to their real families, from whom they had been stolen.

66. Secondly, with regard to the lack of speedy legal and governmental action in Argentina to locate and return the hundreds of children who were still missing after five years of constitutional government, some of those children were registered as the children of the very people who had tortured or murdered their parents. In those cases there should have been speedy justice to restore the children to their real families, but in almost every case, formalities and expert investigations had caused years of anguished waiting for the children and their families, while judges declared themselves not competent, referred the case elsewhere or closed it without hearing all the evidence.

67. The Association of the Grandmothers of the Plaza de Mayo was currently locating disappeared children in the hands of people who had adopted them, perhaps in good faith, but who were associated with judges who had functioned under the military dictatorship and had been concerned in the process of adoption. In those cases there had been full adoption, which was used as an excuse to prevent the children from being returned to their real families. It must be made clear that, regardless of official adoption, those children had an earlier affiliation that could be proved by genetic analysis under Act No. 23.511 of 1987. They had not been abandoned by their parents: the parent-child relationship had been brutally cut by an act of violence by the terrorist State. A review of the adoption would in no way prejudice the system of adoption itself or reduce its importance as a means of protecting the family.

68. In that connection she referred to the case of a girl who had been adopted a few days after her birth in a concentration camp and had now been identified and returned to her own family, who had searched for her for 10 years. The adoptive parents had then launched an insidious campaign to regain their rights over the child, making serious accusations against the former federal judge, Dr. Juan Ramón Padilla, who had restored to their families four more children born in a concentration camp. Such accusations were clearly designed to deter the judiciary from ordering the return of children to the custody of their rightful families and to weaken the resolve of public opinion to sustain the search for such children.

69. She therefore urged the Sub-Commission to request the Government of Argentina to initiate a speedy and active search for all disappeared children; to instruct the State apparatus to accelerate the formalities involved in the restoration of such children to their rightful families; and to order a review of adoptions authorized since 1976 because of the possibility that such adoptions had been fraudulent or designed to cover criminal acts, since many of the children concerned could have been the victims of political abductions rather than abandoned, as her organization had continued to claim since 1977.

70. Mrs. Ksentini took the Chair.

71. Ms. GORDON (Friends World Committee for Consultation) said that Quakers had for many years past sought the abolition of capital punishment, because it violated the sacredness of human life and their belief in the human capacity for change. Moreover, the death penalty was a violation of the fundamental right to life and was a cruel and inhuman punishment, brutalizing to all involved.

72. Friends World Committee for Consultation deeply regretted that it had not been possible for the Sub-Commission to have a full debate during its thirty-ninth session on the report (E/CN.4/Sub.2/1987/20) by the Special Rapporteur, Mr. Marc Bossuyt, on the elaboration of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

73. It was her organization's hope that all States would move to the abolitionist position and that those States which felt unable to abolish the death penalty would not create obstacles that might prevent others from making that international commitment. In conclusion, Friends World Committee for Consultation hoped that the Sub-Commission would take all necessary measures to complete its consideration of the Special Rapporteur's report at the current session and to submit its recommendations to the Commission on Human Rights for consideration at its forty-fifth session.

74. Ms. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) said that her organization was deeply concerned by the situation prevailing in South Korea regarding the human rights of persons subjected to any form of detention and imprisonment. The aspirations of the South Korean people to national union and the South Korean régime's opposition to that desire had led to the enforcement of various anti-democratic laws, including the National Security Law, which was designed to suppress any movement of the South Korean people towards reunification and democratization. Under that law, any attempt to reach those goals was regarded as a pro-communist insurrectional act and, as such, punishable by law. The Public Security Law permitted the continued detention of political prisoners whose terms of imprisonment had already expired, while the Law on the Right of Assembly and Demonstration permitted the South Korean régime to forbid all types of political assembly or manifestation. Moreover, the independence of the judiciary left much to be desired.

75. In South Korea there were more than 500 prisons, which currently housed almost 90,000 prisoners, including more than 3,600 political detainees. It had been reported that 1,400 people had been released recently, including about 70 political detainees. The number of people arrested during the recent student manifestations was not, however, known.

76. Her organization was glad to report that almost all the political detainees mentioned in previous statements had been released, including Kim Kun-Tae, past president of the democratic student movement. Nevertheless her organization was greatly concerned about the conditions of detention; those were among the worst in the world and torture was a common practice. Even concessions, such as a letter to the family once a month, were often withdrawn on the pretext that the detainee had violated rules.

77. The situation of political prisoners condemned to life sentences during the Korean war had recently been disclosed by Sue Jung-Shik, who had been released after 17 years of detention. According to that source, about 100 people condemned to life sentences for political reasons still remained in prison; all were old and in bad health. Two detainees had recently died in prison without medical care, as the authorities had claimed that they had refused to change their opinions.

78. It had recently been confirmed that there were 51 detainees under the Public Security Law in the Chung-Ju prison and between 60 and 70 in the Tae-Jon prison. About 45 political prisoners who had been Korean residents in Japan remained and had serious health problems.

79. Her organization invited the Sub-Commission's attention to political prisoners imprisoned under framed-up charges, who included members of the Revolutionary Party for Unification, the South Korean People's Front and the People's Revolutionary Party. Amnesty International had described the case as having been fabricated by the South Korean authorities in an attempt to rouse the Korean people's feelings on the South-North issue. Those political detainees included Chang Ki-Pyo, one of the democratic leaders of South Korea, and Ahn Je-Ku, the world-famous professor of mathematics. Such cases indicated that the South Korean régime had not fulfilled the promise made by General Roh Tae-U to release all political prisoners.

80. Violations of human rights continued to be very serious; tension was rising between the South Korean people and the régime on the issue of possible reunification. The main basis for that hope had been provided by the Olympic Games to be held in Seoul in September 1988 and the possibility of their being jointly organized by the two Korean régimes. Such an event could provide a good opportunity to relax the politically and militarily tense climate in the Korean peninsula and would represent a positive background for favourable negotiations between the North Korean and South Korean Governments on the specific issue of national reunification. The outlook was not, however, favourable: on 25 June 1988, the South Korean régime had arrested Pak Tae-Yong, President of the Human Rights Commission of the People's Federation for Democracy and Reunification, together with 12 leaders of the National Committee of Democratic Unions and about 1,300 locomotive engine drivers and railway workers who were currently on strike. During the recent students' manifestations the authorities had repeatedly used special paramilitary groups and the riot police.

81. In conclusion, her organization welcomed the recent proposal for dialogue made by General Roh Tae-U and hoped that it would not prove to be merely a political gesture to exploit the Olympic Games.

82. Ms. BUDIARDJA (Liberation) said that currently 1.4 million people, together with their children and close relatives, were the victims of systematic discrimination by the Indonesian authorities. Such individuals were denied their civil rights - the right to a job, to freedom of movement and association, and to take part in elections and in public life. They experienced psychological terror and humiliation and were required to attend compulsory indoctrination sessions as well as being subjected to pressure and extortion by military and civilian officials because of their alleged political affiliations before October 1965. The victims were officially identified as former political prisoners, or as former members of banned

organizations or as persons who must report; usually they were lumped together as ex-PKI, implying that they had all been members of the Indonesian Communist Party, which had been banned in 1966.

83. On 4 June 1988 the Minister-Co-ordinator for Social and Political Affairs had announced that the security forces would re-examine the records of ex-political prisoners; two weeks later the Minister of the Interior had instructed provincial governors to update the files and intensify the supervision of all ex-PKI. That was the fourth nationwide registration in less than a decade. Under Presidential Decision 63 of 1985, for instance, 1.5 million people had been scrutinized to determine their right to vote and more than 40,000 people had been disenfranchised.

84. Re-registration in 1988 was unrelated to any particular political event. The Minister of the Interior had said simply that ex-PKI would be checked to see if they had moved, if they had jobs, and what their profession currently was. In other words, their right to a job was likely to be even further curtailed. Regional administrators were instructed to re-examine all data and intensify the supervision of all ex-PKI.

85. Former political prisoners were prohibited from working in the civil service or anywhere in the huge government sector, as well as in all "vital" enterprises. In addition, in 1985, they were specifically excluded from participation in any function dealing with policy-making, "society", State secrets, the appointment of personnel, and security; they were barred from all diplomatic posts, any employment connected with very important persons and any work that might seem lowly but was in fact important. Employment in many professions was closed to former political prisoners except by special permission of the military authorities. Jobs in the non-vital private sector were no less problematic; any business intending to employ a former political prisoner had to get permission from the local military command. Approximately 80 of those political prisoners were currently serving sentences, and 16 had been under sentence of death for 15 years or more.

86. In the view of her organization, Indonesia was in breach of articles 7, 13, 19 and 23 (i) of the Universal Declaration of Human Rights, of article 6 of the International Covenant on Economic, Social and Cultural Rights and of articles 25 and 26 of the International Covenant on Civil and Political Rights. She appealed to the Sub-Commission to bring the strongest possible pressure to bear on Indonesia to end its inhuman system of discrimination and to restore full civil rights to all Indonesians.

87. Mr. Bhandare resumed the Chair.

88. Ms. KIRCHER (Amnesty International) said that some of the more persistent human rights abuses documented by Amnesty International occurred in the context of administrative detention, including the imprisonment and the use of torture against people for the non-violent exercise of their basic human rights. In many countries the executive authority had the power to detain people without judicial authority and the safeguards of the ordinary criminal law; thus administrative detention had for many countries become a tool to stifle dissent for long periods of time rather than an extraordinary measure which should be kept under constant review.

89. In many countries, any challenge of a detention order was impeded by the broad formulation of the grounds permitting administrative detention, which often depended on the subjective determination of a government official. For example, the Internal Security Act of Malaysia provided that people might be detained if the Minister of Home Affairs was satisfied that such action was necessary to prevent the person from acting in any manner prejudicial to the security of Malaysia. In late 1987, 106 people had been arrested under that Act and it was clear to Amnesty International that they had all been detained on account of their non-violent and legitimate social, legal or political activities. One such detainee, Karpal Singh, was a prominent lawyer and opposition member of Parliament. A two-year detention order had been issued against him in December 1987 on the ground that he had carried out activities which had inflamed racial sentiments among Malaysia's multi-ethnic population. On 9 March 1988, a High Court Judge had ordered his release but only hours later he had been detained once more under the Internal Security Act and currently remained under a two-year detention order.

90. In Singapore, Vincent Chang and 21 others had been detained without trial in 1987 under a similar Internal Security Act for allegedly participating in a Marxist plot to overthrow the Government. Amnesty International considered them to be prisoners of conscience. By the end of 1987, all but one had been released, but nine were rearrested under the Internal Security Act in April and May 1988 after they had publicly repudiated televised confessions which they had made while detained in 1987 but which they claimed had been made under duress.

91. In some countries administrative detention had increased dramatically during periods of intensified opposition to the Government. The use of administrative detention had vastly increased recently in South Africa under the 1986 and successive states of emergency, which had provided the security forces with even broader powers of detention. An estimated 30,000 people had been detained; many of them were considered by Amnesty International to be prisoners of conscience.

92. In the Israeli-occupied territories, administrative detention orders, ostensibly issued on grounds of State or public security, were in fact being used to detain many hundreds of Palestinians for the non-violent exercise of their basic rights. Among those whom Amnesty International considered to be prisoners of conscience were two field workers for Al-Haq, the West Bank human rights organization affiliated to the International Commission of Jurists.

93. In China, Laos and Viet Nam, thousands of people had been held for many years under administrative detention in so-called re-education camps. During the past year large numbers of people had been released from re-education camps in Laos and Viet Nam, but in all three of the countries mentioned Amnesty International remained concerned that many people continued to be detained in such camps without charge or trial on account of their political sympathies or for dissenting from government policies.

94. Amnesty International had recently published a paper about administrative detention containing 11 illustrative case histories of prisoners of conscience held in administrative detention for prolonged periods. It included the cases of some of the longest serving prisoners of conscience in the world, detained without charge or trial for over 21 years in Singapore and over 25 years in Brunei Darussalam. Also included were cases in Ethiopia and Somalia where

people had been detained by the executive authority for long periods without invocation of any administrative law, without any formal detention order, and without any limit on the period of detention.

95. Amnesty International welcomed the fact that some countries were reviewing their systems of administrative detention. In South Korea, for example, the National Assembly was considering repealing the Public Security Law, which allowed the authorities to keep people in detention after they had already served their sentences for certain crimes.

96. States which continued the practice of administrative detention should be put on notice that the effect on fundamental human rights of their laws and practices would be subjected to strict scrutiny by the Special Rapporteur and the Sub-Commission.

97. Amnesty International was encouraged by the steady progress being made towards worldwide abolition of the death penalty. A total of 53 countries were currently abolitionist in law; 42 of those 53 countries had abolished the death penalty in the climate of increased international interest in human rights which had existed since the end of the Second World War, including newly independent nations in Africa and the Pacific as well as countries emerging from periods of political repression. It was only in a handful of countries that the death penalty was still widely used: in 1987, of a total of 769 executions recorded by Amnesty International, 457, or nearly 60 per cent, had been carried out in just three countries.

98. The proposed new optional protocol to the International Covenant on Civil and Political Rights was in line with regional trends, such as the Sixth Protocol to the European Convention on Human Rights, ratified by nearly half the member States of the Council of Europe, and the proposed Protocol to the American Convention on Human Rights, which had been first discussed in the General Assembly of the Organization of American States in 1987. Amnesty International strongly hoped that, at its current session, the Sub-Commission would forward to the Commission on Human Rights the text of an optional protocol to the Covenant, aiming at the abolition of the death penalty.

The meeting rose at 6.10 p.m.