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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 18 August 1989, at 3 p.m.

Chairman: Mr. YIMER

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The meeting was called to order at 3.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)

(E/CN.4/Sub.2/1989/11; E/CN.4/Sub.2/1989/12; and E/CN.4/Sub.2/1989/13; E/CN.4/Sub.2/1989/14 and Add.1; E/CN.4/Sub.2/1989/15; E/CN.4/Sub.2/1989/46; E/CN.4/Sub.2/1989/48; E/CN.4/Sub.2/1989/52; E/CN.4/Sub.2/1989/NGO/2; E/CN.4/Sub.2/1989/NGO/3; E/CN.4/1989/7; E/CN.4/1989/8; E/CN.4/1989/23; E/CN.4/1989/24; E/CN.4/1989/25; E/CN.4/1989/26; E/CN.4/1989/27)

1. Mrs. FAUCHERE (World Confederation of Labour) said that her organization was deeply distressed by the cruel military repression of the Beijing demonstrations in which, for over a month and a half, hundreds of thousands of people had peacefully expressed their desire for freedom and democracy and called on the Chinese Government to put an end to corruption and respect human rights, particularly the right to freedom of expression. Having turned a deaf ear to those demands, the Chinese Government had declared martial law before sending army tanks to crush the demonstrators. No one would ever know the exact number of victims of the massacre. Compounding horror with odiousness, the Chinese authorities had thanked the army and police for having repressed what they called the "counter-revolutionary rebellion", and had arranged for a minute of silence to be observed for the soldiers killed in the confrontations of 3 and 4 June 1989, while ignoring the massacre of unarmed civilians by the armed forces.

2. The leaders of the régime had now regained power and, through propaganda, were rewriting the history of those events in order to justify the calls for denunciations and the mass arrests, ill-treatment, summary trials and executions. The Chinese legal system had been transformed into an instrument of repression and the law had been overturned and subordinated to the political ends of the party in power. In violation of the law, thousands of people, and particularly of workers, had been arrested, tried, condemned and executed, sometimes even in public after being tortured. Many more had been discharged from their jobs on the ground of "bourgeois liberalism". The repression was continuing and the Government had prepared a bill considerably restricting the right to demonstrate and prohibiting any criticism of communist party leaders or of the socialist system.

3. The World Confederation of Labour therefore urged the Sub-Commission to appeal to the Chinese Government to abolish the death penalty, put an end to the arrests, torture and inhuman treatment inflicted both inside and outside prisons, order the immediate and unconditional release of all prisoners of conscience, proclaim a general amnesty with a view to securing social peace and lift all the restrictions imposed on democratic rights and freedoms.

4. Mr. ADJABI (Observer for Algeria) said that the Sub-Commission was once again considering the question of violations of human rights, which human conscience reprobated and condemned and which the United Nations was firmly committed to eliminating in order to build a future of mutual respect of man for man.

5. At the end of a century marked by considerable technical progress, the world was still witnessing the persistence of contemptible racial theories, whose application was having catastrophic effects in some parts of the world. For example, in South Africa, where racial supremacy had been established as a system, there had been no genuine improvement in the human rights situation of the black population despite the progress made in settling the Namibian conflict. The facts had amply demonstrated the inability of the Pretoria régime to mend its ways and finally renounce its immoral aims and the methods used to achieve them. His delegation fully subscribed to the conclusions in Mr. Khalifa's report (E/CN.4/Sub.2/1989/9 and Add.1). Algeria would continue to support the heroic people of South Africa in their struggle for freedom and dignity, and would spare no effort to ensure the implementation of decisions and resolutions providing for global and mandatory sanctions against South Africa in order to force the Pretoria régime to renounce its racist policy and recognize the legitimate rights of the South African people.

6. The situation of the Palestinians in the Arab territories occupied by Israel was no better than that of the black population of South Africa. Not a day passed without Israeli forces violating the human rights of the Palestinians. The international community's appeals to Israel to put an end to its practices were met by the adoption of further repressive measures such as the extension of the period of administrative detention, which had recently been increased from six months to a year, or the compulsory carrying of special identity badges by Palestinians going to work in the occupied Arab territories. Israel was thus seeking to keep Palestinians in a state of terror. The act of piracy recently committed by the Israeli Government, with disastrous consequences, was but one aspect of a policy which was a constant threat to peace in the area. The Sub-Commission should adopt a firm position to make Israel desist from such acts and finally recognize the right of the Palestinians to self-determination and to the establishment of an independent State on their own territory.

7. Algeria would continue to participate in the efforts being made to bring about national reconciliation in Lebanon so that that country could at last live in peace and make its civilizing influence felt once more.

8. Mr. KHOURI (Union of Arab Jurists) said that his organization was following with concern the daily events in the occupied Arab territories where, in order to suppress the intifada, the Israeli authorities were committing flagrant violations of human rights in various forms, in defiance of international human rights instruments, and in particular of the Fourth Geneva Convention of 1949. Israel was also continuing its policy of colonization not only in the Arab territories occupied in 1967 but also in the Syrian territory of the Golan Heights which it had annexed by force, and was pursuing a policy of aggression against South Lebanon in order to divert attention from the intifada. In doing so, it was preventing the United Nations from finding a solution that could guarantee the legitimate rights of all parties. The Union of Arab Jurists hoped that the Sub-Commission would contribute to the efforts made to induce Israel to put an end to those violations and respect the resolutions of the Security Council, the General Assembly and the Commission on Human Rights.

9. Progress had been made in the Arab world in the field of human rights. For example, some countries had declared a general amnesty and had released prisoners of conscience. The situation was still disturbing in many others, however. Arbitrary arrests and irregular trials were on the increase and the people were enduring states of siege imposed in many cases for an indefinite period. In particular, Lebanon, which had been one of the founders of the Arab League, was at present living through a terrible tragedy. It was imperative to solve that conflict and re-establish a dialogue among all the communities in the country, but, as the Bureau of the Union of Arab Jurists which had met in Tunis on 2 August 1989 had already emphasized in a declaration, it was first and foremost essential for all foreign forces to be withdrawn from Lebanon.

10. The Union of Arab Jurists was also concerned about the fate of Iranian and Iraqi prisoners of war who - in contravention of the provisions of article 118 of the Geneva Convention of 1949 relative to the treatment of prisoners of war, under which all prisoners must be released and repatriated without delay after the ending of active hostilities - had still not been released. Support should be given to the efforts of the International Committee of the Red Cross to get the two countries finally to engage in an exchange of prisoners and thus put an end to the sufferings of those prisoners and their families.

11. Lastly, the Union of Arab Jurists condemned the efforts being made in certain quarters to cast doubt on the independence of some of the Sub-Commission's experts. The human rights situation in a particular country had nothing to do with the personality of the expert from that country.

12. Mr. GLAIEL (Observer for the Syrian Arab Republic) said that the myth of membership of a particular ethnic group was the source of many social tragedies and one of the major obstacles to respect for human rights throughout the world. It was from that myth that the violations of human rights committed by the Pretoria régime and the Tel Aviv Government had arisen.

13. The indigenous peoples of South Africa were not considered as full citizens and were exploited by an all-powerful white minority. A similar policy was applied in the Arab territories occupied by Israel, because zionism was based on discrimination and the idea that the Jew was superior to the Arab. It was from that perspective that the occupation authorities were establishing colonies and driving the Arabs from their lands or persecuting those who refused to leave. What terms could be used to describe such practices or the use of napalm or toxic gas against civilians?

14. The analogy between the two régimes was clear. It was even so evident that the two Governments were almost forced to co-operate in order to maintain themselves in power. Both were acting in violation of the provisions of articles 1 and 2 of the Universal Declaration of Human Rights, which established the principle of equality among all human beings and of non-discrimination, and were doing so with the support and assistance of States which nevertheless claimed to be defenders of human rights.

15. The Syrian Arab Republic had consistently fought against zionism and apartheid, the more so since a part of its territory was occupied and some of its citizens were deprived of their human rights in the same way as were the Palestinians and black South Africans, who were strangers in their own land.

16. He hoped that the Sub-Commission would propose solutions for putting an end to those violations. Mr. Khalifa's report (E/CN.4/Sub.2/1989 and Add.1) was an example of the way in which members of the Sub-Commission could help to put an end to those disgraceful situations.

17. Mr. ZHIZHONG (Observer for China) said that from mid-April to early June 1989, Beijing had been the scene of tumultuous events which had started with student demonstrations that had later turned into a riot and ended in rebellion. That was an unprecedented event in the history of the New China. The Chinese Government had at first adopted an attitude of great restraint and tolerance in the face of the disturbances provoked by a very small group of agitators in total disregard of the Constitution and laws of the State. Since the disturbances had nevertheless reached such a level that the capital of China and the whole country were in a state of crisis, the Government had been forced, in order to maintain the Constitution and the stability of China and to protect the interests of 1.1 billion Chinese people, to take measures to put an end to the rebellion.

18. The student movement launched in mid-April in some Beijing universities had, from the outset, been manipulated and exploited by a small group of people. By late April, the nature of the movement had changed and serious disturbances had begun to take place. In mid-May, the students had begun a hunger-strike and occupied Tiananmen Square, and that had made it necessary to cancel some activities and change the programme of the important Sino-Soviet summit meeting. The Chinese authorities had nevertheless continued to show great restraint and members of the Government had on several occasions visited the students to try and persuade them to end their hunger-strike. Hundreds of doctors and nurses had been sent to care for them day and night. Unfortunately, a handful of agitators had been determined to dramatize the situation and stir up a riot, and the students had continued to besiege the central Government headquarters and to block traffic. The Chinese capital had fallen into serious anarchy, with a complete breakdown of social order. The seriousness of such a situation in a city of 10 million inhabitants could readily be imagined.

19. There had also been signs that the riots in Beijing were about to spread to other Chinese cities. In the circumstances, unless immediate measures were taken to reverse the situation and secure stability, the entire country would obviously have fallen into a state of chaos and the process of reform and opening-up of China, together with its modernization programmes, would have been destroyed overnight, jeopardizing the future and the well-being of the nation. In order to restore public order in the capital and prevent the riots from spreading, the Council of State had had no alternative but to declare martial law in parts of Beijing. That, however, had not sufficed to end the activities of the agitators, who had sought to escalate the riot further. They had gone so far as to call openly for the dismissal of the principal Chinese leaders and the overthrow of the constitutional Government, and had plotted to set up a so-called "new Government". They had also founded paramilitary terrorist organizations and declared their intention of abducting or arresting members of the Government.

20. On 3 and 4 June, the situation had further deteriorated and the riots had turned into an anti-government rebellion. A small number of rioters had set up road blocks, attacked soldiers and set fire to army vehicles. They had seized arms and ammunition and had abducted and even killed soldiers, in some cases spraying the bodies with petrol and burning them. Then and only then had the troops responsible for applying martial law taken measures to crush the rebellion. During that action, 6,000 members of the armed forces and police and security forces had been injured and dozens had been killed. In addition, 1,200 military and police vehicles had been destroyed, burned or damaged. A large amount of arms and ammunition had been stolen. That demonstrated how much patience the Government had shown, since the army would not otherwise have suffered such losses.

21. Because of the chaotic situation that had prevailed during the quelling of the rebellion, some innocent people and bystanders had unfortunately been accidentally injured along with the rioters. After careful verification, it had been established that 3,000 civilians had been injured and over 200, including 36 students, had died. The loss of innocent lives was indeed regrettable and something the Government had not wished to see.

22. It had been claimed that the troops responsible for enforcing martial law had killed hundreds and even thousands of students on Tiananmen Square. The person who, two days earlier, had spoken in the Sub-Commission on behalf of the International Federation of Human Rights had repeated that version, which was far from the truth. Tiananmen Square was a most important place for the Chinese people. Yet for two months it had been illegally occupied by a group of people who had gone so far as to advocate the overthrow of the Government and provoke riots. On the morning of 4 June, after troops had cleared the Square, the students' withdrawal had been generally peaceful. Not a single person had been killed by the army or run over by military vehicles, and to assert that there had been a bloodbath on the Square was a sheer fabrication.

23. It was clear from the foregoing that the disturbances had in no way been peaceful demonstrations or simple criticism of the Government by students, but had constituted rebellion aimed at overthrowing the constitutional Government and changing China's social system.

24. Serious investigation had shown that the political disturbances had been carefully pre-planned under strong foreign influence. Some forces abroad had provided considerable financial and material support to the rioters. Certain foreign media had also played a part in instigating the unrest and had helped in causing Beijing to fall prey to rumours of all kinds. Many people unaware of the true situation had thus been led astray.

25. The Chinese Government attached importance to human rights and had always actively supported United Nations efforts to promote human rights and fundamental freedoms.

26. The CHAIRMAN reminded the Observer for China that he had exceeded the time allowed for his statement.

27. Mrs. WARZAZI, speaking on a point of order, said that although the Sub-Commission had decided to allow experts only 15 to 20 minutes for their statements and non-governmental organizations and government observers only 10 minutes, it had made some exceptions. In the case of the agenda item under discussion, for example, Mrs. Palley had spoken for 50 minutes without any interruption. The question being dealt with was extremely serious, and having heard a score of non-governmental organizations expressing their views on the situation in China, she felt it necessary to hear the version of the Observer from that country. The Sub-Commission should therefore show some flexibility in the circumstances and should not strictly apply the 10-minute rule.

28. Mr. ALFONSO MARTINEZ supported Mrs. Warzazi's proposal.

29. Mr. ZHIZHONG (Observer for China), continuing his statement, said that the Chinese Constitution and legislation effectively guaranteed to citizens the enjoyment of their political, economic, cultural and educational rights, the right to religious belief and all other basic rights. The enjoyment of those rights must not, however, do harm to others, much less to society and the established order.

30. It was precisely to safeguard the human rights and fundamental freedoms of the vast majority of the Chinese people that the Government had taken steps to put an end to the disturbances, quell the rebellion and, in accordance with the law, to bring to justice the few criminals who had severely undermined the social order and attempted to overthrow the constitutional Government. Those were the measures that every sovereign State was entitled to take. The putting down of riots and rebellions so as to maintain State order was a domestic affair of the State concerned alone and no foreign country or international organization had a right to intervene on any pretext whatsoever.

31. The situation in Beijing was now returning to normal and social order had been restored. The incident would not lead to any change in the domestic or foreign policy of China, which would continue to pursue its reform and opening-up policy. Any Government shortcomings would be rectified and gradually overcome. China would adhere to a peaceful and independent foreign policy and would continue to develop friendly relations with all other countries on the basis of the five principles of peaceful co-existence. It would continue to contribute to the maintenance of world peace and promotion of world development. He hoped his statement had helped China's friends to form a true picture of events and draw the proper conclusions.

32. Mr. WALKER (Observer for Australia) said that his country seldom made any statement on the agenda item under discussion and the fact that it was doing so on the present occasion showed the extent of its concern at the scale of the tragedy that had occurred in China.

33. Mr. ALFONSO MARTINEZ, speaking on a point of order, requested the Chairman to explain the conditions in which observers from countries and non-governmental organizations were allowed to take part in the discussion. If he had understood correctly what the Chairman had said at the beginning of the session, such observers and non-governmental organizations were perfectly entitled to take the floor when the question under consideration was of special interest to them - in other words, in the case of Government observers, when the question was connected with the situation in their countries. If that interpretation was correct, the statement by the Observer

for Australia seemed unacceptable and he wished to know whether, in the specific case of a State represented by an observer in the Sub-Commission, that observer could refer to the situation in another country in order to criticize it. Such a practice could lead to interminable discussions.

34. The CHAIRMAN drew the Sub-Commission's attention to rule 69 of the rules of procedure, in accordance with which the Sub-Commission could invite any Member of the United Nations or any other State to participate in its deliberations "on any matter of particular concern to that State". In other words, for the observer for a State to be entitled to make a statement, the question to which he was referring must be of particular concern to it.

35. Mr. EIDE, while in no way disagreeing with what the Chairman had just said, stressed that the whole problem was to determine who should decide whether a question was of "particular concern" to a State. In general, he would be inclined to recommend observers for States not to participate in the discussion unless they were directly concerned by the question under consideration. It should, however, be left to the State to decide whether the question under consideration was of particular concern to it, as might be the case when there was strong feeling in the country on the subject. He had, for example, heard statements by Government observers concerning Israel and South Africa, and he considered that if those observers were concerned about the situation in those two countries, it was quite natural for them to say so.

36. Mr. DESPOUY said that he shared Mr. Eide's view and feared that, by breaking with long practice, the Sub-Commission might create a serious precedent. A restrictive interpretation of the rules of procedure appeared to be inappropriate. Human rights questions concerned the world as a whole, and while the contributions of non-governmental organizations were certainly very useful to the Sub-Commission, the latter should also hear the views of States when a question was of concern to them. The Sub-Commission might request them to confine their statements to questions of direct concern to them, but it could not interpret the rules of procedure as prohibiting them from expressing their views on a particular situation.

37. Mr. ALFONSO MARTINEZ noted that Mr. Eide had said that he had already heard statements about Israel or South Africa by Government observers in the Sub-Commission when the country of the observer in question was not directly affected by the situation there. In those two cases, and particularly in the case of Israel, the State observers concerned had spoken on the subject in what might be considered as a right of reply because implications had been made about them in a previous statement concerning the situation in Israel. In the case of South Africa, there might have been other considerations which he could not call to mind and he therefore found it unjustified to liken those cases to that of China.

38. What concerned him most of all, however, was the substance of the question. When the Sub-Commission had stated that its deliberations were not the same as those of the Commission on Human Rights, and when it had added that it must maintain some institutional order in its discussions, that had been because it considered it extremely interesting to hear the views of States in cases in which there had either been a specific accusation against them or a specific reference to the situation existing in them. It was, for example, logical to hear the Observer for China reply to the accusations made

against his country and present his version of what had occurred there. If a non-governmental organization or a Sub-Commission expert referred to the human rights situation in Australia, he would be perfectly prepared to hear what the observer of that country had to say on the subject.

39. In reply to what Mr. Despouy had said, he stressed that the Sub-Commission had a duty to interpret its rules of procedure: that was a responsibility it could not shirk. It could, however, ask the Secretariat, and particularly its legal service, for some strictly legal advice based on precedents, before assuming that responsibility.

40. He urged the Sub-Commission, while awaiting that legal advice, to refrain from creating a precedent that it might later regret when considering other matters.

41. The CHAIRMAN said that it was for the Sub-Commission to decide who should determine whether or not a question was of "particular concern" to a State that had asked to speak on it. The impact of that decision on its future work would vary, depending on whether it decided that the Sub-Commission itself, the Chairman or the observer State concerned should determine the issue.

42. Mr. DIACONU said that the question was not to determine whether observer States should or should not be allowed to take the floor, since in his view they should be given the floor whenever they had something to say, but rather to determine the conditions in which that should be done.

43. He reminded the Sub-Commission of the decision it had taken in 1982, when it had sought to do away with mutual recriminations among observer States. The reason for that decision was still valid. If the Sub-Commission allowed a discussion to be opened among observer States, the experts would, as it were, become mere spectators, and that was hardly likely to be conducive to their work. It might be necessary therefore to re-read the 1982 decision once again and request observer States that took the floor to refer to the questions under consideration and, as far as possible, to avoid mentioning other States expressly by name, particularly since everyone generally knew what States were being referred to.

44. Mrs. PALLEY recalled that there was a recognized principle in international law whereby a State could decide whether and to what extent its interests were involved and how they must be defended. That principle was recognized by the European Court of Human Rights and the International Court of Justice. While it was true that a State might exceed its rights in that regard, it should be allowed that measure of judgement.

45. In the specific case of Australia, she considered that that country and Canada, both of which had many nationals with dual Chinese and Australian or Chinese and Canadian nationality, could indeed claim that the question was of particular concern to them.

46. If the Sub-Commission refused to give States the opportunity to express themselves freely - since that was how any negative decision on the matter by the Sub-Commission would be viewed - that decision would unquestionably have very serious consequences for the Sub-Commission. She found it surprising that it allowed non-governmental organizations - which did of course represent interests, but not of as important a nature as the interests of States - to

take the floor when they deemed it necessary, and did not do the same for observer States. In her view, States should be allowed to express their views whenever they wished to do so. The importance which the Sub-Commission then attached to their statements was another matter.

47. Mr. EIDE said that he did not entirely agree with Mrs. Palley. In order not to impede the Sub-Commission's discussions, observer States should be requested not to take the floor unless they were directly concerned by the question under discussion.

48. In that respect, he shared the view of Mr. Alfonso Martínez, but there could be no strict rule in the matter, and the observer State should be left to determine whether the question being considered by the Sub-Commission was of particular concern to it. If, however, the Sub-Commission decided not to authorize observer States to take the floor when the matter under consideration did not affect them directly, it would then have to apply that rule strictly.

49. Mrs. WARZAZI said that the rules of procedure were worded in such a way that not only Mr. Alfonso Martínez but also those who did not share his views could be considered to be in the right. The Commission should at all costs guard against turning itself into a political body. If States were allowed to criticize other States, the Sub-Commission's discussions would be like those of any other organ of the General Assembly, and would thus lose their effectiveness. She was quite prepared to hear the Observer for Australia if his statement was uncontroversial, but it would be wiser first to consult the Legal Counsel on the interpretation to be given to rule 69 of the rules of procedure and then take a decision.

50. The CHAIRMAN recalled that, in its decision 1982/12, the Sub-Commission had expressed the view that, in order to avoid inter-State recriminations which were detrimental to its work as an expert body, observers for States should in future, when invited to participate on the agenda item under discussion, "not implicate other States in a deliberately abusive manner".

51. Mr. TREAT said it would be wise to ask for the opinion of the Legal Counsel even though he himself regretted that that would, for the moment, prevent the observer for a State from expressing his views. On the other hand, he could hardly see how Mr. Alfonso Martínez' interpretation concerning a possible decision by the Chairman could be applicable in all cases, and it seemed preferable to allow observers for States to express their views provided they did so with moderation.

52. Mr. JOINET said he shared Mrs. Warzazi's fear that the Sub-Commission might end up by transforming itself into a political forum. It was obvious that the comments of State observers who took the floor were directed more towards the outside media than at the Sub-Commission itself, as Mrs. Palley would wish. Furthermore, if Mrs. Palley regretted that the non-governmental organizations appeared to enjoy different treatment in that regard from the treatment accorded to State observers, would she wish non-governmental organizations to be allowed to engage in mutual criticism in their statements? The Sub-Commission might well consult the Legal Counsel, submitting its 1982 decision to him.

53. Mr. van BOVEN recalled that he had already had occasion to say that the Sub-Commission should not become an intergovernmental body and that State observers should express their views with moderation. The report of the previous session showed, however, that under the agenda item under discussion the Sub-Commission had, in 1988, heard statements by the observers for 16 States, and that the observers for 11 States had spoken in exercise of the right of reply (E/CN.4/1989/3, paras. 160 and 163 respectively). Should it therefore be inferred that the Rapporteur for the previous session had taken it that in 16 cases, observers for States had made statements that were not in exercise of the right of reply?

54. Mr. DESPOUY said he understood that there had been a consensus in the Sub-Commission on the scope of rule 69 of the rules of procedure. Whereas, under rule 45 observers for States could exercise their right of reply, rule 69 allowed any State to express its views beyond the strict framework of a simple right of reply. He therefore thought that observers for States could be allowed to speak on condition that they refrained, as the Sub-Commission had urged them to do in its decision 1982/12, from implicating other States in a deliberately abusive manner.

55. Mr. ILKAHANAF observed that the question of determining the conditions in which observers for States could express their views and exercise their right of reply had arisen at all sessions of the Sub-Commission. If the Sub-Commission decided to depart from its earlier practice, that decision would have a bearing on all agenda items and not only on the item under consideration.

56. Mr. JOINET, recalling that he had been Rapporteur of the Sub-Commission two years earlier, explained to Mr. van Boven that observers for States generally made an uncontroversial initial statement to explain the situation in their country. Rights of reply sometimes related to statements by States, but primarily to those of non-governmental organizations.

57. Mrs. BAUTISTA said that the Sub-Commission had often stressed the fact that human rights were an international problem and that the human rights situation in a particular country could affect international peace and security. It would be contrary to that principle to refuse to allow observers for States to speak on matters that were of no direct concern to them. Observers for States should therefore be allowed to express their views provided that they did not do so in a deliberately abusive manner.

58. The CHAIRMAN said that the Sub-Commission might request the opinion of the Legal Counsel on the interpretation of rule 69 of its rules of procedure and meanwhile allow observers for States to express their views at the current session provided they were careful about the terms they used and the relevance of their statements.

59. Mr. ALFONSO MARTINEZ said that the Chairman's suggestion would not solve the entire problem and could create a precedent that might very shortly be regretted. There was no question of denying anyone his right to the exercise of freedom of expression. The Chairman's suggestion, if adopted, would have the effect of subjecting the Sub-Commission to the will of the various States.

60. He therefore proposed that the Sub-Commission should seek the advice of the Secretariat's Legal Counsel on the following three points: (1) Was the Sub-Commission entitled to interpret its own rules of procedure, and specifically rule 69? (2) If so, could the wording of rule 69, in which it was stated that a subsidiary organ of the Commission could invite "any State that is not one of its own members to participate in its deliberations on any matter of particular concern to that State", be interpreted as meaning that, on agenda item 6, observers for States could make statements on the situation in their own State but not on the situation in other States? (3) If the Legal Counsel considered that rule 69 could be interpreted as meaning that observers for States could refer to other States, could the States referred to exercise their right of reply or make a statement equivalent to a right of reply?

61. Mrs. PALLEY said that she would like to amend Mr. Alfonso Martínez' proposal by adding the following sentence: "Until such time as the Sub-Commission has had an opportunity to discuss and take a view on the legal opinion and proper procedures to be followed in the future, States should have the right to take the floor on item 6, subject to their not speaking abusively of other States."

62. Mr. EIDE noted that, at the beginning of the meeting, the observer for Algeria had spoken about South Africa and Israel - two States that could be considered as not of direct concern to the country he represented. He could not see why Mr. Alfonso Martínez was persisting in his approach, even though his concern was understandable.

63. Mrs. WARZAZI said that to listen to Mr. Eide, it might be thought that he was unaware that Algeria was on the African continent and an Arab State. In order to get out of the present impasse, it might be best to request the observer for Australia, who would certainly have realized all the difficulties his request had raised, to wait until the Sub-Commission had taken note of the Legal Counsel's opinion - probably on Monday, 21 August.

64. Mrs. KSENTINI, speaking on a point of order, observed that, as Mrs. Warzazi had pointed out in connection with Algeria, a State sometimes had a direct interest in referring to the situation in another State. A distinction must also be drawn between statements made by a State on questions of domestic law and those concerning a situation of international significance. The problem of the Palestinian people and the apartheid system in South Africa were unquestionably of international significance.

65. Mr. WALKER (Observer for Australia) said that he could certainly wait for the Legal Counsel's opinion, which should be available to the Sub-Commission on Monday, 21 August. He wished to emphasize, however, that human rights problems were of particular concern to the Australian Government. Furthermore, he had had no intention of speaking in an abusive manner about any country whatever.

66. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to ask for the Legal Counsel's opinion in accordance with Mr. Alfonso Martínez' proposal and to wait until that opinion was made known to it on Monday, 21 August, before allowing observers for States to speak on agenda item 6.

67. It was so decided.

68. Mrs. KSENTINI said that, when examining the question of the violation of human rights in all countries, the Sub-Commission could take stock of what had been done since the adoption of the Charter of the United Nations.

69. Co-operation in human rights matters had long been limited by respect for the principle of non-interference in the internal affairs of States, understood in a restrictive sense, and by the absence of effective international machinery.

70. On the principle of non-interference, no State could lay claim any longer to a special preserve, and the concept had gradually given way to that of international interest in the field of human rights. A balance had thus to be found between domestic law and the right to intervene in certain situations when domestic remedies had been exhausted. The world was thus witnessing a move towards international machinery that, in certain cases, would take the place of domestic procedures, and was seeing the emergence of the concept of human rights defenders. The question of the lawfulness or unlawfulness of certain restrictions of relevant international standards was also topical.

71. A liberal approach to human rights, with emphasis on individual and political rights, had long been followed. It might be noted, in that connection, that the 1948 Universal Declaration of Human Rights had not highlighted collective and economic rights and had blurred the principle of the right to self-determination of peoples. Considerable progress had been made, however, since the adoption of General Assembly resolution 1514 (XV) on the exercise of the right to self-determination, with the adoption, in particular, of the two International Covenants on Human Rights. Even though the Covenants made a certain distinction between political and economic rights, they nevertheless opened the way to a third generation of rights connected with disarmament, peace and the environment, for example.

72. With regard to international monitoring machinery, up to 1967 the Commission on Human Rights and the United Nations in general had not considered themselves competent to deal with cases of violations of human rights. When, in 1957, some African States in the Commission had wished to denounce violations of human rights by the French occupation forces in Algeria, the Commission had not considered itself competent to hear such statements. Since then it had established many international protection mechanisms both in respect of the procedure for submission of communications by individuals and the system of inter-State complaints.

73. Illustrating the substantial progress made in the international protection of human rights, she observed that the latest instrument - the Convention against Torture - provided for an extremely elaborate monitoring mechanism. The institutional system had also been considerably strengthened, particularly under the procedure provided for in Economic and Social Council resolution 1503 (XLVIII). While justifying its existence, however, the present system was not perfect and still suffered from certain shortcomings.

74. The first of those shortcomings resulted from the international community's inability to meet the challenge posed by the persistence of the apartheid régime in South Africa and the illegal occupation of Namibia. It was to be hoped that the situation in Namibia would be settled in accordance with Security Council resolution 435 (1978) and that the Namibian people's

accession to independence would not be impeded. In South Africa, however, the Government still refused to dismantle the apartheid system, and the so-called reforms it had undertaken were aimed solely at reducing international pressure, since the black majority of the population was still excluded from the social, economic, political and cultural life of the country.

75. If the apartheid régime could not be reformed, it must be suppressed and the Sub-Commission must help to increase international pressure for the application of global and mandatory sanctions against South Africa. In that connection, it was noted that the advocates of "constructive engagement", who claimed that sanctions would harm the black population, had not hesitated to advocate the application of similar sanctions against other States, and that their reasoning was astonishingly similar to that held in the past by the advocates of slavery, who had claimed that the slave would not know what to do with his freedom and would be no happier as a free man. The defenders of colonialism similarly affirmed that the peoples concerned were not ready to manage their independence - an attitude arising out of racist prejudice and a desire to hold on to acquired privileges.

76. In the Middle East, the deliberate policy of repression by the occupation authorities only strengthened the national sentiments of the Palestinian people and their confidence in the legitimacy of their struggle. The international community had been shocked at the extremely cruel methods of repression used, and many reports by ILO, WHO and the Special Committee to investigate Israeli Practices had described cases of arbitrary arrest, torture, massacre and odious segregation practices. Israel itself had unquestionably contributed to the birth and strengthening of the intifada, and the young people would go on throwing stones since they were convinced of the justice of their cause and were ready to make the supreme sacrifice for the realization of their national rights.

77. The situation in South Africa and Palestine provided two striking examples of the limits to the international community's freedom of action in protecting human rights, demonstrated that political and geostrategic factors outweighed humanitarian factors, and revealed the complete impunity enjoyed by the perpetrators of human rights violations because of the abuse of the right of veto in the Security Council.

78. Some aspects of the situation in Lebanon, particularly the occupation of South Lebanon by Israel, whose policy of destabilization in the area was the underlying cause of the tragedy of the Lebanese people, had been deliberately obscured. Thus, aside from situations in which flagrant violations of human rights took place, there could be other situations for which the explanation could help in identifying the origins of conflicts and starting up a dialogue.

79. The international impact of recent events in China was due to the fact that they had been events unprecedented in that country which, by its history and culture, represented more than a symbol for many. A people or a country must not be judged, however, on a single series of events, tragic though they were, and there could be no doubt that the Chinese Government and people would be able to draw on their own resources to overcome the temporary difficulties they had to face, and continue the process of domestic reform. Nor was there any doubt that the Chinese Government would not remain insensitive to the appeals for clemency addressed to it.

80. With respect to the allusions to a lack of impartiality in the Sub-Commission and other international forums in considering situations in various countries, she repeated that political factors frequently outweighed humanitarian factors and that differing criteria could be applied, depending on the situations concerned. There was a case, however, for considering the possible existence of a single set of objective criteria that might be of universal application. Some people preferred to place emphasis on manifestations of violations of human rights rather than on the underlying causes of those violations, while others preferred to stress violations of civil and political rights rather than violations of economic, social and cultural rights. It was therefore difficult to single out a universal concept of human rights and although tangible results had been obtained at the normative level, much remained to be done to ensure effective protection of all those rights.

81. Thus, unlike instruments on civil and political rights, most international instruments on economic rights contained no monitoring mechanism, and account was seldom taken of the interaction between civil rights and economic and cultural rights.

82. Developing countries often appeared at the head of the list of countries accused of violations of human rights. They clearly had no intention of violating human rights, and the situation therefore called for some explanation. First, the narrow concept obtaining in human rights matters prevented the denunciation of a whole series of violations perpetrated much more often in the countries of the North than in those of the South. Secondly, international bodies and non-governmental organizations, most of whose members were from developed countries, tended to concentrate their attention on regions other than their region of origin and to react with their western sentiments. Violations of human rights were thus systematically condemned when they were committed in the developing countries, but if they occurred in the western world, they were considered as a mere inconvenience or simply passed over in silence in the absence of adequate protection machinery at the international level.

83. Yet was anyone concerned about the problems of external indebtedness in the developing countries, the exploitation of their wealth and manpower, the life of their peoples and the transfer of polluting industries from the North to the South? Did anyone challenge the western countries about their slipshod policy towards migrant workers and asylum-seekers, the sexual exploitation of children and their adoption for commercial purposes, their negligence towards vulnerable groups such as the elderly and minorities, their violations of the cultural rights of indigenous peoples or their introduction of industries that polluted the planet, annihilating forests and destroying the ozone layer? All that was a matter for reflection; what was essential was not to criticize but rather to appeal for a spirit of openness towards the countries of the third world.

84. Mrs. Palley had primarily drawn attention to violations of human rights in the southern and eastern parts of the world. She herself would not oppose the draft resolution to be submitted by Mrs. Palley provided that it covered all countries in which violations of human rights were alleged, in all their forms and dimensions.

85. Mr. RIVADENEIRA (Observer for Ecuador), speaking in exercise of the right of reply with respect to oil prospecting and exploitation activities in the Ecuadorian Amazon region, said that his Government had special respect for the rights of indigenous communities, which were an important and valuable part of Ecuadorian society. In the exploitation of renewable and non-renewable natural resources, the Government also accorded special attention to environmental protection and respect for the cultural values of local peoples.

86. Many steps had been taken to that end. For example, more than 23,000 hectares had recently been handed over to the Siona-Secoya Indians living in the Amazonian region, for whom literacy and bilingual training programmes had also been launched. The Ecuadorian Government was also in favour of the adoption of a new convention on indigenous communities, as proposed by the International Labour Organisation, and its position had largely been endorsed by the representatives of indigenous organizations themselves. In March 1989, Ecuador had been host to the third meeting of member countries of the Amazonian Co-operation Treaty which had resulted in the adoption of the San Francisco de Quito Declaration on measures to protect and develop the Amazonian region in a balanced and harmonious manner, and two special commissions - one for the environment and the other for indigenous affairs - had been established.

87. The Ecuadorian Government had taken many other constructive steps in that area. It would continue, in the exercise of its sovereign rights, to take all appropriate measures for the development and exploitation of its territory and natural resources, while respecting the rights of all individuals and groups forming part of Ecuadorian society, and apply environmental protection standards for the general well-being of the nation.

The meeting rose at 6.15 p.m.