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PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 16th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 17 August 1989, at 10 a.m.

Chairman: Mr. YIMER

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The meeting was called to order at 10.15 a.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 ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)
(E/CN.4/Sub.2/1989/7, 8, 11, 12, 13, 14 and Add.1, 15, 23, 24, 25, 26, 27, 46, 48; E/CN.4/1989/NGO/3)

1. Mr. von WOLT (Pax Christi International), speaking also on behalf of the Procedural Aspects of International Law Institute, noted with satisfaction the progress made in some parts of the world in the implementation and recognition of the collective right of peoples to determine their own political status and to pursue their economic, social and cultural development free of foreign interference. That right, enshrined in the Charter of the United Nations, was a prerequisite to the full enjoyment of other human rights and freedoms.
2. However, Pax Christi International wished to draw attention to the persistence of gross violation of human rights in Tibet. Despite General Assembly resolution 1723 (XVI) of 1961, which had called for the cessation of practices that deprived the Tibetan people of their fundamental human rights and freedoms including the right to self-determination, insufficient attention had been given to those rights in recent years. Yet the situation in Tibet had remained grave and had recently deteriorated even further. Accordingly Pax Christi International urged that due attention be paid to the situation in Tibet particularly since events in China had reminded the world community of the repressive character of the régime that ruled over the Chinese as well as the Tibetan people.
3. Pax Christi International had been deeply saddened by the massacre in Tiananmen Square and condemned the Chinese Government's violent suppression of the Chinese democracy movement. However, that was not an isolated incident: it was crucial to remember the many hundreds of Tibetans who had been similarly killed in the past two years by the same Government for participating in demonstrations in Lhasa, the capital of Tibet.
4. Extensive evidence had been presented to previous sessions of the Sub-Commission and the Commission on Human Rights concerning the shooting of peaceful demonstrators by Chinese security forces in Lhasa. In March 1989 an estimated 256 further Tibetans had been killed by police and army troops during demonstrations in that city. Martial law had been declared and was still in force. Thousands of Tibetans had been arrested and accused of counter-revolutionary activities or hooliganism and many more had been deported from Lhasa. Political prisoners were tortured and many had been killed by the authorities.
5. It was not only the violation of individual human rights of Tibetans that needed to be addressed, however. Since the beginning of the occupation of Tibet 40 years before, Tibetans had been subject to a form of oppression that threatened their distinct cultural, religious and national identity.
6. Pax Christi International did not believe it was sufficient to address individual human rights abuses in South Africa, because it was the very system of apartheid that was the cause of the suffering and resistance of blacks in

that country. The system of apartheid itself needed to be dismantled. Similarly, it was the discrimination and degrading treatment to which Tibetans were subjected in their own land by the Chinese authorities and the overwhelming numbers of Chinese settlers who had arrived there in recent years that had to be addressed. Discrimination against native Tibetans throughout Tibet was manifest in all facets of daily life, including housing, employment, education and health care. As an example, if a Tibetan wished to move to Lhasa from elsewhere in Tibet to set up a business he needed a residence permit, which was generally refused. However, a Chinese who came to Lhasa from a Chinese province was given housing, loans and other assistance regardless of whether he had a residence permit or not. That discrimination, together with the Chinese Government's policy of encouraging the relocation of large numbers of Chinese on the Tibetan plateau, threatened the survival of the rich and ancient culture, religion and national identity of the Tibetan people.

7. The Tibetans' resentment of the treatment to which they were subjected could only lead to further discontent and unrest. Not only was it natural for peoples to want to determine their own destiny free of alien domination and oppression, it was their right. It was also their right to express their feelings and beliefs, to assemble and to protest. Should the Sub-Commission pass a resolution in response to the brutal killing of Chinese protestors in Beijing but fail to address the equally brutal killings of Tibetans in Lhasa, that might be interpreted by the Chinese Government and others as an indication that it was acceptable to kill innocent Tibetans in the streets of Lhasa but not to kill Chinese people in their own streets.

8. Pax Christi International urged the Sub-Commission to ask the Commission on Human Rights to call on China to respect the fundamental human rights and freedoms of the Tibetan people in full, in particular their right to self-determination.

9. Mr. JOINET referred to an incident at the 15th meeting at which the observer for China had repeatedly described the speaker for the International Federation of Human Rights as a criminal and had walked out of the meeting. Incidents involving the use of such language had already occurred in the Sub-Commission and they were intended to discredit and marginalize an opponent. The allegation was slanderous and might even be a matter for the Geneva courts. Such language was discourteous, unacceptable to the Sub-Commission and should not have been used, particularly in view of the principle of the presumption of innocence.

10. Perhaps the observer for China could indicate the legal basis for his allegation and the international standard which allowed a peaceful demonstration, witnessed by millions of television spectators, to be described as a crime. It was particularly serious to describe in that way opponents who were simply peaceful demonstrators. It was untrue to say that the demonstrators, who were merely asking for a change in their country's institutions, were fostering rebellion or revolution. No international legal standard prohibited peaceful demonstrations.

11. If the Chinese authorities really believed that the observer for the IFHR was a criminal, they would issue an international warrant for his arrest, on which INTERPOL would be obliged to act either by circulating the warrant or by refusing to do so, as seemed more likely. He hoped that the observer for China would refrain from using such language in the future.

12. Mr. ALFONSO MARTINEZ said that two of the guidelines suggested by Mr. Varela Quirós for the discussion of item 6 caused him some concern. He did not agree that the Sub-Commission should focus its attention on a given region simply because it had not yet done so. The Sub-Commission had to look into situations in countries where it thought it right to do so, and the geographical factor was quite irrelevant.

13. Moreover, the view that experts from a given region had a particular right to deal with that region was a very strange one. Although the opinions of experts from a region should be given due weight, all the experts had the right and the duty to look into any matter before the Sub-Commission.

14. He did not share Mr. Joinet's concern at the description by the observer for China of the observer of the International Federation of Human Rights as a criminal. No one had objected to the description by the observer for the World Union for Progressive Judaism of the policy of the Government of Syria as genocide, a far more serious allegation. Both the observer for China and the observer for the WUPJ had merely been exercising their right to free speech.

15. The CHAIRMAN urged speakers to refrain from using abusive language and to address themselves to issues and not to personalities. He might be compelled to rule out of order any speaker whose language he considered inappropriate.

16. Mr. TREAT said that he shared the indignation of people throughout the world of the events in Tiananmen Square, about which it was unnecessary to argue since they had been so well documented by the information media. It was ironic that the People's Liberation Army had turned its guns against the people. Those events were particularly sad in view of the hopeful trends of the past few years in China towards democracy and a free market economy. The prediction of former President Nixon that China would take two steps forward and one backward as it progressed in order to preserve the power of the ruling élite had unfortunately been fulfilled.

17. He hoped that Mr. Tian Jin, who had made an admirable statement on South Africa, also approved the principle of democracy for his own country.

18. He had been distressed at the announcement that China was starting indoctrination programmes for young people in an attempt to close their minds to "bourgeois liberalism" before their university education. That did not bode well for the future of China.

19. It was not possible to suppress a people's desire for self-determination, which was not merely a Western idea but existed in all countries and was enshrined in the Universal Declaration of Human Rights of which China was a signatory. He hoped that China would start again on the path towards true democracy.

20. Mr. KHALIFA said that, in considering gross violations of human rights, the Sub-Commission should realize that the very concept of human rights was bound to undergo profound change over the course of time. The momentous events in France in 1789 had been dubbed a "Revolution", but had equally been a revelation of the inherent and intrinsic rights of man. They had ushered in a new era, but the great idea had not been propounded without excesses, bloodshed and brutality. Since then, the noble notion of human rights had

frequently been subjected to exploitation, abuse and double standards. Time and again, the concept had been cynically put to the service of political expediency.

21. Over the last few years, the world had once again entered upon a period of traumatic change, in which the old grammar and vocabulary of world affairs were being swept away. No less a figure than Mikhail Gorbachev, the architect of the great upheaval, had told the United Nations in unequivocal terms that international relations must be freed from ideology, and that the world economy was a single organism. Judging not by words but by deeds, principles long advocated by the West - greater civil and political rights and a reduction in threats of force and confrontation - were now becoming accepted by the East. Communism was mellowing; the capitalist market culture, with its concomitants of competition, innovative technology and constant change, was becoming more and more popular. Inevitably, there were bound to be clashes between the new economic and the old political orders, since economic freedom called for political freedom.

22. Professor Paul Kennedy of Yale University had linked the decline of great Powers to their tendency to take on military commitments beyond the capacity of their economies. Accordingly, economic power would soon rival military power as a measure of status. One had only to look at the example of Japan, which, without armed forces, was on its way to becoming a super-Power.

23. What effect would those developments have on the perception and handling of human rights issues? He thought that less accent would be placed on individual rights, and more on collective rights, such as the right to self-determination. Human rights campaigns would resort to all possible tactics in order to sow discontent among minorities, especially within huge entities like the Soviet Union or China. Glasnost was seen as a golden opportunity for the infiltration and political undermining of such entities in the name of human rights.

24. Secondly, the term "democracy" would become a magic word, to be heard on everyone's lips. Needless to say, the democracy in question would be democracy on the Western model, which the West was seeking to export. Those seeking democratic institutions would get drunk on the dream of democracy; meanwhile, no one would tell them that democracy could not be borrowed or exported, that it needed time in which to flower, that much suffering and pain must be endured in the meantime, and that, when finally achieved, it would be democracy under a very different form. Democracy was not an instant package. Furthermore, in the context of a totalitarian State, a little democracy was a dangerous thing. Democratic societies would do well to shed fewer tears over the lack of democracy in other countries, and instead to be less greedy, exploitative and tyrannical in their dealings with them.

25. Thirdly, double standards would continue to gain strength. Third world countries would win some respite, with the newly liberalized countries of the East becoming the main target of human rights campaigns. Meanwhile, the third world countries would be permitted to engage in disputes among themselves, and their citizens would be permitted to slaughter one another, so long as the interests of the major Powers were not affected. Lip service would be paid to human rights; but Lebanese, Palestinians and Syrians, Senegalese and Mauritians would be left to fight their own battles; for third world countries deserved only third-class human rights, or so it would seem.

26. He cited Israel and China as examples of those new trends in human rights. During discussion of the item in August 1987, he had spoken of the colossal injustices meted out to the Palestinian people, that had bred a generation which, like a time-bomb, would eventually explode. In December of the same year, the intifada had broken out. Israel's difficulties since then were as nothing to what lay in store for it. The youth of Palestine, dubbed terrorists by the Israeli Government, were willing to face bullets on the long march towards the liberation of their soil and their souls. Like the struggle of those who had resisted Nazism, their struggle deserved admiration. Never since the days of Nazism had an occupying power shown such ruthlessness and total disregard for human rights as did the Israelis in the occupied territories. That attitude had helped create a new breed of hardened, fearless, desperate and suicidal militants. They had been deported, detained, tortured, shot at and killed; their homes had been demolished in flagrant violation of the Geneva Conventions: what more had they to fear? The whole world - friends as well as foes - joined together in accusing Israel of violations of human rights.

27. The belligerence of the Government was exacerbated by the actions of so-called settlers in the West Bank, usurpers whose excesses were acknowledged even by sections of the Israeli press. The Government of Israel seemed to be in constant search of new and original brands of human rights violations. It was, to say the least, unusual for a State Member of the United Nations to adopt tactics normally associated with the Mafia, by kidnapping an eminent cleric. After that incident, even Senator Robert Dole, not normally known for his pro-Arab views, had called upon Israel to act more responsibly.

28. The "Masada mentality" of Israel might give rise to a form of death wish. In the spirit of the new human rights order, should Israel be accorded special treatment under international law on that account? As it was, Israel incurred only verbal censure for its acts. The Security Council veto was always there to protect it, it was the recipient of lavish aid, and sanctions were not even contemplated, after 40 years of systematic extermination and debilitation of the Palestinian people; all that amounted to a flagrant example of double standards.

29. His second example concerned China. After opening its frontiers to business interests, finance and free enterprise, China had been accepted by the international community. But since the crack-down by the Army in Tiananmen Square, it had once again become an international outcast. Of course, no one would defend the brutal treatment of its citizens by the Chinese Government. On the other hand, China should not be blacklisted, blackmailed, defamed and condemned to a life sentence after a trial by the press and the media. A country of one billion people could not be judged by what had taken place in one square, while, in exercise of its double standards, the international community turned a blind eye to the gradual liquidation of a nation that had been proceeding for 40 years. China had inflicted serious wounds on itself in an attempt to defend itself against attempted rape by foreign interests. While it should not tolerate disrespect for human rights, the international community did not have the right to tell China how to govern its people. No Government should have attacked its own youth in that brutal fashion; on the other hand, no Government could be expected to accept democracy imposed by undemocratic means.

30. Mr. ASSOUMA said that, while a number of events in various regions in recent months gave one reason to believe that a wind of peace was blowing through the world, and that substantial progress was being made in the exercise of the right to self-determination, the fact remained that the international community must do more to rekindle the embers of hope, and to speed up the process of accession by peoples to the exercise of their right to self-determination. It was thus to be hoped that the integration process taking place in the Maghreb would contribute to the resolution of the problem of Western Sahara, creating a climate propitious to the holding of the much awaited referendum.

31. With regard to the situation in the occupied territories, it was more than ever clear that an era of peace and stability in the Middle East could not be possible without a reaffirmation of the right of every State in the area, including Israel, to live within secure and internationally recognized boundaries, and recognition of the right of the Palestinian people to self-determination and to a homeland. He continued to believe in the need for an international peace conference, in which the permanent members of the Security Council and the parties to the Arab-Israel conflict, including the Palestine Liberation Organization, would participate on an equal footing.

32. Regarding the illegal occupation of Kampuchea by Vietnamese troops for the last 10 years, he welcomed the recent events in Paris on 30 July 1989, which undoubtedly marked the beginning of a genuine process of peace and freedom for the people of Kampuchea and of the country's return to full independence and territorial integrity. To achieve that aim, it was indispensable to take substantial account of the five-point peace plan put forward by Prince Sihanouk. The withdrawal of all Vietnamese troops, scheduled for 26 September 1989, must be effective and real. The people of Kampuchea could now hope for an equitable solution to the situation, but they were counting on the support of all United Nations bodies, including the Security Council and the Sub-Commission. Without such support, Kampuchea would enjoy neither independence, peace, stability, the opportunity for national reconstruction, nor freedom.

33. In Afghanistan, the withdrawal of the Soviet troops had not led to peace, and the Afghan people were still far from exercising their right to self-determination. The situation thus continued to be a matter for concern.

34. Some observers appeared to be too ready to see the situation in southern Africa as moving towards a new era of peace and stability; in his view, however, more circumspection was called for. At a time when the independence plan for Namibia provided for in Security Council resolution 435 (1978) was being implemented, and at the same time there were reports of a strengthening of South African military and paramilitary units and of a campaign to harass and intimidate partisans of SWAPO, how could one fail to question the genuineness of South Africa's political will? It was to be hoped that all necessary measures would be taken to ensure a smooth transition process in Namibia and to protect the prospects of its people for the free exercise of their right to self-determination and independence.

35. The gross and systematic violations of human rights and fundamental freedoms in South Africa was also of concern. Restrictions had been placed on religious, trade union and black leaders who were opposing apartheid peacefully. Against that background and in view of the intensification of the

repression of the black people of South Africa, only mandatory sanctions under Chapter VII of the Charter of the United Nations would bring the situation to an end. It had been argued that sanctions would hit the black population first. That was not acceptable as a reason. The South African population was ready to make sacrifices to achieve its right to self-determination and fundamental freedoms. Apartheid was an insult to human dignity and no effort must be spared to suppress it. In that connection he congratulated Mr. Khalifa on his report under agenda item 7. The international community must remain vigilant and every effort must continue to be made to bring about the total elimination of apartheid and the creation in South Africa of a society where all could enjoy the same political rights and would accordingly be completely free to determine their own future.

36. Mrs. WARZAZI said that she concurred in the main with Mrs. Palley's analysis but wished to offer two comments. Idealism was not only desirable but indispensable to the defence of human rights; idealism made it possible to demonstrate consistency in the face of the many obstacles in the path towards the achievement of justice and human rights for all. There was also, however, a need for realism when considering human rights situations. Accusations were appropriate but such accusations were sometimes made in a context foreign to that of a particular country as they might be based on the human rights model of a developed country.

37. Mrs. Palley had also expressed herself strongly on countries which she had characterized as underdeveloped. She herself did not believe that violations of human rights could be justified on the grounds of underdevelopment. On the contrary, torture, arbitrary detention and the muzzling of freedom of expression were always to be condemned and such violations of human rights should never be condoned. One fact was, however, certain. In order to ensure the full exercise of human rights, a Government must have the means to implement its policy. Those means were available to the developed countries. In many cases of violations of human rights elsewhere the great Powers had a heavy responsibility. Colonialism and its consequences were at the root of many problems in a number of countries. For reasons deemed proper by those countries, violations of human rights were acquiesced in or deliberately overlooked in South Africa and in the occupied Arab territories. New and terrible weapons of mass destruction were being tested, conflicts were stirred up in order to find markets for obsolete arms and noxious waste and poison gases were disposed of indiscriminately. The interventionist tendencies of those large countries were designed to impose their policies, culture, values, products and loans on the developing countries, with disastrous consequences for their economies. At the same time those countries which continued to pose as champions of human rights were themselves the perpetrators of flagrant and massive violations of the rights of indigenous people, migrant workers, minorities such as blacks, women, youth, the aged and religious communities, as in Northern Ireland. In her view, those countries should not escape severe censure; when a country set itself up as a model any violation by it was unpardonable.

38. She therefore supported the proposal of Mrs. Palley for a resolution mentioning the countries which she had criticized on condition that those Western countries which violated human rights were placed at the top of such a list. The sole exception should be the Netherlands whose policy on minorities and rural workers should be encouraged.

39. Mr. RYDER (International Confederation of Free Trade Unions) said that trade union activities in Colombia, Haiti and Romania continued to be subjected to appalling and massive repression; in Colombia, in particular, the endemic violence directed at trade unionists had escalated still further with more killings in recent weeks.

40. New instances of particularly gross violations of basic trade union rights had occurred recently in Sudan, where the Revolutionary Council for National Salvation had ordered the suspension of all trade unions and the seizure of their assets in July 1989.

41. In the People's Republic of China, the repression of the pro-democracy movement since June 1989 had included particularly harsh treatment of those who had sought to exercise basic trade union freedoms. Not only had they been denied the right of freedom of association but, in many cases, they had been subjected to arbitrary arrest and detention, cruel, inhuman and degrading treatment and even the death penalty, without benefit of proper judicial procedures.

42. On 19 May 1989 the Beijing Workers' Autonomous Federation (BWAFF) had been set up in over 40 sectors representing over 100,000 workers in the city. Subsequently, similar federations had been set up in other Chinese cities. On 28 May 1989 the BWAFF had issued a memorandum setting out the following guiding principles and statutes: the organization was to be entirely independent and autonomous, built up by workers on a voluntary basis through democratic processes and should not be controlled by other organizations; it should address political and economic demands based on the wishes of the majority of workers and monitor the functioning of the Chinese Communist Party. The memorandum emphasized that the organization should seek to safeguard the right of its members within the bounds of the Constitution and of the law and through legal and effective means. Members were required to pledge to observe the Constitution and the law. BWAFF stated publicly that it did not oppose the rule of the Communist Party.

43. On 2 June 1989, the official All-China Federation of Trade Unions (ACFTU), which had previously issued a statement supportive of the student movement, had branded BWAFF as unlawful and had called for its complete elimination. On the night of 3 to 4 June, many and probably most, of the representatives of the organization had been killed when troops attacked in Tiananmen Square. Subsequently independent workers' organizations had continued to be prime targets of repression. Martial Law Decree No. 10, issued on 8 June 1989, ordered the immediate disbandment of the organization and its leaders and members to surrender themselves to the authorities. On 12 June ACFTU was called upon to mobilize workers to destroy the Workers' Autonomous Federations around the country. According to information provided to ICFTU, the list of workers detained or executed included the names of 67 individuals detained for involvement with Workers Autonomous Federations or other independent organizations, 51 workers arrested for exercising their right of free expression and 61 workers arrested for such actions as obstructing traffic, setting fire to army trucks, or killing soldiers; 13 workers had been executed for alleged sabotage or counter-revolutionary crimes and 2 were under the threat of suspended death sentences. Two workers were reported to have died in custody in Beijing and, on 12 June, Chinese television had broadcast pictures of a badly beaten individual identified as a leader of the Shanghai Workers Autonomous Federation being paraded as a counter-revolutionary. It

was apparent that workers, rather than students or intellectuals, had been the prime victims in the many executions and extra-legal killings by the authorities.

44. The actions of the Chinese authorities were a flagrant, brutal and massive violation of human and trade union rights. All available evidence pointed to the fact that the formation of the Workers Autonomous Federations was a clear attempt by Chinese workers to establish organizations of their own choosing in line with the provision of ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize.

45. When the General Secretary of ICFTU had raised the issue at the ILO Conference in June 1989, he had been rebuked by the official Chinese workers' delegate for irresponsibility and interference in China's internal affairs. The ICFTU had proceeded to lodge a complaint with the ILO against the Chinese Government for breach of the principles of freedom of association.

46. His organization earnestly hoped that the Sub-Commission would take an appropriate decision to ensure that the mechanisms available to it and to the Commission on Human Rights were used to the maximum benefit of those in China who surely needed assistance and protection.

47. Mr. BOS (Bahá'i International Community) considered that it was necessary to bring to the Sub-Commission's attention the plight of the Bahá'i religious minority in the Islamic Republic of Iran as it was convinced that actions taken by United Nations human rights bodies had in the past been instrumental in diminishing the intensity of the persecution of the Bahá'i community in that country.

48. For the past 140 years, members of the Bahá'i faith had been persecuted in the land of its birth; since 1979 the persecution had been institutionalized, although the Government of the Islamic Republic of Iran had consistently denied that it was engaged in such a campaign of persecution on religious grounds. It had instead labelled the Bahá'i faith "a subversive political organization" and had accused the community of 300,000 adherents in that country of being a base for espionage activities. The Bahá'is, as an article of faith, were loyal citizens, obedient to the Government of their country. They were being prevented by religious prejudice from contributing their full share to the betterment of society.

49. The allegations of the Government of the Islamic Republic of Iran remained wholly unsubstantiated; indeed, the appellation "infidel" attached to the Bahá'is by the Iranian authorities demonstrated that their action was animated by religious prejudice. Furthermore, the authorities had, on almost every occasion, offered to suspend the sentences passed on the Bahá'is if they would recant their faith and convert to Islam.

50. His organization wished to recall its appreciation of the "Report on the human rights situation in the Islamic Republic of Iran" (E/CN.4/1989/26) prepared by the Special Representative of the Commission on Human Rights. The Special Representative had found that acts persisted in the Islamic Republic of Iran which were inconsistent with international instruments on human rights, and that the prevailing situation in that country justified international concern, study and constant monitoring by the United Nations. While the overt and violent persecution of the Bahá'is had recently been

mitigated, the overall danger persisted. The last known executions had taken place in the second half of 1988. Of the 780 Bahá'is known to have been imprisoned in 1986, a considerable number had been released, including 200 who had been released on bail. According to recent reports, as of 7 May 1989, 14 Bahá'is remained imprisoned in Iran, including 5 who had been arrested recently on unknown charges.

51. Bahá'i children were currently being admitted to primary and secondary schools but their right to university admission was still denied. Further, while a number of confiscated businesses owned by Bahá'is had been returned to their owners, business licences had not been renewed. Bahá'is were still being obstructed in their efforts to earn a living and approximately 10,000 had been dismissed from the civil service without compensation. Bahá'is killed by Muslims in accidents were regarded as "unprotected infidels" and their families had been denied any compensation. Despite recent events there had accordingly been no change in the Government's official policy. Bahá'is were still denied the right to profess their religion; their holy places had been confiscated or destroyed and they were not allowed to maintain the administrative institutions of their faith.

52. It was evident that the recent improvement in the condition of the Bahá'is was due essentially to the continuing demonstration of grave concern by the international community and it was therefore imperative that the situation of the Bahá'is should remain under international public scrutiny. It was the ardent hope of his organization that the vigilant attention of the Sub-Commission would continue and that the Iranian authorities would collaborate with the United Nations on the issue with a view to ensuring the cessation of the persecution of Bahá'is and the guarantee of their full human rights.

53. Mr. AL-JADIR (Arab Organization for Human Rights) invited the Sub-Commission's attention to the annual report of his organization for 1988 which dealt with the human rights situation throughout the Arab world.

54. The report laid heavy stress on instances of Israeli violence in the occupied territories since September 1987. The entire range of the human rights of the Palestinian people in those territories had been consistently violated by the occupation forces in flagrant defiance of article 64 of the Fourth Geneva Convention of 1949. The occupying authorities had issued 1,250 military orders on the West Bank and 900 in the Gaza Strip amending local laws in a manner detrimental to the values, rights and fundamental freedoms of the resident Palestinians. The rights to life, the integrity of the human person and to a fair trial had been cynically violated on innumerable occasions. Freedom of movement and travel had been restricted as had freedom of expression. The Israeli authorities had continued to attack the institutional organs of the Arabs. Twenty-four trade union offices had been shut down and the Israeli military had closed trade union headquarters in Nablus for two years. They had also attacked research institutions and had shut down other organizations, including agencies offering services to the Arab population not provided by the Government. Arab businesses, commerce and markets had been attacked. Restraints had been placed on the amount of money which individuals could carry on their person. Property and equipment had been destroyed and orchards had been damaged. The use of water had been limited. Article 33 of the Fourth Geneva Convention had been flouted as had article 50 of the rules annexed to the Hague Convention of 1907. Education

establishments had been closed, thus hampering the development of present and future generations by increasing illiteracy. The Israeli settlement policy currently affected 50 per cent of the area of the occupied territories where violence continued to rage. The expulsions of July 1989 represented the implementation of a policy aimed at the physical elimination of the Palestinian people from the territories. On 23 May 1989 a draft amendment to the instructions on the prevention of terrorism issued in 1948 had been given a first reading in the Knesset. Its aim was to paralyse and close down Palestinian humanitarian, social, cultural and educational activities in Israel which were receiving direct international assistance, without which it might not be possible to provide basic services to the population.

55. There had also been many violations of human rights in the Arab countries in 1988. Press censorship in most Arab countries had contributed to the curtailment of human rights.

56. Violations of human rights in Lebanon had been exacerbated in recent months amid the destruction caused by the incessant bombings. The situation in southern Lebanon had become very complicated as a result of the recent kidnapping of Sheik Obeid. A solution to the problems of Lebanon could only be found through the establishment of one single national Government.

57. The human rights situation in Somalia was deteriorating, particularly in the north, where the Government's persecution of the Somali National Movement had been stepped up.

58. His organization had been unable to hold its 1988 general assembly elsewhere than in Sudan where a coup d'état had taken place, leading to the dissolution of all the peoples' organizations.

59. The human rights of prisoners of war in Iraq and the Islamic Republic of Iran was also of concern and it was essential that action should be taken to protect their rights.

60. His organization would continue its struggle to safeguard the human rights and fundamental freedoms of all Arab citizens in accordance with the values of their Islamic heritage and the Universal Declaration of Human Rights.

61. Mr. HANNUM (Observer for the Procedural Aspects of International Law Institute) said that, prior to the adoption of Economic and Social Council resolution 1235 (XLII) in 1967, non-governmental organizations and experts had tended to refer to countries only in the most circumspect terms. In the current year, however, the Sub-Commission would hear direct reports of specific human rights violations in particular countries, some of the reports coming from victims and eyewitnesses themselves. Some people would like to limit the Sub-Commission's role to that of a technical advisory body, but in the light of the directive in Council resolution 1235 (XLII) and in response to the growing concern for human rights within the United Nations generally, the Sub-Commission's role did and should extend well beyond preparing studies and engaging in learned debate. It was clear from the working paper submitted by Mr. van Boven and Mr. Eide (E/CN.4/Sub.2/1989/47) and from discussions in the Sub-Commission itself that the Sub-Commission had an obligation to bring to the attention of the Commission situations which appeared to constitute gross violations of human rights. The fact that the Sub-Commission met half way between sessions of the Commission enabled it to respond to urgent

situations, draw the Commission's attention to recent developments and take appropriate action on countries which were already the subject of the Commission's concern. In March, for example, the Commission had adopted a decision encouraging the Government of Burma, now Myanmar, to take all necessary measures to ensure fundamental freedoms, including freedom of expression, of assembly and of association, with a view to enhancing the prospects for democracy. The Sub-Commission should draw the Commission's attention to the recent deterioration in the situation in Myanmar since military rulers continued to arrest opposition leaders and fire on unarmed demonstrators. It should also draw attention to the recent events in China.

62. The Sub-Commission had sometimes been accused of being too political or biased in adopting or rejecting resolutions. Those who criticized the Sub-Commission, however, should compare its actions with the distressing and blatantly political refusal by the Commission in March to deal with the serious violations of human rights in Iraq. Eight of the Governments which had refused to vote on the substance of the relevant resolution had nationals who were members of the Sub-Commission and he was confident that concern for human rights would outweigh geopolitical interests in the Sub-Commission.

63. Newcomers to meetings of the Sub-Commission had expressed surprise at the difficulty encountered in adopting resolutions on particular countries, even when there was ample evidence of serious human rights violations. Attacks on the Sub-Commission's alleged lack of independence were often based on its failure to act, rather than on any suggestion that a country in which there were no serious violations had been unfairly singled out for attention. The best response to such criticism was to adopt more rather than fewer resolutions, thus demonstrating the Sub-Commission's expert character and its freedom from political, social or regional bias.

64. There were, of course, situations that were so complex, and on which there was so little reliable information, that the Sub-Commission should refrain from acting, but its members were well aware of the countries in which Government-directed repression was occurring and statements by non-governmental organizations served primarily to confirm what they already knew.

65. As Mr. Khalifa had pointed out, it was not the Sub-Commission's role to accuse or to judge, but Council resolution 1235 (XLII) and the Sub-Commission's own integrity should prevent it from ignoring the violations of human rights in all countries. The Commission had set it the task of drawing attention to such violations, and the adoption of even 20 or 30 country-specific resolutions, by consensus if possible, would not only reaffirm the Sub-Commission's independence but would respond directly to the wishes of its parent body. As Mr. Alfonso Martínez had remarked, such decisions should be on a case-by-case basis, not on grounds which sought to achieve political or geographical balance. Many observers present today looked to members of the Sub-Commission to communicate their well-founded concern over human rights violations to higher United Nations bodies. They knew where gross violations of human rights and fundamental freedoms were occurring in the world: the question was what they would do about them.

66. Ms. YOUNG (International Human Rights Law Group), speaking on behalf of her own organization and the Human Rights Advocates, the International Commission of Jurists, the International League for Human Rights and the

Procedural Aspects of the International Law Institute, said that the massacre in which the People's Liberation Army had suppressed the peaceful expression of opinion by Chinese students and workers, on 3 and 4 June 1989, was part of a pattern of gross violations of human rights. Since 1949, the Chinese Government had broken up peaceful demonstrations in support of Tibetan autonomy with great brutality and had imposed severe restrictions on freedom of religion, expression and association; and in March 1989 Chinese security forces had killed several hundred people. While taking no position on the question of autonomy, the organizations on behalf of which she was speaking objected to the blatant violation of the right to peaceful expression of opinion.

67. Although many fundamental human rights had been violated in China in the past two-and-a-half months, she wished to focus on the violation of the right to life, the right not to be arbitrarily arrested or detained and the right to fair and impartial legal proceedings. She rejected the contention that the human rights violations in China were internal affairs of purely domestic concern. The violations concerned internationally recognized human rights; China had ratified a number of human rights treaties with international monitoring procedures and had also acknowledged the international nature of human rights by voting in favour of Commission on Human Rights resolutions to send United Nations investigators to examine allegations of human rights violations in Chile, Afghanistan, South Africa and the occupied Arab territories.

68. Article 3 of the Universal Declaration of Human Rights stated that everyone had the right to life, liberty and security of person and article 6 of the International Covenant on Civil and Political Rights provided that no one should be arbitrarily deprived of life; and that sentence of death should be imposed only for the most serious crimes. There was evidence that some of those involved in the pro-democracy movement had been secretly executed, without being charged or tried; and that the death sentence had been imposed in cases not serious enough to warrant its application.

69. In the aftermath of the pro-democracy demonstrations, the right to freedom from arbitrary arrest and detention, under article 9 of the Universal Declaration, was being violated and reliable sources estimated that at least 10,000 people had been arrested. A circular issued by the Government on 9 July 1989 reported that individuals were being arrested for propagating and actively supporting the spread of bourgeois liberalization, supporting, organizing and participating in the counter-revolutionary rebellion, and leading illegal organizations formed during the protests in April and May 1989. The circular stated that those crimes could entail punishment from prison to reform through labour and, in extreme cases, execution. In view of the peaceful manner in which Chinese students and workers had conducted themselves, arrest and detention on those grounds constituted punishment for the peaceful expression of opinion and for exercising the rights of peaceful assembly and of association. The arrests, detentions and sentences had been imposed without regard for essential procedural protection required by international law, as set forth in articles 10 and 11 of the Universal Declaration.

70. There was reason to question the independence and impartiality of the Chinese judiciary with regard to the trial of those involved in the pro-democracy movement. In a circular released on 21 June 1989, the Supreme People's Court of the People's Republic of China encouraged Chinese judges to

study the Government's version of the events surrounding the pro-democracy movement and urged that persons who organized counter-revolutionary propaganda be punished without leniency. Certain guarantees necessary for an effective defence were also absent in the trials in question, for example those set forth in article 14 of the International Covenant, which required adequate time to prepare a defence and to communicate with counsel of the defendant's own choosing, and provided that everyone convicted of a crime should have the right to his conviction and sentence being reviewed by a higher tribunal according to law. The Chinese criminal procedure law required that a defendant should be informed of the charges against him and of his right to appoint a lawyer a minimum of seven days before his trial. The court might ignore even that minimum in cases involving people on whom death sentences should be imposed, where the main criminal facts were clear, the evidence irrefutable and the people's indignation very great. That precluded respect for the right to adequate time to prepare a defence and violated the right to be presumed innocent. It was true that, under international law, the rights associated with arrest, detention and trial - unlike the right to life - might be derogated from in time of public emergency threatening the life of the nation, but in the light of the peaceful nature of the expression of the opinion in which the pro-democracy demonstrators had been engaged, it was highly doubtful that the brutal measures taken by the Government had been strictly required by the exigencies of the situation.

71. The serious nature of the human rights violations currently occurring in the People's Republic of China required a serious response. She therefore appealed to the Sub-Commission to express its deep concern at those violations; to appeal to the Government of the People's Republic of China to stop all violence, arrest and punishment of those who peacefully expressed their opinion, and to give an assurance that those currently detained would be promptly released or charged and tried in accordance with internationally recognized standards; and to request the Commission on Human Rights to examine and report on the condition of human rights in the People's Republic of China at its forty-fifth session.

72. Mr. COHEN (International League for Human Rights) said that during the period between 3 and 9 June 1989, in Beijing, Shanghai, Chengdu and other major cities of China, the Chinese Government had brutally suppressed overwhelmingly peaceful demonstrations of popular dissatisfaction that were unprecedented in size, duration and social solidarity. The premeditated massacre in Beijing had been followed by a massive campaign of nationwide arrests, detentions and executions to deter the Chinese people from exercising their basic rights of freedom of information, expression, association and assembly, guaranteed them under the Charter of the United Nations, the Universal Declaration of Human Rights and customary international law. Indeed, the violence inflicted by troops and the subsequent application of State coercive power had violated the internationally guaranteed fundamental rights of the Chinese people not to be arbitrarily deprived of life, subjected to torture or other cruel, inhuman or degrading treatment, or without an opportunity for a fair and public trial by an independent and impartial tribunal.

73. The situation in China today was tragic for the leadership, facing a frightened and sullen people, but far more so for the victims of the régime's brutality and their families. Thousands of defenceless but courageous students and workers had been shot down, many killed and many more wounded,

and even larger numbers had been summarily punished, some without resort to even a truncated judicial process. The bulk of the population had now returned to a life of intimidation, fear and isolation.

74. In order to exercise their human rights, people must first know what they were. The people of China had a critical need for access to information, including information on human rights standards and international institutions, such as the Sub-Commission. The Chinese authorities were aware of the condemnation of their recent actions by world opinion and by their own people. They had therefore ceased publicizing most arrests, convictions and executions and had fabricated a version of the events leading up to their decision to use force against peaceful demonstrators, who were not calling for the overthrow of the Communist Party but for freedom of the press, an end to corruption and nepotism and the right to participate freely in China's political process and to other civil and political rights guaranteed by international law.

75. Eye-witness reports and instant and accurate foreign news coverage of developments in Beijing had made it possible to establish the gross inaccuracy of the régime's accounts. The Government had claimed that an extremely small group of alleged counter-revolutionaries had threatened the social order and the security of the nation, by tricking the unknowing masses into public demonstrations. Yet no amount of manipulation of video tapes could obliterate the fact that those involved in the pro-democracy movement had been overwhelmingly peaceful in their objectives and actions. The threat they had posed was to a ruling group determined to retain its power and privileges. The régime's claim that suppression of its people was its internal affair - traditionally the last refuge of the tyrant - was not an acceptable argument in the Sub-Commission, especially by a Government that had not hesitated to condemn similar actions by other States when expedient. It had claimed that the delay in suppressing the protesters had shown great restraint, but in fact the delay had been due not to tolerance but to the paralysis of a badly divided and isolated leadership experiencing acute difficulty in reaching decisions under the glare of the unusual publicity brought to Beijing by the Asian Development Bank meetings and the Gorbachev visit. The attempt to defend the massacre on the ground that the régime lacked adequate supplies of tear gas and crowd control equipment and had therefore had no alternative, was not supported by the facts. The claim by Chinese diplomats that the massacre had been the creation of the Western press was merely a new version of the public relations technique: "Shoot the messenger of bad tidings". Reliable accounts demonstrated that the force employed in the June massacre had been wholly disproportionate and that the use of force had violated the established framework of norms guaranteeing the right to life and governing the conduct of law enforcement officials.

76. The International League for Human Rights had available a large number of photographs revealing the extent of the violence inflicted by the People's Liberation Army on 3 to 4 June which it would like to present to the Sub-Commission as part of its submission. The League and the Ad Hoc Study Group on Human Rights in China had also prepared and had available a detailed report entitled "Massacre in Beijing: the events of 3-4 June 1989 and the aftermath". It requested the Sub-Commission to initiate steps to condemn the régime's denial of rights by its recourse to military force and its subsequent repression, and to press the Government to end the current sad state of affairs.

77. Mrs. WARZAZI said that the observer for the Procedural Aspects of International Law Institute seemed to have exceeded his prerogative somewhat in trying to give moral lessons to the experts of the Sub-Commission. She had the greatest respect for most non-governmental organizations and considered that they should be supported and encouraged as much as possible. She would therefore refrain from anything that would prejudice them, although some non-governmental organizations certainly merited moral lessons and the observer's criticisms of experts could equally well be levelled at certain non-governmental organizations. The difference was that those organizations had to demonstrate impartiality and objectivity in order to be heard and understood by those who had to pronounce on the validity of their information. On the present occasion, however, she would give the observer the benefit of the doubt.

78. Mr. van BOVEN, referring to the discussion on the need for serenity and the need to refrain from using abusive or offensive language, said that he had been called away in the middle of the statement by the observer for Syria the previous day, but had listened to the English interpretation on the tape recording. The observer for Syria had spoken in exercise of the right of reply to a statement by the observer for the World Union for Progressive Judaism - whose statement had also in some respects, in his opinion, failed to comply with the need for serenity. However, the Syrian observer had chosen to use language which was not in keeping with article 20 (2) of the International Covenant on Civil and Political Rights which prohibited the advocacy of national, racial or religious hatred. In his opinion, the statement had done a disservice to the standing of the Sub-Commission and of the United Nations. He felt compelled to place his views on record and he echoed the Chairman's earlier appeal to speakers to refrain from using offensive language.

79. Mr. ALFONSO MARTINEZ agreed that it was better to avoid discussions of the kind now taking place. However, an observer for a non-governmental organization had made a statement and a Government observer had replied to it. Had the offensive comment not been made - and the Government concerned had even been accused of genocide - there would have been no need for the Government observer to exercise the right of reply.

80. He preferred not to be involved in such discussions, but he felt morally obliged to speak every time such criticisms were voiced.

81. Mr. WALDEN (Observer for Israel) said because of certain comments by an expert, however, which included comparisons of Israel with the Nazis, as well as other remarks, he would simply like to know whether the prohibition of the use of abusive language, to which Mr. van Boven had just referred and to which the Chairman had referred at the beginning of the discussion, applied only to observers or whether it also applied to experts. He would have thought that experts ought to abide by the standards which they wished to see observed.

82. The CHAIRMAN said that the prohibition applied to everyone who took the floor.

The meeting rose at 1.05 p.m.