



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1988/SR.16
25 August 1988

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Fortieth session

SUMMARY RECORD OF THE FIRST PART * OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 August 1988, at 3 p.m.

Chairman: Mr. BHANDARE

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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)

* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1988/SR.16/Add.1.

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The meeting was called to order at 3.05 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. Ms AHIABA (Indian Council of South America) said that violation of the human rights of the Indian peoples of South America was not a new phenomenon but had not been brought to the attention of the international community until the genocide became too dramatic to hide. The Indian Council of South America wished to emphasize the systematic violence being perpetrated both by States and by society as a whole in South America, not only against individual members of the Indian population and particularly its leaders, but also against whole groups and villages. For the Indians, the right to life was closely linked with their right to their ancestral land, which was being threatened by foreigners, who wished to exploit its natural resources, and by religious sects, which were employing all possible means to drive them from that land, forcing them to migrate to the alien environment of towns, where they suffered social, cultural and linguistic discrimination. The Indians were firmly opposed to a forced assimilation, which violated their right to preserve their identity as separate peoples.

2. With regard to specific countries in Latin America, in Bolivia, economic, social and cultural discrimination and illegal appropriation of land were commonplace. To combat the annexation of their land, some Indian people had made representations to the National Cultural Institute, without success; others, wishing to remain totally independent, had taken refuge in the forests, from which they had been driven out by hunger. Some missions refused to supply medicines to Indians who had not been converted to Christianity. Despite the Government's claims to the contrary, various studies showed that the true unemployment rate was some 45 per cent of the economically active population, with the inevitable social consequences.

3. Colombia was another country where violence ran rife, the principal victims being the Indians. With the increase in guerrilla activity during the past few years, the use of brutality by the armed forces had become more common. The Indian communities had protested against the new legislation on local administration that had been enacted nearly two years earlier, maintaining that it was contrary to Act No. 89 of 1890, which provided that Indian land was indivisible and recognized the traditional authorities as the sole authorities on that land. She then gave various instances in which Indians had been killed or wounded by the police or armed forces.

4. The "new republic" in Brazil had done nothing to improve the lot of the indigenous Indians. Government forces continued to invade their territory, causing many casualties and threatening their survival. The territory of over 13,000 Indians in the Amazon region was being transformed into an enormous industrial park. As a result of that programme, hundreds had died and others were suffering from disease, pollution, and the disintegration of their traditional cultural and social life. Some 120 representatives of 10 Indian nations had protested against Decree No. 94,945, under which the military

planned to occupy large tracts of the frontier, the home of many Indian nations. They also protested against the assassination of 14 Indians, also in the Amazon region, in March 1988.

5. The Indians in Peru were caught between two fires, the military and the guerrillas. Although the Universal Declaration of Human Rights formed part of the Constitution, in practice those rights were non-existent for the Indians. Since the proclamation of a state of emergency in the east of Peru, many cases of summary executions, disappearances and torture had been reported. The Indians protested against the massacre of over 50 Indians by the armed forces on 14 May 1988 and called upon the Government to allow investigations to be carried out with a view to the punishment of those responsible.

6. The situation of the indigenous Indians was extremely grave in many parts of Argentina, where they suffered collective threats, physical aggression and removal from their land.

7. The situation of the indigenous Indians in South America showed that apartheid also existed in that part of the world. Her organization appealed for the solidarity of countries throughout the world, in the hope that one day all peoples would live together in harmony and mutual respect.

8. Mr. RAMLAWI (Palestine Liberation Organization) said that on 17 August 1988, people in the occupied territories had declared a general strike against the Israeli occupation. For some days, the Gaza Strip had already been in a state of military siege, because the occupying authorities had declared it a closed military zone so that they could continue their inhuman practices undisturbed. On that same day, in the Negev, the Israeli forces had fired on detainees, killing two and wounding one. They had also assassinated a nine-year-old Palestinian girl, fired on dozens of citizens in Nablus and other parts of the territories and deported four Palestinians; the military tribunals had sentenced 25 more to deportation. That was the record of the Israeli authorities for one single day but, since December 1987, they had assassinated 375 Palestinian men, women and children, had opened fire on 12,500 civilians, 5,000 of whom had become disabled as a result, had detained 2,300 persons, mostly under administrative detention, caused 1,800 miscarriages, destroyed over 550 houses, deported 32 Palestinians, fired tear gas into closed areas such as houses, prisons and hospitals in addition to carrying out aggressive operations against schools, universities and places of worship and harassing members of trade unions.

9. It had already been stated that the torture carried out by the Israelis was a violation of article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, articles 3, 31, 32 and 100 of the Geneva Convention relative to the Protection of Civilian Persons in Times of War, as well as other international instruments.

10. The Sub-Commission and the Commission on Human Rights had consistently condemned Israel's repeated violations of the human and other rights of the Palestinian people in general terms, without specifying that they were tantamount to acts of war under international law and crimes against humanity. When discussing the occupation of Palestine and the annexation of Jerusalem in 1967, they had failed to mention that such action constituted aggression against another people.

11. The acts of the Nazi fascists had rightly been described as crimes against humanity. He wondered what could be said about the atrocities perpetrated by the Israeli forces, which had been widely reported internationally in the press and on television.

12. It was well known that tear gas could affect people's health and should not be used in confined spaces or fired at very close range. Yet that was a common practice of Israeli soldiers. The International Committee of the Red Cross (ICRC) had repeatedly expressed to the Israeli authorities its concern at the procedures used to crush the uprising in the occupied territories, which it described as violations of the Fourth Geneva Convention. The Israeli soldiers used CS gas and other toxic gases as a chemical weapon with particularly adverse effects on pregnant women and unborn babies. Doctors stated that most cases of injury or illness resulting from contact with such gases were not reported to the authorities because the women were afraid.

13. Other practices which violated the human rights of the Palestinians as well as international legal instruments, such as excessive use of ammunition and torture, had been reported by ICRC. Details of those and other crimes against humanity committed by the Israeli authorities and soldiers were given in the memorandum from his organization contained in document E/CN.4/Sub.2/1988/40.

14. Despite the inhuman policies of the occupying authorities, the Palestinian people would continue their struggle until they achieved independence and the exercise of all their rights, including that of living in an autonomous State of their own, recognized by international law. He hoped that it would be able to rely on assistance from the international community that was commensurate with the scope of the struggle.

15. Mr. NCHAMA (International Movement for Fraternal Union Among Races and Peoples) said that, not content with repressing its own people and the freedom fighters, South Africa also sent armed mercenaries into the neighbouring front-line States, especially Angola and Mozambique. His organization welcomed the cease-fire agreement signed by the Government in Luanda and the racist régime in Pretoria. However, the South African mercenary force, RENAMO, continued to destabilize the independent State of Mozambique, provoking an exodus of refugees to the neighbouring countries.

16. His organization had participated in the Seminar on International Assistance and Support to Peoples and Movements Struggling against Colonialism, Racism, Racial Discrimination and Apartheid, held in Yaounde in April/May 1986, which had decided that the best way to combat the Pretoria régime was the promotion and protection of human rights in the rest of the African continent. Of the more than 50 independent African States, 23 had acceded to the two International Covenants on human rights, and 10 to the Optional Protocol to the International Covenant on Civil and Political Rights. Those States were to be congratulated, but since their accession to those Covenants was not reflected in the national legislation, it appeared that most of them had acceded merely in order to have been seen to do so by international public opinion. The Republic of Zaire, for instance, had acceded to the principal international instruments concerned with human rights and fundamental freedoms but pursued its systematic violation of those rights. His organization had already complained to the Commission on

Human Rights about arbitrary detention in that country. A peaceful march by women in Kinshasa to protest against flagrant and systematic violations of human rights had, for example, been brutally broken up by armed forces and many women had been tortured and imprisoned. Such incidents were provoking an exodus to other countries.

17. The African continent contained the largest number of refugees in the world. Sometimes two or three neighbouring States "exchanged" refugee populations. The exodus of refugees in Africa had two fundamental clauses: the constitution of the States themselves and violations of human rights and fundamental freedoms. Almost all African States were composed of several different peoples. The obvious system of government was therefore a federation, a solution adopted only by Nigeria. In the other countries, when one people was in power it oppressed the others and if that oppression was too great, the peoples not in power might take refuge in other countries. In many African countries, the laws of the colonial era still remained in force. The African States were supposed to be democracies, but in fact most were republican monarchies, the president acting like the absolute monarchs of past centuries in Europe, with a similar disregard for human rights. Except in Senegal, Sierra Leone, Nigeria and Tanzania, three fates were reserved for opponents of the régime: death, imprisonment or exile.

18. The twentieth century would go down in history as a century of contradictions, many disappointments but much hope. It had begun with colonial expeditions to Africa and was ending with complete decolonization. It had been marked by two attempts to ensure the peaceful settlement of international differences: the establishment of the League of Nations in 1919 and of the United Nations in 1945. It was in the interests of every country that the latter should continue its work as a moral force in the international community. Its survival depended on the neutrality of its Secretariat, which must be independent of the political opinions of States. To detain, imprison or kill an international official was to destroy the very infrastructure of the United Nations and its specialized agencies. It was essential not only to defend the physical and psychological integrity of international officials but also to protect the experts of the Sub-Commission and its special rapporteurs, in short, anyone who served the international community.

19. Mr. FREY (Liberation) said that during the six months he had spent in West Papua - from November 1987 to April 1988 - as a pilot for Associated Mission Aviation, he had witnessed so many violations of human rights that he felt in duty bound to report them to the Sub-Commission.

20. At Abmisibil, near the border with Papua New Guinea, he had seen how West Papuans were forced to work without pay. In the Star Mountains, the Ok people were being forced to build roadways that would later become part of the Trans-Iranian Highway. Every time he flew in, the local villagers came to the airstrip to prevent the Camat - the sub-district chief - from leaving by his plane, because he was pocketing all their money and paying them nothing. Because of the strong military presence in the area, the Camat - a man from Java - felt powerful and behaved like a local dictator. He had himself seen Indonesian soldiers maltreating Papuans - beating, kicking, punching them or striking them with rifle butts. Those were daily occurrences. He had himself been struck by an Indonesian soldier for asking him not to hang on to the aileron of his plane. He had complained to the Civil Aviation Department in Jayapura but received no reply.

21. Violence against the West Papuan people was an integral part of the administration of West Papua. The Indonesians looked on the Papuans as inferior beings, without rights. His family had seen government officials shoot children playing in front of their own houses. The Indonesian soldiers stole from Papuans, threatened and browbeat them, and plundered their houses. Protests by the Papuans were met with violence. If one person protested or resisted, the Indonesian military took action against the entire clan or tribe. They bombed whole villages and he had heard reports of Indonesian aircraft using napalm. With strong Government backing, the local officials did what they liked.

22. The Indonesians bought land from Papuans in exchange for a few worthless objects, such as cars, which the Papuans could not use in the jungle. A report had been prepared by Lavalin International Inc. on the take-over of land for a plantation project in Arso, near Jayapura, which showed how the Papuans had been cheated of their land and now saw outsiders from Java enjoying the benefits. Lavalin had made proposals to the Indonesians for improving the lot of the Papuans, but, in his opinion, the only solution was to restore the land to the rightful owners, the native people of the region. For Papuans land expropriation meant the destruction of a whole culture, affecting hundreds of thousands of people.

23. In the Asmat region the Indonesians were destroying the environment, and hence the life-style of the Asmat people, by government concessions to numerous companies and the Asmat people were being forced to fell their sacred trees - the homes of their ancestors - to swell the profits of timber concessionaires.

24. On the south coast, in Kokonau, the army had driven the people from their coastal homes where they had lived as fishermen and forced them to live in the highlands. The military were using force and violence to take land from the Papuans for transmigration. They were bringing in more people from Java to settle in West Papua, while forcing the West Papuans to use birth control. As a result of all those measures, the West Papuans would soon be a minority in their own country.

25. The mission aircraft companies were forced to work for the army, flying for them and bringing supplies to military bases. If they refused, they would not be allowed to remain in West Papua. West Papua was closed to foreigners wishing to investigate the human rights situation and that was why so little was known about it in the outside world. Papuans themselves needed a travel pass to move from one village to the next. Some had been killed for not holding such a pass.

26. During his whole stay in West Papua he had not met a family which had not lost at least one member through torture or other acts of violence. Indonesia tried to justify its occupation by asserting that it wanted to develop the country. In his opinion, on the basis of his six months' experience, it was not development but systematic extermination that was involved. The international community must bring pressure to bear on the Indonesians and he urged the Sub-Commission to use its influence. To know about crimes but do nothing to stop them was itself criminal.

27. Mrs. DAES said that in view of the reliable information provided by other members of the Commission and representatives of non-governmental organizations, there was no need for her to name specific countries in which gross and systematic violations of human rights were taking place.

28. The global picture of human rights was dark. Certain States continued systematically to commit crimes against humanity, including genocide, ethnocide and cultural genocide. Others continued to commit crimes against peace, including aggression and military occupation, despite appeals addressed to them by the Security Council and the General Assembly.

29. Grave and systematic violations of human rights, including disrespect for human dignity, oppression, inhuman treatment, torture, denial of freedom of thought, expression, conscience and religion, as well as denial of freedom of movement and communication, were taking place in certain countries already named by colleagues and representatives of non-governmental organizations. The particular victims of those violations were the indigenous peoples, referred to by Miss Attah and others, groups of ethnic and religious minorities and other vulnerable groups and individuals. She strongly supported the statement made by the International Association for the Defence of Religious Liberty and the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities. In some States ethnic and religious minorities were being exterminated.

30. She did not agree with the view expressed at the preceding meeting that some minorities were seeking separatism. Minorities were entitled to all the rights provided by the relevant international human rights instruments, in particular, by positive discrimination in order to preserve their own characteristics and cultural identity, in accordance with article 27 of the International Covenant on Civil and Political Rights. In her view, minorities should be entitled to the right of internal self-determination, self-government or autonomy under certain legal, economic and social conditions.

31. She wished to place on record her full support for the restoration of the right to autonomy of the Greek ethnic minority living in the southern part of Albania, formerly called Northern Epirus. That would not constitute a threat to the territorial integrity of a State but a restoration of a right which had been granted and guaranteed under the Protocol of Corfu in 1914. Minorities whose right to autonomy or self-government was restored would be in a position to enjoy their human rights and fundamental freedoms more effectively and would contribute to the development of friendly relations and co-operation between nations and peoples. In her opinion, therefore, the provisions of the Helsinki Final Act were not applicable to the cases in question.

32. With regard to violations of human rights of children, she noted that 200,000 children under the age of 15 had been recruited by Governments and sent to places of armed conflict. She also described a recent photograph of a 10-year-old Palestinian girl with both her hands cut off. A Greek journalist had drawn a comparison with Anne Frank, pointing out that she at least had been able to write about what had happened to her, but the Palestinian girl had died without being able to do so.

33. Lastly, on the question of compensation for victims of gross and systematic violations of human rights, she supported the proposal by the

International Centre of Sociological, Penal and Penitentiary Research and Studies and others, and hoped to submit a draft resolution on the subject after consultation with colleagues.

34. Mrs. TEOTONIO PEREIRA (Pax Romana) said that East Timor was a case which no longer attracted much attention from the press or the public, but which involved all the most fundamental principles of human dignity. Since the illegal invasion of the territory on 7 December 1975, there had been nearly 200,000 deaths - one third of the population - and it was estimated that one East Timorese out of 125 had been arrested, tortured or assassinated in 1985 and 1986. News of that violent repression often filtered through very late, because East Timor was still a prison island.

35. Despite all the promises of the occupiers, the territory remained cut off from the outside world. According to the annual report of the United States Department of State, entitled "Country report on human rights practices for 1987", movement to and within East Timor and within parts of Irian Jaya was restricted; many rural East Timorese living in the central and eastern parts of the province had been relocated since 1979 to isolate them from Fretilin rebels; most Timorese required permission to travel outside their home districts; in some areas residents were not permitted to farm beyond their immediate village area and were restricted to their village during military operations; forced or surreptitious entry by security agencies occurred periodically; local and international telephone calls were believed to be monitored; and mail was subjected to official scrutiny.

36. The reality behind that report was a daily life of systematic restrictions and perpetual terror. Mr. Reinaldo dos Santos, an exile in Lisbon with his wife and children, had described in an interview with The Anglo-Portuguese News how the Indonesian army took people from their houses in the night and how the Indonesian army took people from their houses in the night and how people simply disappeared. If his children came home late from school, he had always been afraid that they might have been arrested. In Lisbon - after 12 years of oppression in East Timor - he had been able to sleep without fear for the first time. Mrs. Angela Goncalves, in an interview in the same paper, had described how her daughter had been tortured, with electric shocks, her hands and face burnt with cigarettes, and then killed.

37. The Timorese continued to put up a strong resistance to the occupation, while the Indonesian authorities continued to delude them with endless statistics about roads, schools, health services and all the other work they had done in East Timor since the invasion. But, as the Timorese knew, all that work had been done for the benefit of the military and the new civilian conquerors. They knew, too, that the modernized roads and ports were designed solely for the purposes of the war, which continued despite all the efforts of the new colonial Power. The Governor of the territory, Mr. Carrascalao, had himself described the gravity of the situation in East Timor and had told the Indonesian press that the crisis would soon be uncontrollable. He had also spoken of economic stagnation and widespread illiteracy. The situation had in fact forced him to ask President Suharto to open up the territory, creating new conditions for Indonesian capital investment in the "twenty-seventh province". The Ministry of Defence had replied that if Mr. Carrascalao wished to open up East Timor, the armed forces would not be responsible for the consequences. The Governor could only conclude that, without the support of the armed forces, it was impossible to think of opening up the territory.

That meant that it would continue to be closed to the outside world and even to Indonesia and that the economic crisis would become very serious. Jakarta had its own economic difficulties and lacked the means to support its latest territorial acquisition. Meanwhile, the atmosphere of social discontent was growing. The students had twice demonstrated publicly against the segregation to which they were subjected, both in education and employment, where the children of the Indonesian population and soldiers received privileged treatment.

38. The international community was becoming increasingly concerned about the situation in East Timor. The resolution adopted by the Sub-Commission in 1987 had been followed by important action, involving the assumption of greater responsibility by numerous international organizations and the mobilization of public opinion.

39. Many speakers had already expressed a hope for a peaceful solution of current conflicts. Pax Romana shared that view. A negotiated solution must be found, based on respect for international rules and the rights of all peoples and acceptable to all parties concerned. It was sad to see, at the end of the 1980s, a people being crushed and almost eliminated by foreign military power. It might have been hoped that colonial domination no longer existed, and that those who had fought against it would not perpetrate it themselves.

40. She hoped that the Sub-Commission would take up the case of flagrant and massive violations of human rights and thus make a valuable contribution to the restoration of peace in East Timor.

41. Mr. DLOVA (Pan-Africanist Congress of Azania) said that he wished to express his people's profound sense of loss at the untimely death of President Zia-ul-Haq of Pakistan, a longstanding friend and supporter.

42. In his own country, there were two major issues with far-reaching implications for the lives of the Azanian people. The first was the racist minority's National Labour Relations Bill, now in its final stages, which would ban political strikes and which listed a whole range of union activities as unfair labour practices and made the unions liable to be sued for damages by employers in cases involving the actions proscribed under the new bill. On their face value, there was nothing extraordinary in those clauses, most of which were taken from the legislation introduced by the Conservative Government of the United Kingdom after the 1979 elections, others, such as those relating to unfair practices, being a normal feature of United States legislation. What made those clauses extraordinary in the context of South Africa was that freedom of association for the indigenous African majority on political matters was severely restricted by law, which left the trade unions as the only channel for political expression, especially after the restrictions imposed on AZAPO and UDF since 1987. The decision that strikes designated political should be illegal meant the closing of that channel and also that the "stay-aways" from work organized by the Azanian people on important dates in their history, such as 21 March and 16 June, would be considered illegal. That was a provocative act, since the régime recognized as public holidays only the anniversaries of its military victories against the Azanians' forefathers and did not recognize any date on which the Azanians had sought to recover their honour.

43. The provision in the Bill making trade unions and trade unionists liable to be sued by employers for damages in the case of illegal strikes would mean that no strikes would be legal, because the employers could obtain court injunctions against the unions to pre-empt strike action which, in their lawyers' view, would be illegal under the bill when it became law. Even where no injunction was issued, employers would be able to bankrupt the already impoverished black unions by claiming huge damages against them or saddling them with the costs of defending themselves in court. Such action was being proposed at a time when the Government was rushing through measures to block the entry of funds from international sources. It was clear that the purpose of the Bill was to destroy black trade unions in South Africa.

44. The two largest union federations in his country - the Congress of South African Trade Unions (COSATU), which claimed a paid-up membership of 800,000, and the National Council of Trade Unions (NACTU), which claimed a paid-up membership of 650,000 - had already mounted campaigns jointly and individually to force the apartheid régime to abandon that legislation. The liberation movement of his country had joined the campaign. He appealed to the Sub-Commission and the non-governmental organizations to mount a massive campaign to expose the true nature of the Bill and force the racists to abandon it.

45. The second important issue currently preoccupying the Azanian people was the local government elections that the racists had scheduled for October 1988. Those elections were organized on racial lines and designed to reinstate the puppet structures in black residential areas that had collapsed during the past five years of continuous uprising. The purpose of the elections was to ignite a new round of in-fighting between those people who, for short-term financial gain, were willing to serve the apartheid structures and those who were activists in the people's struggle to gain nationhood and control its own destiny. The racist Government fostered such in-fighting, since it helped to project an image of the Azanian people as lawless hordes unfit to govern themselves. His organization invited the Sub-Commission to campaign at all levels to force the racist régime to cancel the elections. It was waging its own campaign inside Azania to expose the real design of its enemy and ensure that its people did not dissipate their energies in chasing shadows instead of concentrating on the white State apparatus itself.

46. Those and other issues were the subject of resolutions to be submitted in due course by experts concerned. He hoped that those resolutions would be adopted by consensus as an expression of urgent condemnation by the whole of mankind.

47. He drew attention once again to the plight of prisoners of apartheid, especially Zephania Motupeng, leader of the Pan-Africanist Congress, and Nelson Mandela, leader of the African National Congress. He hoped that the racists would take the opportunity offered by Nelson Mandela's present condition to release him as a gesture of goodwill. The fate of the late Mangaliso Sobukwe, founding president of the Pan-Africanist Congress and leader in the 1960 Sharpeville campaign, suggested that the racists did not release a leader of stature unless they were satisfied from medical reports that the illness was terminal. He hoped that that would not be the case with Nelson Mandela.

48. Lastly, he pledged his organization's solidarity with the people of occupied Palestine in their struggle against Israeli occupation. He would point out to the Israeli Government, that thanks to its collaboration with the racists, the Botha Government today boasted a nuclear capability. The Azanians were not frightened, however, for that capability was useless against its guerrilla units and the mass action by their people. After Chernobyl, no one would believe that such a capability could be used in an act of sanity against the Pan-Africanist Congress of Azania or the front-line States. That was not an invitation to complacency, but a reminder that history would take its course. The people of Azania were delighted to have confirmation of what they already knew, namely that in due course they would be in control of a country that could refine uranium to such high levels. In their hands, however, nuclear power would be mobilized only for peaceful purposes.

49. Mr. PARNADA (International Union of Students) said that his organization continued to receive daily reports of violations of the human rights of students. The students of Central America continued to be the focal point of opposition to the interventionist policy of the United States, which represented a grave threat to peace and security in the region and to all aspects of the life of the people.

50. The situation in El Salvador continued to be very serious. Students and academics were under constant attack because of their demands for the democratization of the country. Scores of students had been abducted by paramilitary groups during the early months of 1988. Such had been the fate of Daniel Peña of the University of Santa Ana, while his brother had been the victim of an assassination attempt. In Guatemala, Adrian Guerra Roca, a student leader at the University of San Carlos, had been abducted and later murdered, as also had been the leader of the Asociación de Estudiantes Universitarios.

51. The situation in Chile had further deteriorated. For the past 15 years students and their organizations had been continuously repressed by the military régime, which had attempted in vain to eliminate them. The students and people of Chile called for an end to repression, murder, torture, threats and disappearances. They also appealed for investigation of the case of five youths who had disappeared in September 1987, as reported by his organization to the Commission on Human Rights at its last session.

52. Pending the plebiscite which had been announced for the end of 1988, the state of emergency continued to exist in Chile. Press and information freedom did not exist; political parties were prohibited because of their opposition to the Government and an estimated 20,000 Chileans were constitutionally prevented from voting in addition to the million Chileans who, for political and economic reasons, resided outside the country.

53. In recent months the students of South Korea had been victims of violence by the special police. In June 1987, the General Association of South Korean Students had decided to hold a meeting with students from North Korea in the village of Panmunjom in the demilitarized zone between North and South Korea. On the day in question thousands of police had brutally prevented more than 10,000 South Korean students from attending the meeting. A renewed attempt to hold such a meeting on 15 August was repressed by the South Korean police using clubs and tear-gas.

54. In many places throughout the world students and their organizations continued to be the victims of violations of human rights by certain Governments because of their belief that the future belonged to youth and that solutions must be found for current problems, particularly as regards the full enjoyment and respect of human rights.

55. His organization comprised students from 110 countries reflecting the different realities of the underdeveloped, the socialist and the capitalist countries. It was more than ever convinced that it had a duty to do everything possible to achieve understanding and co-operation between the academic youth of the world on behalf of their common interests and aspirations and to ensure that universities and schools could function in peace and justice into the twenty-first century.

56. Mr. VAN BOVEN associated himself with the appreciation expressed by members of the statement by the Under-Secretary-General for Human Rights and of the new ideas it contained.

57. The nature of the Sub-Commission had changed over the years. Originally it had been a small group working in a small room; currently its prestige had grown and its meetings were held in a large hall and its deliberations were conducted as if in a glasshouse. Such a development was in certain respects a complicating factor but it also demonstrated progress. In particular, the Sub-Commission had benefited from the freedom of expression which had been granted to non-governmental organizations; that had not always been the case. The Sub-Commission had also benefited from the information provided by Governments defending their interests. The procedures under Economic and Social Council resolution 1503 (XLVIII) required private discussion and represented a different type of dialogue, which was generally very frank due to the confidential nature of the exchanges. The public and private aspects of the Sub-Commission's work were mutually complementary. Human rights were a matter of public interest and therefore some degree of public control was essential.

58. The Sub-Commission did not sit as a tribunal but as a platform for the exchange of information. Two notions characterized its work, namely: responsibility and accountability. When it met as a policy organ, the Sub-Commission was exercising responsibility. It must respond to situations and to appeals from people in distress; it analysed information received and recommended follow-up action by the Commission under Commission resolution 8 (XXIII). The acceptance of responsibility entailed certain obligations and continuous involvement, as in Chile, South Africa, El Salvador and the territories occupied by Israel. The United Nations could not abandon situations for which it had accepted responsibility. Some of those situations had been on the Sub-Commission's agenda for a long time but the United Nations must continue to hope that they would improve at some point in the future.

59. The United Nations was an organization of Governments. Members of the Sub-Commission enjoyed a modest status as observers, not decision-makers. Input by experts and non-governmental organizations was indispensable to its work. Its actions were based on the concept of the accountability of Governments. Member States had undertaken obligations in respect of human rights on the basis of the Charter and those obligations had consequently

become part of customary law and must be implemented in good faith. Governments were therefore expected to co-operate in good faith and in a constructive spirit.

60. A problem arose in cases where the Government might be held accountable but was not in control of the situation as, for example, in Lebanon, where the large degree of foreign interference had placed the territorial integrity of the country in jeopardy. In other cases Governments had claimed that they were not in real control because of the operations of military or paramilitary groups. Such groups however belonged to the State apparatus and did not relieve a country of its accountability, national and international.

61. Some of the most serious violations of human rights resulted from armed conflicts and there was accordingly a direct connection between human rights and international peace and security. Since the International Conference on Human Rights at Teheran in 1968, the United Nations had shown a more active interest in that aspect, which had gradually become a shared responsibility of the United Nations, the International Committee of the Red Cross and States which, under Article 1 of the Geneva Convention, had undertaken to respect and to ensure respect for the obligations stipulated in that instrument.

62. An issue of growing concern was the use of chemical weapons, which were outlawed in international law. Their use had been established in United Nations reports and appalling information had been received on their use in the Iran-Iraq conflict and against the civilian population in the Kurdish region of Iraq.

63. Of a different nature but also of concern were deportations of the inhabitants in Israeli-occupied territories, the eviction and transfer of civilians and collective penalties. Although Israel observed many of the provisions of the Geneva Convention, it was regrettable that it did not accept explicitly its applicability in the occupied territories.

64. The Human rights dimension involved in the settlement of regional conflicts posed serious moral dilemmas and sometimes caused complications. It was therefore his view that, in such conflicts, human rights problems should be handled separately from the political settlement.

65. The rights of minority groups, whether ethnic, racial or religious, were frequently subjected to massive violations. Such violations often resulted from the divide-and-rule policies practised by foreign Powers. The United Nations had hitherto been unable to protect such minorities. The territorial integrity of States must be respected, as, for example, in Lebanon and Cyprus, but means must be sought for achieving coexistence on national lines and through the grant of a substantial decree of autonomy. It seemed likely that the minority problem would be with the United Nations as long as the issue of human rights.

66. In recent years there had been situations where the human rights situation had greatly improved as, for example, in Argentina, and such cases were a matter for satisfaction. On the other hand, there were situations in which it had been believed that a break-through had been achieved but where there had subsequently been a falling back as, for example, in Haiti and Guatemala. The United Nations should not hesitate to take up such cases again.

67. He sympathized with proposals designed to grant compensation to the victims of serious violations of human rights. The question arose, however, of how such proposals should be implemented.

68. A host of mechanisms had been created by the United Nations in its efforts to protect human rights through the operation of the Commission on Human Rights and its affiliated bodies, through conventions and through the tools of investigation, conciliation, advice and the identification and analysis of situations. The development of an early warning system was of particular importance, so that incipient problems could be observed and appropriate action taken to ensure that they did not become more acute.

69. Mr. Tian JIN said that his Government condemned Israeli policies in the occupied territories and also the apartheid policies of the Government of South Africa, which represented a vicious cancer in the international system. For four decades Israel had been a cause of suffering in the Middle East and had impeded peace prospects in that area. No words were too strong to describe the activities of the Israeli authorities in the occupied territories in defiance of the principles and decisions of United Nations organs. Israel apparently thought that it could subjugate the occupied territories by violence and had even invaded Tunisia in order to murder a Palestinian leader. It was, however, a fact of history that excessive injustice would finally lead to an inglorious end.

70. The recalcitrance of Israel had been encouraged in large measure by the indulgent attitude of a major Power, which had turned a deaf ear to the atrocities. The current trend of Israeli policy involved an ever-growing escalation of violence, accompanied by increasing cruelty and viciousness. The atrocities had been publicized on television and in the press every day and had also been attested in the report of a medical fact-finding mission in the area. The report had included references to a systematic pattern of injuries and was a matter of serious concern to the Sub-Commission.

71. It was the duty of the Sub-Commission to work with other organs of the United Nations system in exerting greater pressure on the Israeli authorities in support of the Palestinian people and to promote peace in the Middle East.

72. Mr. DONALD (Disabled Peoples' International) said that his organization wished to invite the attention of the Sub-Commission to provisions in the Declaration on the Rights of Disabled Persons which were relevant to armed conflict and disability. Under those provisions, disabled persons were entitled to medical care, including prosthetic and orthopaedic appliances and to medical rehabilitation; they were also entitled to the necessary legal aid for the protection of their persons or property; and organizations of disabled persons might be consulted in all matters regarding the rights of such persons.

73. More than 30 war-disabled Salvadorians were in urgent need of medical evacuation to save their lives and to alleviate permanent disabilities. More than 70 others, whose condition was more stable but whose permanent disabilities were serious, also needed medical evacuation. The Government of El Salvador had informed his organization that it had signed an agreement with the opposition forces in Panama in January 1987, under which the parties had set out terms for regular evacuations based on need. The Government had implied that needed evacuations were occurring. Such, however, was not the

case. While it was true that, in May 1988, some disabled persons had been evacuated, 70 others with similar medical needs had been denied evacuation. The 26 who had been evacuated had been held at the "Calle Real" refuge operated by the Catholic Church outside San Salvador. However, since October 1987, those in opposition-controlled areas had not been allowed to leave. The Government had also interfered with medical supplies destined for those disabled persons.

74. In April 1988, his organization had been informed by the Minister for Foreign Affairs that evacuations would not be allowed because the opposition forces were not complying fully with other provisions of the Panama agreement. His organization had pointed out that the rights of wounded combatants under the Geneva Convention were neither subject to negotiation nor dependent on compliance with other provisions of humanitarian law or agreements between warring parties. Indeed, the Panama agreement had reflected that principle in its provision that evacuations would take place without negotiations or exchanges.

75. Disabled Peoples' International urged the Special Rapporteur for human rights and disability to assist in securing the release of those disabled persons. It also asked the Special Representative for El Salvador to inform both the General Assembly and the Commission on Human Rights of progress in those matters. It further reminded all parties to the Geneva Convention that, according to article 1, they had an obligation to ensure respect for the rights of the war disabled under that Convention. His organization also asked Governments to accept their fair share of war-disabled persons for medical treatment and rehabilitation.

76. The armed conflict in Sri Lanka also required immediate attention. The Indian peace-keeping force had continued to engage in operations in violation of the Geneva Conventions while the International Committee of the Red Cross was still denied access. Other humanitarian organizations had also been barred or their activities severely curtailed. Tamils and other Sri Lankans fearing for their lives continued to leave the country; many were permanently disabled.

77. Disabled Peoples' International urged the Sub-Commission to appeal to the parties to institute an immediate cease-fire and to establish mechanisms, including those anticipated in the Indo-Sri Lankan accord of July 1987, for reaching a peaceful settlement that accommodated the aspirations of the Tamil people and allowed for the full enjoyment of human rights by all Sri Lankans. It also asked the Special Rapporteur for human rights and disability to request information from the parties about war-caused disabilities, including plans for the evacuation to other countries of those requiring specialized treatment. Finally, it requested the international community to respond appropriately to the pressing medical and rehabilitation needs of all Sri Lankans.

78. Disabled Peoples' International urged the Sub-Commission and the Special Rapporteur to make a special appeal for the immediate release of Nelson Mandela.

79. Disabled Peoples' International had offered its services to both Iran and Iraq to assist in the full rehabilitation of disabled persons. It recommended that the Sub-Commission should request the United Nations to consider

allotting funds for that purpose to both Governments from the voluntary fund for The United Nations Decade of Disabled Persons. It also urged all Governments to contribute to that fund.

80. Disabled Peoples' International acknowledged the efforts made by the United Nations High Commissioner for Refugees to assist disabled refugees, many of whom were refugees from armed conflicts. It commended the following countries for accepting seriously disabled or injured war victims from other countries: Sweden, Canada, Cuba, Mexico, Bulgaria, Finland, Japan, Soviet Union, Switzerland, Algeria, Zambia, the United States, Nicaragua and Costa Rica. It also acknowledged the valuable work done by the International Committee of the Red Cross in its numerous on-site rehabilitation facilities for the special needs of war-disabled persons.

81. In conclusion, his organization hoped that Governments, specialized agencies and non-governmental organizations would forward information relating to war-disabled persons to the Special Rapporteur for human rights and disability as well as to Disabled Peoples' International.

82. Ms COLIVER (Human Rights Advocates) said that her organization had planned to speak on the situation of human rights in Pakistan; however, in view of the death of President Zia-ul-Haq, she wished merely to express the hope that respect for the human rights of all would be a hallmark of the forthcoming period of change in Pakistan and lead to the restoration of the rule of law.

83. Several non-governmental organizations had expressed deep concern about the continuing violations of human rights by all the parties to the Sri Lankan conflict. Her organization was particularly alarmed by attacks on human rights activists in the past year. It had become clear that the Indo-Sri Lankan peace accord had not succeeded in resolving the conflict.

84. Her organization called upon the Sub-Commission to draw the situation in Sri Lanka to the attention of the Commission on Human Rights, and in particular, the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on Torture and the Special Rapporteur on Summary and Arbitrary Executions. The Sub-Commission should call upon the Sri Lankan Government to allow the International Committee of the Red Cross to carry out its work in the country. The Government should also investigate all allegations of human rights violations. The Sub-Commission should call for a cease-fire in the conflict and call upon all the parties to respect the right of human rights defenders to publicize and protest against violations of those rights.

85. The Commission on Human Rights and the Sub-Commission had paid less attention to the situation of human rights in Guatemala since the country's return to civilian rule. Nevertheless, serious human rights abuses continued to be perpetrated. In April 1988, members of human rights and opposition groups had taken advantage of the Guatemalan Government's invitation to exiles to return, only to be detained - albeit temporarily - as soon as they entered the country.

86. Many non-governmental organizations had condemned the wide range of violations committed by the Government of Iraq. Every year since 1984, the Secretary-General had appointed missions to investigate claims of the use of

chemical weapons. On 9 May 1988, The Security Council had adopted resolution 612, in which it vigorously condemned the continued use of chemical weapons in the war against Iran. Reliable reports from Amnesty International and other organizations indicated that Iraq was also deliberately using chemical weapons against its own civilians, in attacks such as the one on the Kurdish town of Halabjah in March 1988. Such attacks might well continue after the war with Iran was over. Her organization called upon the Sub-Commission to condemn all the human rights violations committed by Iraq.

87. Mr. TURK said that the problem of national minorities was an ancient and fundamental one, although it was important to remember, as Mr. Khalifa had said, that the claims of national minorities might conceal a secessionist tendency. The relationship between the sovereignty and integrity of the State and the rights of minorities was an age-old problem, which had been dealt with as early as the Treaty of Osnabrück of 1648.

88. No system in history had been able to guarantee the rights of minorities. Their position had always been unsatisfactory; the need to protect minorities was, indeed, embodied in the name of the Sub-Commission itself. The existing human rights framework was clearly not adequate to deal with the problems they encountered, and the Sub-Commission should perhaps consider ways to meet those needs, both within the system and outside.

89. He had been interested to hear Mrs. Daes and Mr. van Boven refer to the collective identity of national minorities and their collective rights. The concept of autonomy should also be considered in more depth; although there could be no universal model of autonomy, different degrees of freedom, ranging from full administrative or territorial powers to cultural autonomy without a political aspect, could be adopted to suit different situations.

90. Mr. ASSOUMA said that non-governmental organizations assisted the Sub-Commission by providing information and clarification about human rights violations throughout the world. However, it was regrettable that some groups were unable to remain objective. No State could have an unblemished human rights record, and it was essential to remember the great efforts which African countries were making to establish an infrastructure in the present economic crisis.

91. The Organization of African Unity was the only group in the world where heads of state met every year to discuss issues of importance, including human rights. At the regional level, OAU had shown its concern for human rights by adopting the African Charter of Human and Peoples' Rights. Some countries had also set up institutions for the protection of human rights at a national level. Those mechanisms were not perfect, it was true, but they were signs of progress and deserved encouragement.

92. The full realization of human rights was a long and laborious task, and the contribution of responsible and respected non-governmental organizations was greatly appreciated. However, the organizations must realize that the Africa of today was not the Africa of 10 years before: they must go into the field and see the progress which had been achieved at first hand.

93. Mr. VARELA QUIROS said it was essential that the Sub-Commission should consider the current agenda item objectively in order to draw the attention of the international community to specific cases of human rights violations. The

non-governmental organizations had a valuable contribution to make in that task. During the current debate, allegations of serious human rights violations had been made against more than 30 States: indeed, the prevailing human rights situation in the world seemed to be one of continuing and massive violations in all regions. It was a discouraging picture which showed the suffering of thousands of people and the flagrant disregard of international standards by some States. The Secretary-General should be commended for his efforts to bring an end to some of the world's conflicts, but those States which were still at war must remember their human rights obligations even in battle.

94. A number of speakers had referred to the importance of peace for the full enjoyment of human rights. The link between the two was undeniable, but it was important to remember that human rights violations occurred even in apparently peaceful countries.

95. The report of the Special Rapporteur on the situation of human rights in Chile (E/CN.4/1988/7) showed that serious human rights violations, including exile, continued to occur. However, it was an encouraging sign that the Chilean authorities had shown some willingness to co-operate with the Special Rapporteur. It was to be hoped that, before the forthcoming plebiscite in the country, political exiles would be allowed to return and the state of emergency would be lifted. It was essential that all political groups should be allowed to participate in the campaign. As Mr. Sobarzo Loaiza had said at an earlier meeting, a government's acceptance of the concept of political pluralism showed a willingness to recognize the rights of others and laid a good foundation for political coexistence.

96. Some 1,300 refugees had recently returned to their homes in El Salvador from refugee camps in Honduras, and that move should be welcomed by the international community. However, detention and involuntary disappearances were still common in El Salvador; the Sub-Commission should support the efforts of the Working Group on Enforced or Involuntary Disappearances, which did a great deal to protect human rights, particularly through its emergency procedures.

97. Those who worked for the observance of human rights in armed conflicts deserved every encouragement and support. The Under-Secretary-General and the Centre for Human Rights should continue to encourage such efforts, and all States should contribute to the fund, which had been established for that purpose. He also agreed with Mrs. Daes and Mr. van Boven that international measures should be taken to provide compensation for the victims of human rights violations and their families. The Inter-American Court of Human Rights, based in his own country, Costa Rica, had already ordered a certain State to pay compensation to the family of a disappeared person. That judgement might provide guidelines for future work.

The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1988/SR.16/Add.1.