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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 29 August 1989, at 3 p.m.

Chairman: Mr. YIMER

CONTENTS

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

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES:

(a) QUESTION OF HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION AND IMPRISONMENT;

(b) QUESTION OF HUMAN RIGHTS AND STATES OF EMERGENCY;

(c) INDIVIDUALIZATION OF PROSECUTION AND PENALTIES, AND REPERCUSSIONS OF VIOLATIONS OF HUMAN RIGHTS ON FAMILIES (agenda item 9) (continued)

(E/CN.4/Sub.2/1989/18, 20 and Add.1; E/CN.4/Sub.2/1989/21 and Add.1; E/CN.4/Sub.2/1989/22, 23 and 24 and Add.1-2; E/CN.4/Sub.2/1989/25, 27, 30 and Add.1 and Add.2/Rev.1; E/CN.4/Sub.2/1989/45 and 50; E/CN.4/Sub.2/1989/NGO/7 and 11; E/CN.4/1989/10, 15, 18 and Add.1; E/CN.4/1989/19; E/CN.4/Sub.2/1988/12, 18/Rev.1 and 28; E/1988/20; A/C.6/43/L.9; CCPR/C.2/Rev.2)

1. Mr. BUCAK (Libération) said he would like to draw the Sub-Commission's attention to the grave human rights violations occurring in Turkish Kurdistan. On 20 May 1987, the Turkish Parliament had decided, at the Government's request, to lift martial law in the remaining four Kurdish provinces. However, after over eight years, martial law had been replaced by the so-called "Regional Government of the State of Emergency", which had jurisdiction over 11 Kurdish provinces. The co-operation between the military and civilian authorities had been determined in a protocol between the Minister of Internal Affairs and the Army Chief of Staff. No protest against any of the regulations issued by the Regional Governor of the State of Emergency was permitted.

2. The most serious violations of the human rights of detained persons had occurred and still occurred during states of emergency, which enabled the Executive to order the arrest and administrative detention of any person suspected of being a threat to security or public order. On 16 June 1988, the newspapers had reported mass arrests in the province of Siirt and in Mardin. The fact that in Kurdish provinces persons were detained simply on the order of a representative of the police or security forces opened the door to all kinds of abuses. The authorities of the Regional Government of the State of Emergency had adopted the practice of arresting all the members of a community who, in their view, were political militants, even if they had committed no offence.

3. According to paragraph 53 of Mr. Joinet's report (E/CN.4/Sub.2/1989/27), administrative detainees should in principle enjoy the same rights as other detainees and, in particular, benefit from the Standard Minimum Rules for the Treatment of Prisoners. Furthermore, according to article 10, paragraph 1 of the Covenant, "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person". Finally, in resolution 26 (XXXVI), the Commission on Human Rights had called upon Governments to see to the strict application of the principle that no one should be prosecuted or persecuted solely on account of his connection, particularly family connection, with a suspect, an accused person or a person

who had been convicted. However, those provisions were constantly violated by the authorities responsible for enforcing the state of emergency in the Kurdish provinces.

4. The situation in Turkish Kurdistan was absolutely contrary to all those fundamental principles. Libération therefore urged the Sub-Commission to take immediate steps to investigate the grave abuses and mass violation of human rights in that region and make public its findings under the procedure laid down in Economic and Social Council resolution 1503 (XLVIII).

5. Mrs. BAUTISTA remarked that it was quite obvious that prolonged detention without charge or trial, under the pretext of state of emergency or the need for further inquiries, led to serious human rights violations. The Sub-Commission was naturally aware of the domestic and international conflicts occurring in all parts of the world and of the security problems that States had to face, in addition to their political, social and economic problems.

6. Nevertheless, human rights must be respected even in periods of unrest. In particular, as Mr. Joinet had stressed, all arrests should be carried out on the basis of a judicial warrant, and administrative detention should be an exception. Unfortunately, there were continuing reports of that type of detention in many States. She therefore recommended that the Sub-Commission should ask the Special Rapporteurs to continue to monitor the situation as regards administrative detention and to prepare a report giving special attention to the countries that abused the powers granted to them under states of emergency. The report should be submitted to the Commission on Human Rights at its forty-second session.

7. Mr. SUESCUN MONROY noted that the reports submitted by Mr. Joinet (E/CN.4/Sub.2/1989/27) and Mr. Despouy (E/CN.4/Sub.2/1989/30) dealt with specific human rights problems and with an important mechanism for the protection of those rights, namely, the administration of justice. Those two reports were therefore of major significance, and he congratulated their authors.

8. Regarding states of emergency, it was important to examine, on the one hand, to what point a state of emergency that was supposed to maintain or restore public order could affect the rights of detainees, and on the other, the right to a fair trial. There was no reason for the rights of detainees to be jeopardized by an improper interpretation of a state of emergency. Mr. Despouy had been right to make a systematic study of states of emergency, for they created situations that endangered fundamental freedoms.

9. Administrative detention appeared to be used under very different circumstances that might sometimes be justified, but might also be absurd, such as detention for political re-education and other cases that were obvious human rights violations. He endorsed the conclusions of the two reports and believed that work on those specific questions would guarantee progress in the area of human rights.

10. Mr. PATTEN (National Aboriginal and Island Legal Service Secretariat) said that the criminal justice systems of Australia, which were administered by the regional governments, grossly violated the human rights of

aboriginals. For example, an aboriginal was 25 times more likely to be imprisoned than a non-aboriginal, and deaths in police custody or prison were also far more frequent among aboriginals.

11. As a result of energetic protests by aboriginal organizations against the unacceptably high death toll among aboriginal prisoners, a Royal Commission had been established jointly by the national and State Governments. It was the State governments that would have to implement the Commission's recommendations, since the State police and prison systems were the responsibility of the regional State governments. Accordingly, with regard to violations of the human rights of aboriginal prisoners, it was the practices of the regional governments that were relevant, and their attitude unfortunately did not give much cause for hope of an improvement in the situation.

12. The findings of the Royal Commission revealed widespread abuses of the human rights of aboriginal prisoners in all regions. Because of the racism of the police, aboriginals were watched more closely and punished more severely than non-aboriginals. Second, the violation of the human rights of aboriginals was due to a policy of assimilation, which had been the official policy of the Australian Government until the recent past and which often remained an undeclared practice. The Royal Commission had found that the policy of assimilation was in fact a policy of genocide, whose destructive effects explained the enormous proportion of detentions and deaths in custody among aboriginals.

13. Furthermore, the authorities did not recognize the caring environment provided by the extended aboriginal family and did not understand the aboriginals' cultural identity. They considered aboriginal children to be at risk in their own environment and placed them in institutions, far from their homes and cultures. Young aboriginal detainees were discriminated against by juvenile institutions that treated them as being of sub-standard intelligence. Such racist abuse prevented aboriginal children from realizing their rights to education, employment, health and culture.

14. There were many more examples of abuses against Australian aboriginals, both by the forces of order and those responsible for the administration of justice. As a body of experts, the Sub-Commission should work towards more effective measures in order to eliminate the inequalities of which the Australian aboriginals were victim.

15. Mrs. CUADRADO KATUSICH (International Association against Torture) said that there were at present 449 political prisoners in Chile, including 56 women, and that they were the victims of measures taken against them by the Chilean prison authorities. Chilean political prisoners were subjected to discriminatory treatment that violated their rights, in particular their right to a defence. They received very harsh punishment, such as solitary confinement and suspension of visiting rights for periods of up to 30 days, and their state of health was also very precarious. All suffered from the results of brutal torture, and their being deprived of appropriate medical care represented yet another form of torture. The courts that tried them were essentially military courts that were neither impartial nor independent. In addition, their families were constantly harassed.

16. Furthermore, the ordinary courts generally refused to conduct inquiries into human rights violations, and the Supreme Court of Justice had even punished judges who had tried to establish the truth. On the other hand, it had enthusiastically applied Decree-Law No. 2191 of 1978, granting amnesty for human rights violations committed between 11 September 1973 and 10 March 1978.

17. Despite the imminent transition to democracy, the current situation should not change very much in view of the fact that in mid-1989 the Chilean Government had promulgated a law enabling all members of the Supreme Court over 75 years of age to retire in return for a lump sum of $Ch 14 million. Several had already availed themselves of that opportunity. However, since it was General Pinochet who appointed its new members, the Supreme Court was perpetuated in accordance with the interests of the régime, which suggested that justice was not about to prevail in Chile. For that reason, the Association urged the Sub-Commission to continue its consideration of the situation of Chilean political prisoners and the administration of justice in Chile.

18. Mr. LOPEZ (Service Justice and Peace in Latin America) referred to the human rights situation of detainees and to the administration of justice in Honduras, a country that had twice been condemned by the Inter-American Court of Human Rights for violations of the right to life, safety and physical integrity of Manfredo Valesquez Rodriguez and Saúl Godino Cruz. In Honduras, the system of justice continued to tolerate the following practices without punishing them: illegal arrests; illegal or unrecognized detentions; torture; cruel, inhuman or degrading treatment of prisoners; consideration of extra-judicial statements obtained under duress; lack of a defence for those accused of crimes and even judicial errors.

19. Those practices were confirmed by testimony from America's Watch, an independent international organization, which in a report entitled "Honduras: Without the Will" of July 1988, noted that there were no positive signs of a desire for change, that on the contrary, political violence was increasing in the country, and that respect for fundamental human rights was on the decline.

20. In conclusion, the State of Honduras could not use conflicts in neighbouring countries to justify the poor administration of justice in the country.

21. Mrs. CHOROBIK de MARIANI (International Movement for Fraternal Union among Races and Peoples), who was the head of the Association of the "Grandmothers of the Plaza de Mayo" in Argentina, once again drew attention to the tragedy of the children whom the Argentine military dictatorship had caused to disappear between 1976 and 1983. In the five years since they had restored a constitutional régime, the Argentine people had demonstrated their desire to live in a democracy after having experienced the horror of disappearances and torture, but they also expected the crimes that had been committed to be investigated and the members of the military and their accomplices to be tried and sentenced. However, although the members of the military juntas had been convicted following a memorable trial in 1985, subsequent laws entitled "Punto Final" and the "Due Obedience" Law had relieved the murderers and torturers of 30,000 persons of all responsibility. In the name of a so-called reconciliation, but actually under pressure from

military and economic circles, there was even talk of reducing the sentences of those who had already been tried and convicted or who were still being tried. In other words, there would be legalized impunity.

22. In that connection, it was still not known what the State would decide concerning the disappeared children who continued to grow up in the homes of those who had "appropriated" them and deprived them of their true identity. The Sub-Commission was quite familiar with the question, since it had considered it in 1987 and then in 1988 on the occasion of Mr. van Boven's mission to Argentina to study more particularly the case of four children being held captive in Paraguay, where he had not been received. Unfortunately, the objective report prepared by Mr. van Boven had not been transmitted to the Commission on Human Rights owing to the opposition of the Argentine delegation. Mr. van Boven's mission had therefore been of no avail, and the release of the children still depended on action taken by their grandmothers to find them, determine methods of identification and alert public opinion to prevent the kidnapping of children as war booty from recurring elsewhere.

23. Considering the foregoing, the Assocation of the "Grandmothers of the Plaza de Mayo", in the first place invited the Sub-Commission to appeal to the Argentine Government not to reduce the sentences of the members of the armed forces responsible for crimes against humanity between 1976 and 1983, for which they had already been tried or were still being tried, and not to drop the cases against them. Second, it invited the Sub-Commission to recommend to the Argentine Government that it should take urgent measures to find and return the hundreds of disappeared children in Argentina. Third, it requested the Sub-Commission to take action to enable Mr. van Boven to fulfil his mission in Paraguay and to make it possible for his report to be submitted to the Commission on Human Rights at its next session. Finally, it believed that the draft declaration on the protection of all persons from enforced or involuntary disappearances, which had been entrusted to the Working Group on Detention, should define the crime of disappearance as a crime against humanity.

24. Mr. WADLOW (International Fellowship of Reconciliation) said that states of emergency, which were the subject of a report to the current session (E/CN.4/Sub.2/1989/30), were often times of acute tension when there was a real danger that human rights would be violated in the crush of events, and should be considered from three distinct but interrelated points of view. The first was an analysis of the political, socio-economic and often strategic considerations that led a Government to impose martial law. The non-governmental organizations were in the best position to make such an analysis, which required a critical assessment of Government policies and motivations, a difficult task for a Special Rapporteur. The second aspect concerned the bulk of the work done by the Special Rapporteurs of the Sub-Commission, namely, an analysis of the legal provisions applicable in states of emergency, in particular the rights considered inviolable and the way the law was carried out during a state of emergency. That aspect entailed co-operation between the United Nations, the Government concerned and the non-governmental organizations. The third, most crucial aspect was how a Government could end a state of emergency. Governments frequently found themselves in a bind when past policies had created an impasse, and it was for the world community to help them return to lawful conduct.

25. In that connection, the International Fellowship of Reconciliation welcomed the efforts of the new Polish Government, led by persons who had suffered under the imposition of martial law but who sought the reconciliation of all Poles so that the country could face its economic and social problems. It might be said that in the case of Poland, as with many other countries, the imposition of martial law had only delayed facing the real problems of the country.

26. On the other hand, a current example of a Government that had chosen to impose martial law rather than engage in democratic policies was that of the Government of China, which had imposed martial law in large areas of Tibet on 7 March 1989 and was maintaining it in force. After Tibet, the policy of repression had been applied in Beijing in April. There, too, martial law had been a synonym of failure: the Chinese régime had failed to lay the bases for democracy, the rule of law and the welfare of the people.

27. How could the Chinese Government be helped to enter the third phase, namely, to get out of the bind represented by the state of emergency? One-fifth of the world's population was sinking into the swamp of barbarism and martial law: 11 million books had reportedly been burned as "pornographic" and the Ministry of Culture was allegedly planning to send its civil servants to the countryside and its students to indoctrination camps. What could be done to prevent the destruction of the culture of Tibet through the destruction of its people, its religious institutions and its economic infrastructure, other than hope that wisdom would inspire all those Governments that would rule with executions rather than by elections, with repression rather than by reason.

28. Mrs. BRIDEL (International Association of Democratic Jurists), referring to the human rights situation in the Republic of Korea, said that a 22-year-old South Korean student, Im Soo-Kyong, had been arrested on her return from the Democratic People's Republic of Korea where she had participated in the World Youth Festival, accompanied by a Catholic priest. Both had been arrested and were still being detained for interrogation in the detention centre of the Agency for Security Planning. A clergyman and a deputy of the main opposition body had also been imprisoned for "espionage", also after having travelled to the Democratic People's Republic of Korea. Those arrests and detentions were indicative of an overall policy of systematic repression against all those in the Republic of Korea who wished to establish a dialogue with leaders of the Democratic People's Republic of Korea in order to create the necessary conditions for a reunification process, in keeping with the spirit of the Charter of the United Nations.

29. Thus the following people had been arrested since the beginning of 1989: five officers who had invoked the principle of the neutrality of the army, nine Seoul publishers, 12 leaders of the "national coalition" founded on 21 January, five writers who had wished to talk to five writers from the Democratic People's Republic of Korea, one university professor, the deputy director of a newspaper and a Catholic priest, as well as hundreds of trade-union workers and thousands of students. There were allegedly 150 trade-union militants being detained on a long-term basis in Republic of Korea prisons, not to speak of the temporary imprisonment of trade-union workers, generally for striking and occupying factories. The student movement was also harshly repressed, especially organizations favourable to dialogue with the Democratic People's Republic of Korea.

30. In its so-called liberalization, the current régime had not gone so far as to repeal the dictatorial laws of the preceding régime, under which the persons mentioned earlier were being detained. The young woman student arrested on her return from the Democratic People's Republic of Korea and the priest accompanying her were liable to the most severe penalties under the "national security law", which made it possible to consider words and deeds of political opposition as crimes of espionage. The state of emergency was thus being perpetuated in the new "developing democracy" that the Seoul régime was claiming to be. The right to leave one's country and return to it was openly being violated. Conditions of detention, in particular in the centre run by the Planning Agency, were in contradiction with human rights, and attacks against the physical and moral integrity of detainees were widespread, as attested by the report of the International Commission of Jurists in 1987, which had spoken of the "routine" use of torture.

31. In view of such a situation, there was a genuine "duty to interfere" in the affairs of the Republic of Korea, in the words of the President of the French Republic, since it was now acknowledged that human rights were part of the common heritage of all.

32. Mrs. TOJ (International Indian Treaty Council) said that the organization she represented was most concerned about the critical situation that prevailed in Guatemala with respect to the administration of justice and the human rights of detainees who had disappeared. None of those cases had been investigated by the authorities, although many national and international bodies had furnished proof that the armed forces were directly or indirectly responsible for those systematic practices. The armed forces, like the Government, were making a mockery of the careful work done by various non-governmental organizations and were deceiving the Commission on Human Rights which, in paragraph 3 of its resolution 1986/62 had said that it: "Takes note with satisfaction of the determination of the constitutional Government of Guatemala to adopt the necessary measures to investigate earlier violations of human rights with a view to ensuring that this situation does not occur in the future".

33. Giving an example that illustrated how justice was being administered in Guatemala and the consequences that that implied for the victims' families, she said that four days after the training course in human rights held in November 1988 for army officers under the auspices of United Nations advisory services for army officers, 22 peasants had been abducted, tortured and murdered. The Government had orchestrated a full-scale disinformation campaign at the national and international levels to prevent the army from being implicated. As a result, there had been no legal inquiry whatever into that massacre nor any report of the evidence given by the widows of the victims. The coroner's report which was submitted several months later was classified as a confidential army document and the Deputy Prosecutor for human rights appointed by the Congress gave up completely when he saw that no genuine efforts were being made to investigate the massacre.

34. In a situation where numerous detainees had disappeared and nothing further had been heard about them and their families felt threatened and sought political asylum outside Guatemala, Guatemalan people's organizations encountered considerable difficulty in making complaints to international bodies because of increasing military repression and the silence in which it

was shrouded. Yet it was because the Guatemalan people were fighting for their rights and freedoms, because complaints had been lodged concerning aggression against indigenous communities in particular, and because the United Nations had adopted resolutions between 1982 and 1985 that the real situation in Guatemala had come to light and that elections could be held at the end of 1985. Unfortunately, all the elected Government had done was to make promises and raise hopes, especially at the international level.

35. Consequently, the International Indian Treaty Council now requested the Sub-Commission to address a strong appeal to the Guatemalan Government to stop the practice of disappearances, torture, murders and massacres forthwith because laws which were not enforced were worthless. The condition of the Guatemalan people had worsened since the previous year and he called upon the Sub-Commission to take a stand and adopt a firm and objective decision to help protect the indigenous peoples of Guatemala.

36. Mr. HADJAH (Regional Council on Human Rights in Asia) said that the Indonesian authorities had again refused Mr. Princen, Director of the Institute for the Defence of Human Rights, permission to leave the country to attend the Sub-Commission's session. Like Mr. Princen, more than one and a half million former political prisoners and dissidents were thus denied the opportunity to leave the country and to testify to the human rights violations that took place daily in Indonesia.

37. The Sub-Commission was to be congratulated on its decision to draft a report on human rights and states of emergency. Indonesia was perhaps the country where a state of emergency had been maintained the longest. The armed forces had unlimited powers to arrest, detain, interrogate, torture and even murder anyone suspected of acts alleged to be a threat to national security. Consequently, although journalists had been barred from the area, the Commission on Human Rights had been informed of the massacre of 27 Muslims in the province of Lampung in Sumatra. The Government was refusing to react to requests for an independent commission of inquiry. Furthermore, the inhabitants of that province were subjected to degrading treatment by the authorities, who expelled them and appropriated their lands and crops without paying them any compensation. There had been two waves of persecution - in November 1988 and between March and May 1989 - in which houses had been burned, coffee plantations destroyed, the property of the inhabitants plundered and some villagers arrested and tortured.

38. The situation in East Timor, which was being closely followed by the United Nations, was equally disquieting. In October and November 1988, some 3,000 persons had been arrested and held, and many had been tortured. There had been another wave of arrests in April 1989, and in May over 100 students from the University of East Timor had also been arrested.

39. He hoped that the Sub-Commission would take cognizance of those gross violations and adopt a resolution condemning Indonesia because, by keeping silent on that issue at its previous session, it had helped to spread the belief that there were no human rights violations in East Timor. Lastly, he urged the Sub-Commission to ask the Indonesian authorities to allow Mr. Princen to travel to Geneva for future sessions of the Commission and the Sub-Commission and to urge the Indonesian Government to appoint an independent commission of inquiry to investigate the acts of violence committed in Sumatra.

40. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination) said that illegal detention in Ethiopia was a common practice despite the provisions of the new Constitution, and that there were over 3,000 political prisoners including four prominent jurists. All the male members of the former royal family were still in detention; no charge had been brought against them nor had they been brought to justice. Furthermore, 26 generals had been arrested in May 1989 after the abortive coup d'état, which was followed by repressive measures unprecedented in the history of Africa. International civil servants working in Ethiopia, namely, in the Economic Commission for Africa, did not escape those arbitrary measures, and three of them had been arrested and ill-treated. The action taken by the Association for the security and independence of international civil servants on their behalf had been fruitless, and in that connection he recalled that, at its forty-fifth session, the Commission on Human Rights had expressed deep concern over the violations of the human rights of international civil servants.

41. In Israel too, the arbitrary and illegal detention of political activists was a common practice, and at present between 2,000 and 5,000 Palestinians were held under six-month administrative detention orders which could be renewed indefinitely. Senior officers had the right to arrest anyone suspected of posing a threat to Israeli authority, and Palestinian lawyers were unable to intervene since in most cases they did not know where the detainees were being held.

42. In the Democratic People's Republic of Korea, between 100,000 and 150,000 political prisoners were being detained in eight major labour camps and the Government was bringing various forms of pressure to bear on their families. According to witnesses, prisoners were routinely beaten, deprived of food and sleep, placed in solitary confinement, subjected to continuous interrogation, deprived of medical care and made to do 12 hours of forced labour a day. In addition, they were not allowed to defend themselves during their trial.

43. The International Organization for the Elimination of All Forms of Racial Discrimination urged the Sub-Commission to take the necessary steps to put an end to those inhuman and unjust practices in Ethiopia, Israel and the Democratic People's Republic of Korea.

44. Mrs. GRAF (International League for the Rights and the Liberation of Peoples), referring to the situation of political detainees in the Republic of Korea, said that the proclamation of the Sixth Republic in 1986 had not been followed by any democratization measures and that, at the present time, the number of political prisoners, who had very diverse social and professional backgrounds, was almost 4,000. Furthermore, unprecedented cruelty had been inflicted on the prisoners and, except for Nelson Mandela in South Africa, there were few cases where prisoners had been held for so long. Furthermore, the International League knew that a considerable number of detainees died under torture or after being held for many years during which they received no medical care. Torture occurred not only in the prisons but also during interrogation by the Korean Central Information Agency and the police.

45. Human rights violations in the Republic of Korea were furthermore characterized by the fact that detainees were not only political dissidents

but, more often than not, accused of spying for the Democratic People's Republic of Korea. The persons in question were usually advocates of the reunification of the two Koreas and were generally charged with being traitors and of helping a hostile Government, whereas all they wanted was détente and the restoration of peace and security in the region. In that respect, Korea remained indivisible and any attempts to initiate a dialogue which could lead to the peaceful reunification and elimination of a situation imposed by foreign powers more than 40 years previously should be encouraged.

46. The International League for the Rights and the Liberation of Peoples therefore urged the Sub-Commission to address an appeal to the Government of the Republic of Korea to release all its political prisoners, to punish those responsible for torture, and to repeal the Public Security Law in order not to perpetuate an oppressive régime.

47. Mr. COMTE (Centre Europe-Tiers Monde) drew attention to the enforcement of the state of emergency in Eritrea under which the army and security forces could arbitrarily arrest civilians, conduct summary executions and intensify reprisals through systematic bombing, massacres in villages and the destruction of houses and crops. In its most recent report on Ethiopia, Amnesty International had stated that Eritrean civilians had been arbitrarily arrested because they were suspected of links with opposition movements such as the Popular Front for the Liberation of Eritrea and estimated that there were several thousand political prisoners who were still awaiting trial in Ethiopia and who were frequently subjected to torture. Furthermore, after the failure of the coup d'état of 16 May 1989, the Government of Ethiopia had executed some 30 senior army officers and imprisoned another 250, even though the rebel movement had been asking only for an end to the state of emergency and the establishment of a democratic Government.

48. In view of the dramatic situation in Eritrea, the Centre Europe-Tiers Monde asked the Sub-Commission to appeal to the Ethiopian Government to put an end to the state of emergency in Eritrea, to free all Eritrean prisoners under the terms of the 1949 Geneva Convention and agree to end the war in Eritrea by holding a self-determination referendum under United Nations auspices.

49. Mr. BANDIER (International Association of Educators for World Peace), recalling the provisions of article 4 of the International Covenant on Civil and Political Rights, emphasized that a state of emergency could on no account serve as a pretext to justify human rights violations.

50. Yet when certain Governments declared a state of emergency they explicitly restricted the enjoyment of the most fundamental rights. For example, the Chinese authorities had imposed martial law in Lhassa, the capital of Tibet, in order to crush the popular liberation movement. On several occasions, the forces of law and order had fired on peaceful demonstrators, whole families had been summarily executed, Tibetan political detainees were tortured as a matter of course and some had been executed. In that connection, the Sub-Commission could refer to document E/CN.4/Sub.2/1989/NGO/11 which contained a summary of the testimony on the torture inflicted on Tibetan political prisoners, while bearing in mind that the People's Republic of China had ratified the Convention against Torture.

51. Those abusive practices were of long standing in Tibet, but the imposition of martial law had enabled the Chinese authorities to intensify their policy of intimidation and repression. The imposition of martial law was obviously not the solution to the basic problem and therefore the Sub-Commission should once again examine the deep-seated causes of the conflict in order to find a permanent solution. The tragic situation in Tibet could be normalized only if the Chinese people and the Tibetan people were again placed on an equal footing and mutual respect was restored as during the period of their respective ancient civilizations.

52. Mrs. SIERRA (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that detainees who disappeared were a tragic and odious reality in many countries. The practice of disappearances used to eliminate political opponents was comparable to that of State terrorism which had been rife for many years in all countries - but particularly in Latin American countries - under the guise of the doctrine of national security. Even in countries where democracy had been restored it was impunity which prevailed in the name of national reconciliation and peace. But to speak of peace as long as cases of disappearance had not been clarified and while those responsible for such disappearances had not been punished was to be an accomplice to that crime and to give it the stamp of legality. The families of the persons who had disappeared were constantly wondering whether firm and stable democracies could be established by simply forgetting the thousands of persons who had disappeared, been assassinated, imprisoned and tortured, and the thousands of children who had been abducted and forgotten, like those kidnapped and taken to Paraguay, most of whom had not yet been found. It appeared, in fact, that everyone everywhere was trying to forget that tragic reality.

53. Even at the legal level, it was impossible to discuss the problem without taking its scope and human aspects into account. The Federation was in permanent contact with the majority of human rights organizations, particularly in countries where that type of repression had been and continued to be applied, such as Guatemala, Honduras, El Salvador and Peru. The lives of the members of those organizations were frequently threatened and some had even been murdered.

54. It was vital to put an end to such situations because it was useless to proclaim human rights if those who violated them were never punished. The practice of disappearances had emerged in continents other than Latin America, as had been observed by the Working Group on Enforced or Involuntary Disappearances and by a number of non-governmental organizations, such as the Andean Commission of Jurists and Amnesty International. Work on the draft declaration dealing with that issue should therefore be completed as quickly as possible because it would constitute a first stage in the elaboration of a convention against repression and the punishment of that crime. It was most important that enforced or involuntary disappearances should be recognized as constituting a crime against mankind so that it could be more easily prevented and punished and so that thereby confidence could be built up and co-operation increased among peoples and a contribution made to international peace and security.

55. Mr. CAREY said it was gratifying that the most recent version of the draft basic principles on the use of force and the use of firearms by law

enforcement officials to be submitted to the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders for consideration contained two provisions which corresponded to some of the recommendations formulated by the Sub-Commission when it had discussed the matter at its previous session. Those provisions stipulated, on the one hand, that law enforcement officials should be provided with protective equipment, such as shields and helmets, so that they would have less need to use any kind of weapon and, on the other hand, that the arbitrary or abusive use of force or firearms by law enforcement officials should be sanctioned as a penal offence in all countries.

56. He noted, furthermore, that the first two general provisions dealt with the rules and regulations that Governments should adopt and enforce in respect of the use of force and the use of firearms against persons by law enforcement officials on the one hand, and, on the other, with the development of various types of weapons and ammunition which would permit the differentiated use of force or firearms, including non-lethal incapacitating weapons. There was no provision anywhere for exchanges of ideas and techniques between Governments on the subject. The Sub-Commission might possibly explore the possibility of applying international standards to protect persons against whom weapons were used as well as law enforcement officials when in situations where they had to decide whether or not to use their weapons.

57. Mr. HAMDAN (Observer for Lebanon) said that the Government and people of Lebanon categorically condemned the abduction of civilians of any nationality and sincerely hoped that all hostages held in Lebanon would be released. All Lebanese understood the distress felt by the families of those hostages, because they had experienced it themselves.

58. However, it could not be expected that a people who had been oppressed for years would continue to endure injustice passively. Certain age groups in Lebanon had known nothing but war. How could the Lebanese be expected to fulfil their obligations when their rights were not being respected and they were not being treated like all the other members of the international community? Only those who experienced the tragedy of Lebanon could understand it. As long as Lebanon was held hostage to war, the number of hostages held in Lebanon would continue to rise.

59. None of the political or financial solutions that had been proposed could settle the problem of Lebanon. First and foremost, the whole world should assist Lebanon in regaining its sovereignty, independence and territorial integrity and the Lebanese in exercising their right to self-determination. Lebanon had always been a paragon of co-existence between members of different religious communities and it was determined to remain a sovereign State and to ensure that its citizens enjoyed all their rights and fundamental freedoms in their country, so that they could shoulder their responsibilities under international law and international conventions.

60. His delegation hoped that the Sub-Commission would adopt another resolution on the question of hostages in Lebanon, reaffirming the conditions that would allow the problem to be settled once and for all.

61. Mr. EIDE said he was overwhelmed by the variety and scope of the issues to be dealt with by the Sub-Commission under the current agenda item but not

surprised since its objective was to devise ways of humanizing the methods used by Governments to cope with problems of public order and public security and to ensure the legality of those methods.

62. States of emergency and social problems often resulted in the violation of human rights and the task of the Sub-Commission and other bodies responsible for the protection of human rights was to make all Governments understand that the imposition of states of emergency was subject to certain rules and to get them to respect those rules. That explained the importance of the work done by Mr. Despouy on the criteria to be applied in such circumstances.

63. The Sub-Commission should also study implementation methods in order to put an end to the use of clearly illegal methods, such as enforced disappearances, to which persons seeking to maintain political power often had recourse, sometimes even with the complicity of established Governments. It should also act to prevent any abusive recourse to force by emphasizing in particular provisions such as the Code of Conduct for Law Enforcement Officials or the draft basic principles on recourse to force and the use of firearms by law enforcement officials that would be submitted to - and hopefully adopted by - the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

64. The Sub-Commission should also deal with the question of the human rights of persons subjected to any form of detention or imprisonment. The prevention of torture which often accompanied solitary confinement and international regulations governing inquiries into all cases of suspicious deaths that occurred in prison were two particularly important aspects of that question. In that connection, he welcomed the creation by the Australian Government of a Royal Commission to inquire into the deaths of aboriginals in detention. It appeared, in fact, that it was the weakest members of the society, often victims of discrimination, such as migrant workers in some countries or indigenous peoples in others, who were the most affected by that phenomenon, and an in-depth study of the subject would perhaps be useful. The Sub-Commission should also look into the very serious problem of children imprisoned for long periods together with adults and into the impact of that experience on their future life.

65. He therefore wondered how the Sub-Commission could discuss such serious problems in detail in just two days. It might be wise to contemplate using another work method to tackle that question. For example, the duration of the session could be reduced to three weeks and the week thus made available devoted to a thorough discussion of those questions by a number of working groups. As things stood, it was unlikely that the Sub-Commission could do any really serious work on such important questions.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (continued)

66. Mr. McCARTHY (Secretariat), in reply to a question raised by Mr. Alfonso Martínez at the 31st meeting during consideration of the report by the Secretary-General entitled "Respect for the right to life: elimination of chemical weapons" (E/CN.4/Sub.2/1989/4), recalled that, in its resolution 1988/27, the Sub-Commission had requested the Secretary-General to

collect information, on the basis of relevant and reliable sources, on the use of chemical weapons, and on the danger they represent to life, physical security and other human rights.

67. Pursuant to that request, the Secretary-General had invited Governments, specialized agencies, non-governmental organizations and experts to provide such information. In preparing that report, the Centre for Human Rights had also requested the Under-Secretary-General for Political and Security Council Affairs as well as the Under-Secretary-General for Disarmament for reliable and relevant information which the Centre had used, as indicated in paragraphs 5 to 7, 27 to 38 and 41 to 52 of the report. The material available to the Centre for preparing the report did not contain the information to which Mr. Alfonso Martínez had referred in his question.

68. Mr. ALFONSO MARTINEZ was surprised to learn that the Centre for Human Rights did not have available to it information concerning the use of chemical weapons in Angola by South Africa because the facts in question were common knowledge and had been condemned by all the Angolan media and even mentioned in some United Nations bodies.

The meeting rose at 6 p.m.