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### COMMISSION ON HUMAN RIGHTS

#### SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Fortieth session

#### SUMMARY RECORD OF THE 29th MEETING (CLOSED) \*

Held at the Palais des Nations, Geneva,  
on Monday, 29 August 1988, at 10 a.m.

Chairman: Mr. BHANDARE

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Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII).

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The meeting was called to order at 10.35 a.m.

COMMUNICATIONS CONCERNING HUMAN RIGHTS: REPORT OF THE WORKING GROUP ESTABLISHED UNDER SUB-COMMISSION RESOLUTION 2 (XXIV) IN ACCORDANCE WITH ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1503 (XLVIII).

Communications E/CN.4/Sub.2/1988/R.1/Add.13 and 14, relating to Paraguay

1. Mr. SOBARZO LOAIZA observed that, having carefully considered the communications, the Working Group had noted that serious violations of human rights not only continued unabated, but were increasing. The situation gave cause for concern to the international community as a whole, and Latin America in particular. Although the state of siege, virtually permanent since 1954, had been lifted in 1987, the Sub-Commission was continuing to receive information on violations of human rights, particularly violations of the rights of opponents of the régime, who were regularly subjected to ill treatment by the police. Since 1987, there had been more than 300 cases of arbitrary detention, enough to justify the Sub-Commission's concern. He therefore suggested, in view of the fact that the Paraguayan Government had not responded to the requests for information sent to it, that both communications should be submitted as additional information to the Commission on Human Rights, which was currently examining the case of Paraguay.

2. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission decided, without a vote, to transmit communications E/CN.4/Sub.2/1988/R.1/Add.13 and 14, relating to Paraguay, to the Commission on Human Rights.

3. It was so decided.

Communication E/CN.4/Sub.2/1988/R.1/Add.22, relating to the Philippines

4. Mrs. DAES said that she had read with great care the communication to the Commission on Human Rights from the Katholische Hochschulgemeinde, an organization in the Federal Republic of Germany for which she had the greatest respect. The cases reported in the communication were serious; nevertheless, given the response of the Government of the Philippines (E/CN.4/GR.1988/5) and the developments occurring in that country, she suggested that the Sub-Commission should decide not to transmit the communication to the Commission on Human Rights, thus giving the Government time to rectify the situation. Such a step would also enable the victims to exhaust the various remedies offered by the Government, which they had not yet done. If the Sub-Commission decided to keep the case under discussion, she would join the consensus, but would prefer that its consideration should quite simply be discontinued.

5. Mr. YOKOTA said that he had been following developments in the situation in the Philippines for a very long time. However, he had been as relieved by the major changes which had occurred in the human rights field since the new President had come to power as he had been seriously concerned under the previous Government. He had noted that Mrs. Aquino was doing everything within her power to improve the situation in the matter of human rights

violations, and he believed that the Sub-Commission, for its part, should recognize those efforts and, given the difficulties facing the Government, display the necessary patience. He was convinced that Mrs. Aquino had both the required will and ability to improve the situation, and that discussion of the case should therefore be discontinued.

6. Mr. EIDE said that he recognized that the situation had altered greatly if the will of the Government to take steps to improve it was taken into consideration. However, there were still many institutions and military groups which found it extremely difficult to submit to democratic rules. He would therefore prefer the Sub-Commission to decide to keep the case under review without referring the communication to the Commission on Human Rights. His view was that it would be a good thing to indicate to the Government concerned that the Sub-Commission recognized its efforts and also the difficulties it faced, but that it continued to be concerned by the persistence of some problems. By acting in that manner, the Sub-Commission would support the efforts made by the Government to deal with insubordination by rebel groups and, while expressing its satisfaction at the efforts made, would clearly indicate the need to continue them.

7. Mrs. WARZAZI said that she had studied the communication with the greatest care. However, when communications of that kind came from organizations of a religious nature and dealt with events which had occurred within the context of an armed insurrection and which were alleged to have been committed by combatants supported by "paramilitary groups and fanatical sects" (*loc. cit.*, p. 1, para. 6), she could not help but have less than total confidence in them. Obviously, after the fall of a régime such of that of President Marcos, the situation was hardly likely to be calm. In order to democratize the country, Mrs. Aquino had to cope with many opponents left over from the former régime, and, in those conditions, it was unrealistic to expect all the parties in question to behave in an irreproachable manner, particularly when the country was in the grip of an armed insurrection. There were many ethnic groups and different religious minorities in the Philippines, and it was therefore unreasonable of Catholics to claim a monopoly of the truth and to want to exercise complete control, as an attitude of that kind led to excesses with all the regrettable consequences which could well be imagined. Also bearing in mind the attempts to carry out a military coup d'état, it was not possible to charge the civilian Government in office of failing to be in full control of the military or paramilitary forces and of those who, calling themselves the New People's Army, were engaging in reprehensible activities. It was her view that those who held the present Government responsible for everything which was happening were being unfair, the more so as it appeared that not all the many domestic remedies had been exhausted. She therefore believed that the Government of the Philippines should be given the benefit of the doubt.

8. Mr. ILKAHANAF said that no one could doubt the sincerity of Mrs. Aquino's efforts to promote justice and fundamental freedoms throughout the Philippines. The weight of the inheritance left to her Government must be understood: Mrs. Aquino had come to office in a country which was deeply divided, and she was running up against many difficulties caused by different kinds of extremism. She had, for all that, taken courageous steps towards

ensuring the complete democratization of the country. She had set up a Commission on Human Rights chaired by Mrs. Bautista, currently an expert on the Sub-Commission, which had sub-divisions in all regions. She had recognized the rights of ethnic groups and had given them a degree of autonomy. She had also recognized, in the Constitution, the rights of all indigenous communities. He considered that the communication under discussion, which came from an organization in the Federal Republic of Germany and not from one in the Philippines, was not convincing. Also, even if some of the events reported had indeed taken place, the domestic remedies had not been exhausted. He therefore thought that discussion of the case should be discontinued.

9. Mr. ALFONSO MARTÍNEZ concurred with Mrs. Warzazi's view, that the Government of the Philippines should be given the benefit of the doubt, and he therefore supported the proposal that the communication should not be transmitted to the Commission on Human Rights. If no consensus could be achieved on the proposal, he would agree that the case should be maintained on the Sub-Commission's agenda for a further year.

10. Mrs. FLORES said that while nevertheless remaining attentive to any communications from the Philippines during the next few years, the Sub-Commission might give a vote of confidence to a constitutional Government which, according to the documentation before it, had the will to investigate the events reported, to prosecute elements in the armed forces which were guilty of human rights violations and also to take the necessary steps to normalize the human rights situation.

11. Mr. van BOVEN said that he recognized the efforts made by the Government and was fully aware of the difficulties it faced. He was nevertheless concerned, given the information before the Sub-Commission and published in the press, by the level of violence which persisted in the Philippines. Although the violence could not be blamed on the Government, there were, however, serious problems; for example, a number of lawyers had quite recently been assassinated, lawyers who had played the very important role of defending people who had devoted themselves to the defence of human rights. Also, whatever the quality of the communication under review, he took the view that the Task Force Detainees of the Philippines, which for years had been carrying out a useful task by identifying the most serious violations of human rights, could not be automatically disqualified for having religious links, and nor could any other organization for that reason. Everyone was aware of the outstanding work of some of those organizations in promoting human rights. He was not seeking to defend all religious organizations, as some were indeed sectarian and protected, or attempted to protect, very specific interests not always consistent with the values upheld by the international community in the human rights field. However, in the case in point, he saw no reason to think that the religious connections of the organization which had submitted the information made the information less reliable, and he took the view that the Sub-Commission should decide to keep the case pending until its next session.

12. Mr. Tian JIN said that it was common knowledge that Mrs. Aquino's Government was facing very great difficulties and was attempting to improve the situation in the area of concern to the Sub-Commission. For its part, the organization chaired by Mrs. Bautista was doing everything it could to promote that improvement. He would therefore support a decision by the Sub-Commission to bring its consideration of the case to a close.

13. Mrs. KSENTINI said that she was aware of the efforts made by Mrs. Aquino's Government, in conditions which were sometimes very difficult, to restore democracy and order and to promote human rights. An important measure in that field, had been the setting up of a Philippine Commission on Human Rights and the strengthening of internal recourse procedures for dealing with violations. Taking all those factors into account, she considered that the Sub-Commission should give the Government of the Philippines the benefit of the doubt and should not transmit the communication under discussion to the Commission on Human Rights.

14. Mr. AL KHASAWNEH associated himself with those speakers who had proposed that the Sub-Commission should decide to end its discussion of the case of the Philippines.

15. Mr. RIVAS POSADA agreed that discussion of the case should be concluded and that the communication under discussion should not be referred to the Commission on Human Rights. It was his impression that the communication, which was the only one on which the Sub-Commission could base itself in order to take a decision, had not come from an organization which was completely reliable. Neither had he been persuaded by the argument that, in addition to the communication, other information had appeared in the press, which suggested that the human rights situation in the Philippines did not afford the necessary guarantees. He considered that the Sub-Commission's decision must be based solely on the report of the Working Group on Communications, and that report contained only one communication, a communication which did not meet the conditions stipulated by the regulations. The Sub-Commission should therefore decide to close the case and, if no consensus could be reached, to keep the matter pending until the following year.

16. Mr. ASSOUMA expressed the opinion that the Government of Mrs. Aquino was worthy of the Sub-Commission's confidence, the more so because its activities in the human rights field were being underpinned by the organization chaired by Mrs. Bautista. He therefore supported the proposal that discussion of the case should be closed.

17. Mr. DIACONU said that the reasons given by a number of earlier speakers led him to recommend that the Sub-Commission should not refer the communication to the Commission on Human Rights and should decide to conclude its discussion of the case.

18. Mr. VARELA QUIRÓS supported those experts who had requested that the Sub-Commission should not transmit the communication to the Commission on Human Rights. In fact, not only had the Government of the Philippines provided a clear response indicating its desire to normalize the situation in the country in respect of human rights, but the Philippine Commission on Human Rights, chaired by Mrs. Bautista, was attempting to clarify the reported cases of violations.

19. Mrs. MBONU supported the proposal to end the discussion of the case.

20. Mr. TREAT expressed the view that as all things were relative, the violations reported in the Philippines were not as serious as those reported in other countries, and the Sub-Commission should concentrate on the latter. It appeared, furthermore, that Mrs. Aquino's Government was resolved to normalize the human rights situation, and he therefore supported those experts who had spoken in favour of a decision by the Sub-Commission to bring discussion of the case to a close, and not to transmit the communication to the Commission on Human Rights.

21. Mrs. DAES said that she had studied the communication under discussion most carefully, and that she shared the views of its authors on a number of points. Moreover, she had the greatest respect for the organization which had sent the communication and, like Mr. van Boven, she thought that communications or information submitted to the Sub-Commission by organizations which had links with a religion should be judged on their merits and not on their origins. In the days ahead, the Sub-Commission would also have the opportunity of examining information and reports on religious beliefs, also submitted by respected NGOs dedicated to protecting the freedom of religion. She had proposed to end the discussion of the case of the Philippines because encouraging events had taken place in the human rights field. New legislation had been adopted to guarantee the protection of the indigenous communities and measures had been taken to institute legal remedies for human rights violations. Furthermore, in general terms, the Government of the Philippines should be encouraged to continue its labours for the democratization of the country.

22. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission decided, without a vote, not to transmit communication E/CN.4/Sub.2/1988/R.1/Add.22, relating to the Philippines, to the Commission on Human Rights.

23. It was so decided.

Communications relating to Singapore (E/CN.4/Sub.2/1988/R.1/Add.23 and 24; E/CN.4/GR.1988/7/Add.5 and annex)

24. Mrs. BAUTISTA pointed out that in its reply to the Sub-Commission the Government of Singapore, had set out its position on the communications which had been referred to it and had indicated the measures taken to rectify the situation the communications described. While deploring the fact that the Internal Security Act of Singapore made it possible to detain people in circumstances which would be considered abnormal in other countries, she emphasized that Singapore was a small, island country which was playing an important role in the economic development of Asia, that it was a trading centre and an element for stability in the region, and, was at the same time facing a number of security problems. She therefore considered, that the Sub-Commission should keep the communications on Singapore pending in order to give that country's authorities an opportunity to resolve the problems the communications described.

25. Mr. van BOVEN said that he was concerned to note an increasing tendency by the Sub-Commission to keep communications concerning Governments pending, on the pretext that such a procedure was conducive to dialogue with the authorities concerned. In the case of Singapore, he was of the opinion that the reply by the authorities of Singapore was unsatisfactory. He would have preferred a representative of the Government concerned to have appeared before the Sub-Commission; the Sub-Commission's procedures, however, did not provide for such an eventuality. In the Commission on Human Rights, on the other hand, there could be dialogue between members of the Commission and Governments. He therefore thought that it would be better not to keep too many communications pending, but to transmit them to the Commission in order to make such dialogue possible. He would not oppose a consensus to the communications concerning Singapore pending, but he was not certain that such a decision would be advisable.

26. Mrs. WARZAZI said that the allegations of human rights violations in Singapore described in the communications before the Sub-Commission came from a non-governmental organization, the International Federation of Human Rights, in which she had confidence, and that the arguments on which the communication was based seemed to be valid. It was none the less a fact that, as Singapore was a country that had been in existence for some 22 or 23 years that was made up of a mosaic of minorities, races and religions and that it had a large number of immigrants, its society was very fragile and could easily be destroyed if the authorities did not exercise a certain degree of control; such a situation did not, of course, sanction human rights violations.

27. While understanding the logic underlying what Mr. van Boven had said, she thought it would be preferable for the Sub-Commission not to criticize a country which, as it were, had not yet come of age. She would therefore prefer the Sub-Commission to keep the communications concerning Singapore pending and at the same time to state that human rights violations were indeed being committed there. It would be desirable, moreover, to inform the Government of Singapore of the Sub-Commission's conclusions for example, by sending it the relevant summary records, in order to draw its attention to the matters of concern to the Sub-Commission.

28. Ms. PALLEY concurred with Mrs. Warzazi in saying that it would be preferable to allow the Singaporean authorities a period of one year before referring the communications in question to the Commission on Human Rights. She observed, however, that Singapore had come of age and, she personally found it particularly deplorable that a Government belonging to the Commonwealth had for 21 years continued to commit serious human rights violations.

29. Mr. EIDE agreed with Mr. van Boven that the communications concerning Singapore should be transmitted to the Commission on Human Rights; the replies received from the Singaporean authorities were unsatisfactory and the arguments they used to justify arresting certain individuals were not at all convincing. He wondered how it was possible, for example, that reading Marxist literature or visiting China constituted a security risk. He would not stand in the way of a consensus, but he was none the less of the opinion that the Sub-Commission should inform the Singaporean Government that it was not satisfied and that it expected more co-operation in future.

30. Mr. ALFONSO MARTÍNEZ associated himself with the consensus to the effect that both communications concerning Singapore should be kept pending. He pointed out to Ms. Palley that the rules of the Sub-Commission did not allow it to prejudge any decision which it might take at its next session.

31. The CHAIRMAN said that if there was no objection, he would take it that the Sub-Commission decided to keep pending communications Nos. 87/8/1286 and 88/5/2315, relating to Singapore.

32. It was so decided.

Communications relating to Somalia (E/CN.4/Sub.2/1988/R.1/Add.13, 14, 15 and annex and 16; E/CN.4/GR.1988/7)

33. Mr. ILKAHANAF reminded the Sub-Commission that he had requested, the previous year, that two communications relating to Somalia should be kept pending in order to give the Somali Government an opportunity to respond to the allegations contained in them. As the Sub-Commission now had before it the reply of the Somali Government and two further communications, he would leave it to the Sub-Commission to take a decision.

34. Mr. EIDE said that he would like the two communications under discussion to be transmitted to the Commission on Human Rights, given the serious allegations contained in them.

35. Mr. AL KHASAWNEH said that it would be helpful if Mr. Ilkahanaf could provide some details on the situation in Somalia.

36. Mr. CHERNICHENKO expressed his readiness to join in the consensus. He wished, however, to make a few comments. Communication No. 88/5/2,317 was from Amnesty International, a non-governmental organization which undoubtedly had a highly competent staff at its disposal; nevertheless, the communication in question had been submitted in terms which were too general, and the assertions it contained were not backed up by sufficient proof. It was his view that the Sub-Commission should be very wary of the many communications of that same kind submitted to it by non-governmental organizations. That was not to say that the communication in question should be rejected, but he recalled that he had already drawn the Sub-Commission's attention to a number of features often occurring in the communications submitted by Amnesty International.

37. By 14 votes to 1, with 8 abstentions, the Sub-Commission decided to transmit communications Nos. 88/5/2,317 and 88/6/2,554, concerning Somalia, to the Commission on Human Rights.

Communications relating to the Syrian Arab Republic  
(E/CN.4/Sub.2/1988/R.1/Add.17, 18 and 19)

38. Mr. van BOVEN said that the communications appeared to indicate the existence of a pattern of systematic and very serious human rights violations, and that no response had been received from the Government in question. The Sub-Commission should therefore decide by consensus to refer the communications to the Commission on Human Rights to enable the Syrian Government to enter into a dialogue with the Commission.



39. Mr. AL KHASAWNEH said that he was somewhat disturbed to find in document E/CN.4/Sub.2/1988/R.1/Add.17 passages referring to Iran, international terrorism and the situation in the Lebanon, in other words, matters which did not come within the Sub-Commission's terms of reference. He asked that the decision should be put to a vote, in which he would abstain because of the way the communications before the Sub-Commission had been formulated.
40. Ms. PALLEY requested a roll-call vote, as in the case of the communications concerning another country which had also been formulated in improper language. As jurists, the members of the Sub-Commission had complete freedom to reject inadmissible evidence. It was none the less a fact that the communications in questions described a series of serious human rights violations which did indeed fall within the competence of the Sub-Commission.
41. Mr. SOBARZO LOAIZA said that the Working Group had noted, when considering the communications that they reported very serious human rights violations, in particular, cases of assassination, torture and arbitrary detention. The lack of any response from the Government concerned had also been taken into account by the Working Group, which had decided there was nothing to lead it to the conclusion that the authorities in question were at all anxious to respond to the allegations made. The Working Group had therefore taken the view that the communications should be transmitted.
42. Mr. AL KASAWNEH recalled that he had wanted the Sub-Commission to declare the communications relating to Bangladesh to be inadmissible because of their excessive language. There were therefore no grounds for adopting a different position in the present case, even though he could accept that parts of the communications under discussion were indeed true.
43. Mrs. KSENTINI concurred with Mr. Al-Kasawneh on the communications, which referred, on one hand, to a number of rather unconvincing points, such as the right to a decent standard of living, and, on the other hand made mention of psuedo-violations of human rights in the Lebanon, i.e. in a country which found itself in a particularly complex situation. She would therefore vote against the transmission of communications to the Commission on Human Rights.
44. Mrs. WARZAZI said that she also was of the opinion that the communications had been formulated in insulting language and contained irrelevant matter. She therefore had no grounds for acting any differently to the way she had done in the matter of the communications relating to Brunei Darussalam, and she was in complete agreement with the point of view expressed by the previous two speakers.
45. Mrs. MBONU said that she thought the communications concerning the Syrian Arab Republic contained extremely serious allegations; the Government in question had not responded, and had not even shown any desire to co-operate with the Sub-Commission. She would therefore abstain in the vote.
46. Mr. CHERNICHENKO said that he was not in favour of transmitting the communications relating to the Syrian Arab Republic to the Commission on Human Rights; the three communications in question had been formulated in very general terms, included improper language and lacked sufficient

foundation. Concerning the lack of response from the Syrian authorities, he had often noted in the Commission on Human Rights that silences of that kind could be explained by many valid reasons. It was obvious to everyone that the situation in the Middle East was particularly difficult and that the allegations concerning Lebanon were indeed out of place in the communications under discussion.

47. Mr. DIACONU observed that the communications under consideration referred to such curious issues as the electoral system and changes in the price-index. They also mentioned human rights violations alleged to have been committed in Lebanon, i.e. outside the Syrian Arab Republic, the relations between the Syrian Arab Republic and the Palestinian people, and international terrorism. The communication reproduced in document E/CN.4/Sub.2/1988/R.1/Add.18 had come from the Comité français pour la promotion des droits de l'homme and described events which went back to 1980-1982, which was well in the past. The Sub-Commission had not received a reply from the Government concerned. To sum up, he had some misgivings about the communications and did not wish them to be transmitted to the Commission.

48. Ms. PALLEY pointed out to Mr. Chernichenko that the allegations submitted by Amnesty International concerning, cases of torture, in particular, were based on specific evidence. Also, the Sub-Commission could not enter into a dialogue with Governments which refused to respond, as there was provision for such dialogue only in the context of the Commission on Human Rights.

49. In the 30 or so years which she had spent teaching law, she had often heard her students criticize the United Nations and its agencies for time wasting, an element of hypocrisy, and politicization at all levels. As a recent member of the Sub-Commission, she had been very impressed at the beginning of the fortieth session by the Sub-Commission's standard-setting activities, even though its work could well be carried out by another body, such as, the International Law Commission. On the other hand, when communications, which were at the very heart of the Sub-Commission's mandate, were discussed, she had been surprised to find that the votes cast by the experts were often motivated by political considerations. She feared that by acting in that manner, the Sub-Commission was, as it were, duplicating the work of the Commission on Human Rights.

50. Mr. van BOVEN drew the Chairman's attention to the presence in the meeting room of a number of unauthorized persons.

51. Mr. CHERNICHENKO said that he could understand Ms. Palley's reaction and her assessment of the situation, but that he had already an occasion to say, in an open meeting, that it was often difficult to dissociate political from humanitarian considerations. The experts of the Sub-Commission were of course independent, but each of them lived in a given society and culture. It was therefore only to be expected for them to take their decisions partly on the basis of their political sympathies. That was also why, experts were selected in terms of equitable geographical distribution.

52. It was therefore true that each expert would display a certain degree of selectivity, but that it should nevertheless be remembered that the Sub-Commission, had, for example, discontinued consideration of the situation in Pakistan, which was equally as serious as the situation prevailing in the Syrian Arab Republic. Even if it was therefore justifiable to desire that the Government concerned should appear before the Commission on Human Rights, the Sub-Commission should refrain from automatically transmitting communications of that kind to the Commission.

53. Mrs. WARZAZI said that the Sub-Commission reflected the world with all its differences, and that it was only to be expected that its members should have differing points of view. One should, however, refrain from judging them by the way they voted.

54. Mr. YIMER said that no member of the Sub-Commission should comment on the motives underlying the votes of other members, as to do so could only damage the Sub-Commission. The Sub-Commission was made up of independent experts who voted as they saw fit. That being so, each member had a perfect right to request a roll-call vote.

55. Mr. ASSOUMA said that he was very sensitive to whether or not Governments responded to the communications which implicated them, as a response showed a desire to co-operate with the Sub-Commission. That was why he had objected to the communications relating to Bangladesh being referred to the Commission on Human Rights. However, the Syrian Government had not replied to the Sub-Commission and had therefore evinced no desire to co-operate. For reasons of consistency, he would abstain from the vote on the communications relating to Syria.

56. Mr. ALFONSO MARTINEZ expressed surprise that a member of the Sub-Commission should make a value judgement on the motives underlying a decision or vote by other members. It was understandable that members should be influenced in varying degrees by the political and socio-cultural milieu from which they came and in which they lived, but that most certainly did not mean that political considerations dictated their votes.

57. Mrs. WARZAZI, speaking on a point of order, proposed that the debate on the subject should be closed and that a vote should be taken on the communications relating to the Syrian Arab Republic.

58. Mr. TREAT supported Mrs. Warzazi's proposal, while emphasizing how important the question of the independence of the experts was. On the matter of the communications under discussion, he said that he would be disappointed, given that they concerned one of the most reprehensible crimes in the contemporary world, namely, terrorism and hostage-taking, if the communications were not referred to the Commission on Human Rights.

59. Mrs. KSENTINI also supported Mrs. Warzazi's call for a vote to be taken. She indicated her opposition to the transmission to the Commission on Human Rights of the communications relating to the Syrian Arab Republic if only because communication No. 87/8/1,317 included language insulting to the Syrian Government.

60. The CHAIRMAN put the proposal to transmit the communications relating to the Syrian Arab Republic to the Commission on Human Rights, to the vote.

61. At the request of Ms. Palley, a vote was taken by roll-call.

In favour: Mrs. Bautista, Mrs. Daes, Mr. Eide, Mr. Hatano, Ms. Palley,  
Mr. Rivas Posada, Mr. Sobarzo Loaiza, Mr. Treat,  
Mr. van Boven, Mr. Varela Quirós, Mrs. Warzazi and Mr. Yimer.

Against: Mr. Alfonso Martínez, Mr. Chernichenko, Mr. Diaconu and  
Mrs. Ksentini.

Abstaining: Mr. Assouma, Mr. Al Khasawneh, Mrs. Mbonu, Mrs. Flores,  
Mr. Ilkahanaf, Mr. Tian Jin and Mr. Türk.

62. By 12 votes to 4, with 7 abstentions, the Sub-Commission decided to transmit communications Nos. 87/8/1,317, 87/9/1,493 and 88/4/2,005, relating to the Syrian Arab Republic, to the Commission on Human Rights.

63. Ms. PALLEY said that she had had no intention of attacking her colleagues and that her remarks had been merely general ones. She was, however, delighted at the result of the vote which had just taken place, as it clearly demonstrated that the members of the Sub-Commission had taken their decision without being influenced by considerations other than the substance of the communications under discussion.

64. Mr. AL KHASAWNEH said that it was inevitable that members of the Sub-Commission should be influenced by political considerations to some degree. When he had begun his term on the Sub-Commission, he too had hoped that the Sub-Commission would be completely non-political. He no longer really believed that that was so, but the hope was nevertheless not entirely dead.

65. Mr. ALFONSO MARTINEZ said that no member of the Sub-Commission was in a position to place interpretations on how another member voted. He had himself voted against transmitting the communications relating to the Syrian Arab Republic to the Commission for various reasons, including those adduced by Mr. Chernichenko. In taking a decision he took as his basis only the actual situations described in the communications, and not political considerations of any kind.

66. Mrs. DAES, speaking in explanation of vote, said that she had voted to transmit the communications in question because she condemned all acts of terrorism regardless of who committed them. Also, she was convinced that no member of the Sub-Commission wished to offend his or her colleagues and that everything said in the Sub-Commission was said in all good faith.

67. Mr. EIDE said that he had voted to refer the communications to the Commission on Human Rights because he also was concerned by the problem of international terrorism and because Syria was involved in it, as, moreover, were many other countries.

68. The discussion which had taken place on the independence of the experts was, in his opinion, very useful, and all members should reflect on it; true, all members subscribed to the principles of the Universal Declaration of Human Rights, whatever the ideological perspective in which they envisaged them, but it would be interesting to know the criteria on which they based their decisions. He was, nevertheless, convinced of the good faith of all present.

69. Mr. VARELA QUIROS, speaking in explanation of vote, said that he had voted to transmit the communications because he considered that they contained items that justified such a decision.

70. He was astonished that a member of the Sub-Commission should call the other members to order, since everybody was entitled to make a mistake. He personally was disposed towards having his errors pointed out, on condition that it was always done courteously.

Communication No. 88/5/2,303, relating to Turkey (E/CN.4/Sub.2/1988/R.1/Add.20; E/CN.4/GR.1988/7)

71. Mr. ILKAHANAF, pointing out that communication No. 88/5/2,303 from Amnesty International (E/CN.4/Sub.2/1988/R.1/Add.20) had been followed by observations by the Turkish Government appearing in document E/CN.4/GR.1988/7, emphasized that with Turkey's accession to the European Economic Community in view, the Turkish Government had already made major efforts to conform to certain standards required to that end. For a number of years, Turkey had indeed been taking initiatives towards democratization. A new Constitution had been adopted in 1982 which guaranteed all the rights promulgated in the international instruments. In 1987, martial law had been completely abolished. Also, Turkey had signed and ratified the European and United Nations Conventions against Torture, and had agreed to investigate allegations of torture. Sanctions had been taken against officials found guilty of torture. Thus, there were many developments that pointed to the conclusion that Turkey had a sincere desire to eliminate all human rights violations, a task which was, however, fraught with difficulty, given the country's history.

72. Turkey was demonstrating a clear desire to co-operate with the United Nations and European human rights bodies. The Turkish Government had thus received a United Nations expert, Mr. Kooijmans, on the question of torture, in September 1987. The Government had also stated that law enforcement officials were receiving human rights training, and it stressed that it was doing its utmost to improve human rights, in a situation which was still difficult, given the persistent attacks by armed groups (more than 300 attacks had been reported in 1984). In respect of communication No. 88/5/2,303, national and European remedies had not been exhausted, and he proposed that consideration of the communication should be ended.

73. Mrs. BAUTISTA said that she accepted Mr. Ilkahanaf's logic, and had also concluded that consideration of the communication should be brought to an end.

74. Mrs. WARZAZI said that she too found the reasons given by Mr. Ilkahanaf convincing, and added that on reading the communication she had been surprised that Amnesty International spoke of recent executions, whereas it was recognized that there had been no executions in Turkey since 1984. The communication therefore seemed to be in error on that point and, obviously, it was legitimate to believe that it might also be wrong on other points. It was her understanding that Turkey was sometimes lacking in resources in its criminal procedures. She thought that Turkey's efforts and the observations forwarded by the Turkish Government concerning communication No. 88/5/2,303 should not be overlooked. The Sub-Commission should therefore bring discussion of the communication to a close.

75. Mrs. DAES said that she had noted, in annex B of the observations by the Turkish Government (E/CN.4/GR.1988/7), that military courts continued to be held in Turkey. In the same text, it had also been recognized that cases of torture were still occurring. It was also undeniable that the repression of the Kurds was continuing unabated. She drew attention to a report from the NGO "Defense for Children International Movement" with the telling title Children in prison in Turkey, which had appeared in July 1988. In the light of the above, she considered it would be better if the communication was transmitted to the Commission so that dialogue with the Turkish Government could continue at that level.

76. Ms. PALLEY said that she had some personal knowledge of the human rights situation in Turkey as she had dealt with Turkish affairs when she had sat on the European Commission of Human Rights; she had the impression that the observations by the Turkish Government on communication No. 88/5/2,303 had been written by the same person as a number of earlier observations made to the European Commission. In view of her earlier attributions, she would not take part in any vote on the communication. She recognized that there had been improvements in Turkey, as Mr. Ilkahanaf had emphasized, given that Turkey wished to become a member of the European Economic Community. She pointed out, however, that some of the provisions of the 1982 Constitution, already mentioned, had been judged by eminent jurists to be dictatorial in nature. The changes observed in Turkey did not seem to apply to the Kurds, who were still not recognized as a minority. It was understandable that communication No. 88/5/2,303 from Amnesty International had focused on what was wrong in Turkey: Amnesty International could not be expected to launch into panegyrics. Although she would not take part in any vote, she hoped that the Sub-Commission would deal with Turkey as it had dealt with Bangladesh, whose Government had also taken steps in the right direction, and keep the communication under review.

77. Mr. SOBARZO LOAIZA said that it was obvious that human rights violations were continuing in Turkey. A leader of the Turkish Workers' Party, Mr. Nihat Sargin, and the Secretary-General of the Turkish Communist Party, Mr. Haydar Kutlu, had been arrested in 1987 and tortured. The measures taken by the Government were based on texts which, if looked at closely, were repressive, such as, for instance, articles 140 and 142 of the Penal Code. Those texts declared organizations expressing political views which differed from those of the Government to be illegal. What was termed "communist propaganda" was forbidden. Turkey still had a certain number of prisoners of

conscience. Those aspects of the situation showed that fundamental rights continued to be violated in Turkey. True, the Turkish Government has shown its desire to co-operate with the Sub-Commission, but its responses were not always satisfactory. That being the case, and given that some degree of progress had been made, the best course would be for the Sub-Commission to keep communication No. 88/5/2,303 under review.

78. Mr. van BOVEN recognized, as Mr. Ilkahanaf had done, that Turkey had made an effort to co-operate with the Sub-Commission. There was also no doubt that the Turkish Government had taken constructive initiatives notably by acceding to the United Nations Convention against Torture and, even better, to the European Convention against Torture, which made provision for visits and was markedly preventative in character. (Turkey had nevertheless acceded to the latter instrument with a number of major reservations, particularly concerning the right to submit individual petitions.) Turkey had, however, agreed to co-operate with the United Nations Rapporteur on the question of torture. In general, it seemed that torture was continuing, at least at a certain level, and possibly in situations which were not completely under Government control. He also thought that the best solution was for the Sub-Commission to keep communication No. 88/5/2,303 under review. He preferred that solution to immediate transmittal to the Commission which he had recommended in the case of other communications as the Sub-Commission could thus await possible new developments.

79. Mr. AL KHASAWNEH explained, in response to a question from Mr. Eide, the criteria he used in formulating his position on the Amnesty International communication concerning Turkey. First, he considered the human rights violations in Turkey to be no worse than in other countries which had given rise to communications rejected by the Sub-Commission. It was possible that certain international organizations, by focusing a great deal of attention on Turkey, were making the situation seem worse than it was in reality. There might also be a certain degree of animosity towards Turkey; Mr. Sofinsky, a former member of the Sub-Commission, had once said that he had never understood why Alexander was more popular than Genghis Khan. Secondly, uninfluenced as he was by any ethnic link with Turkey, he requested that some of the difficulties obtaining in that country should be taken into account: its multi-ethnicity, its recent régime and so on. A parallel could, indeed, be drawn between Turkey and Bangladesh, as Ms. Palley had done; as he did not want the communications concerning Bangladesh to be kept under review, he proposed that consideration of the communication concerning Turkey should be concluded.

80. The CHAIRMAN, noting that there were divergences of opinion within the Sub-Commission, suggested that it should vote, first, on the proposal by Mr. Ilkahanaf that the consideration of communication No. 88/5/2,303 should be concluded and, second, on the proposal that the communication should be kept under review.

81. At the request of Ms. Palley, a vote was taken by roll-call on the proposal to conclude the discussion of communication No. 88/5/2 303.

In favour: Mr. Assouma, Mr. Al Khasawneh, Mrs. Bautista, Mr. Ilkahanaf, Mr. Türk and Mrs. Warzazi.

Against: Mr. Chernichenko, Mrs. Daes, Mr. Eide, Mr. Rivas Posada, Mr. Treat, Mr. van Boven.

Abstaining: Mr. Alfonso Martínez, Mrs. Mbonu, Mrs. Flores, Mr. Diaconu, Mr. Hatano, Mr. Tian Jin, Mrs. Ksentini, Ms. Palley, Mr. Sobarzo Loaiza, Mr. Varela Quirós and Mr. Yimer.

82. There were 6 votes in favour, 6 against and 11 abstentions.

The proposal was not adopted.

83. The CHAIRMAN asked if the Sub-Commission could adopt the second proposal without a vote.

84. The proposal that the Sub-Commission should keep communication No. 88/5/2,303, concerning Turkey, under review was adopted by consensus.

The meeting rose at 1.10 p.m.