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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 21 August 1989, at 10 a.m.

Chairman: Mr. YIMER

CONTENTS

Organization of work (continued)

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 10.20 a.m.

ORGANIZATION OF WORK (continued)

1. The CHAIRMAN said that, as requested by the Sub-Commission, the three questions raised at the previous meeting relating to the interpretation of the rules of procedure had been submitted to the Office of Legal Affairs for an opinion. That opinion had been received.

2. Mrs. NOLL-WAGENFELD (Senior Legal Officer, Legal Liaison Office) said that the three questions had been transmitted orally to New York on Friday, 18 August, and later repeated by telefax. The reply had been based on the questions transmitted orally.

3. The first question had been whether the Sub-Commission was authorized to interpret rules of procedure governing its proceedings, namely, the rules of procedure of the Functional Commissions of the Economic and Social Council and, in particular, rule 69 regarding the participation of non-member States. The Office of Legal Affairs had replied that it was the standard practice of United Nations bodies that each body might interpret the rules of procedure applicable to it, to the extent such an interpretation did not constitute an amendment or suspension of the rules, which might only be done pursuant to the relevant rules governing method of amendment and method of suspension.

4. The second question was whether the phrase in rule 69: "The Commission shall invite ... any other State to participate in its deliberations on any matter of particular concern to that State", could be considered to mean that such a State should refer in the context of item 6 to issues related to its domestic situation and not to situations in other countries. The Office of Legal Affairs understood item 6 to be entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)". From the title of item 6, it was clear that the item related to the question of the violation of human rights and fundamental freedoms in all countries. Rule 69 made it equally clear that observer States had the right to participate in the deliberations of the Sub-Commission on any matter of particular concern to that State. The observer State determined itself what was a matter of particular concern to it and, under item 6, could decide to speak on human rights violations in countries other than its own. By decision 1982/12 the Sub-Commission had decided to "express the view" that observers for States "should in future, when invited to participate on the agenda item ... not implicate other States in a deliberately abusive manner". Obviously, it was for the Sub-Commission itself to decide if an observer for a State had so implicated other States in the manner described.

5. The third question was whether, assuming the answer to the second question was negative, the observer of a State might reply to remarks made by the observer of another State. In its answer the Office of Legal Affairs stated that according to standard and accepted United Nations practice, presiding officers routinely afforded observers the opportunity to make statements in reply to remarks made previously by other speakers, whether

members or observers. Of course, whatever rules and practices applied to members' rights of reply, for example, number of interventions, time limit etc., applied equally as well to observers' statements in reply.

6. Mr. ALFONSO MARTINEZ expressed the view that the answers given to the questions were very clear. The right of each body to interpret its own rules of procedure was recognized. The reply to the second question made it clear that the only limit which the Sub-Commission could place on statements related to the words used but not to the substance. It was also clear that the Sub-Commission itself must make a decision as to whether any particular statement was covered by rule 69. It was his understanding that, if any State wished to comment on human rights in its own country, it could do so.

7. Mr. DESPUOY said that the legal opinion made it clear that observer States had the right to take the floor on any issue they regarded as being of particular concern to them. On item 6 there was no limit to that right. The rules of procedure must be construed pursuant to rules 24, 45 and 69. In its future discussions therefore the Sub-Commission must proceed from the legal opinion. As the right of observer States to address the Sub-Commission had been formally recognized, he appealed to observers wishing to take part in the discussion not to abuse their rights under rule 69 and, in particular, to refrain from the use of abusive language. They should refer only to situations of legitimate concern to themselves.

8. He suggested that the Sub-Commission should leave it to the Chairman to call a speaker to order when he considered that a statement was of an abusive nature.

9. Mr. SADI proposed that the Sub-Commission should honour the legal opinion as given. The more information that became available to the Sub-Commission, the greater would be its ability to pass proper judgement.

10. Mr. JOINET expressed the view that the legal opinion was completely consistent with the Sub-Commission's resolution 1982/12 which provided that observers for States should not implicate other States in a deliberately abusive manner. The position therefore was that Governments could take the floor on any question relating to the agenda item under discussion but not in an abusive manner.

11. Mr. DIACONU supported Mr. Despuoy's proposal that it should be left to the Chairman to decide whether a statement was abusive.

12. The CHAIRMAN said that, if there were no objections, he would take it that the Sub-Commission wished to proceed in accordance with the legal opinion.

13. It was so decided.

14. The CHAIRMAN said that no abusive language would be permitted in statements by observers, including statements made in exercise of the right of reply. He would call any speaker using abusive language to order. His ruling would be applied strictly.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)
(E/CN.4/Sub.2/1989/11-14 and Add.1, 15, 46, 48, 52; E/CN.4/Sub.2/1989/NGO/2 and 3; E/CN.4/1989/7, 8, 23-27)

15. Mr. KHALIFA said that the question of the protection of minorities assumed special importance by virtue of the very name of the Sub-Commission. Of late, the issue had been assuming particular importance and universality. Since the Sub-Commission's last session, new cases and manifestations of the problem had been gathering momentum and, in his view, the situation would become even more tense in the future.

16. The existence of minorities in itself called for consideration in terms of human rights but the modern technology of taking up minority problems, blowing them out of proportion, sowing trouble and encouraging separatist movements which led to destabilization, merited very careful consideration. Usually the simple right of a minority was soon compounded with constant provocation; that in turn led to over-reaction from authority which would then become involved in repressive acts and violations and a cycle of violence would thus be put into motion.

17. Situations where minorities and nationalities sought more autonomy or independence abounded all over the world. That in itself was neither good nor bad; nevertheless, it called for profound scrutiny and defied simple generalizations. When it came to passing judgements, he was himself baffled by the huge and diverse variables that entered into any consideration of the issue. In that connection, the monumental study prepared by Mr. Capotorti should be updated in the light of world developments during the previous 15 years.

18. There was no question in his mind that the Soviet Union might be confronted with several major problems in connection with the sudden surge of national feelings. The Soviet Union had succeeded in bringing together about 100 nationalities on the premise that national differences were bound to wither away or at least be attenuated. It seemed however that national feelings in some cases were still dormant, fraught with romantic yearnings and irrational Utopianism. It must be conceded that no "Soviet culture" had evolved; there were still Russian, Ukrainian, Armenian, Muslim and other cultures which, to the credit of the Soviet Union, had not been antagonized or pushed around. What must be viewed with the utmost concern, whether in the Soviet Union, the Balkans or elsewhere, was the insertion of nationalism into the service of disintegration. It was however too early to assess the situation of inter-communal violence in the Soviet Union.

19. The Muslim-Bulgarian problem merited the particular attention of the Sub-Commission as it had reached a new peak during the last two or three months. The number of those who had left Bulgaria for Turkey had so far reached the fearful figure of one quarter of a million and that estimate had not been disputed by either party. What was of concern to the Sub-Commission was the abominable plight of those people whose suffering must be brought to an end and their human rights restored; they should not be used as pawns in a political game.

20. The parties concerned were two neighbouring countries who should have the wisdom and insight to dissociate the handling of the situation from historical bitterness. The Ottoman Empire was dead and vendettas buried. If the emotional factor was set aside, the two parties could negotiate a solution for the benefit of those migrants. It was not a case of forced deportation as had been alleged at the beginning. On the other hand, those migrants could not be called tourists who wanted to take advantage of a recent law enacted by Bulgaria which granted passports and freedom of movement to people. There must be a reason why one quarter of a million people had chosen to leave their country in a stampede and leave kin and property behind. The roots of the unhappiness of those people had been the "Bulgarization" process which had been taking place for many years. The target of that operation had been the full assimilation of Muslims into the main stream of the Bulgarian nation by, for example, the campaign to change all personal and place names of Turkish origin into Bulgarian names. On the surface it could be argued that the practice demonstrated the desire to strengthen the nation and wipe out all barriers to national unity. That argument however went against the very right of minorities to retain their identity. The eagerness of the Bulgarian Government to undermine the language and cultural heritage of its Muslims, even if done in the name of national unity, was unwarranted.

21. In March 1985, the Bulgarian Government had announced that there was not one Turk on Bulgarian soil. How then could it be explained that one quarter of a million had chosen to go to Turkey? If the Muslim minority had been denied its right to a distinct cultural identity, it had not been discriminated against because of religion. In Bulgaria there was no discrimination of any kind based on religion. In general, religion was not a very important matter. The anxiety of the Islamic Congress might be warranted but the Sub-Commission should avoid falling into the trap of "religionizing" issues. It would be wiser to play down the religious factor in dealing with world affairs. The Sub-Commission had had enough of one State which considered itself responsible for every single person of Jewish faith in all corners of the world. There would be no problem, of course, if the Islamic Congress was using its good offices with the Bulgarian Government.

22. A number of agreements had been reached between Bulgaria and Turkey, on population transfers and on cultural freedom, as early as 1951. The time had come to negotiate unconditionally a final treaty to iron out all disputes and misunderstandings on the problem. Turkey should recognize that the one-and-a-half million Bulgarian Muslims were Bulgarian citizens, loyal to their country, and should not persist in its patronizing attitude to them. Bulgaria should cease its policy of severing the ties of its Muslim population, with all its heritage, and guarantee their human rights.

23. In connection with the many other important cases, he, personally, was suffering from "comprehension fatigue". The flow of information was not always unadulterated and in some cases might be termed disinformation. Sometimes information was based on an individual judgement, or was not fully checked, or was selective. Contradictions abounded. With the enormous amount of information on human rights issues received by the Sub-Commission, a considerable amount of verification was required.

24. Mrs. PALLEY said that in her earlier statement, she had tried to point up certain propositions, but several of them seemed to have been obscured by the fact that she had mentioned certain States. She would therefore set out the propositions more clearly.

25. In the first place, no single State, or its allies, should be hyper-sensitive to allegations of non-conformity with human rights standards. All States, or their predecessors, had at one time or another violated human rights and also at one or another time had been beacons of civilization. For example, when Western Europeans had been blue-painted savages, civilization in Iraq had been at a high level. Conversely, reversals from civilized standards occurred: the flowering of culture in Germany and Austria from the late nineteenth century until Hitler's régime had ended with the death camps in Germany, Poland and other occupied States. Today, the German Democratic Republic consistently violated the human rights of its people, imposing secret trials and imprisonment for political offences on those who would exercise their right to leave their country, and also denying freedom of expression.

26. Second, human rights standards, which evolved slowly out of many factors, were the achievement of mankind, not of particular countries or areas of the world. As Mr. Eide had said, it had been the latest world-wide carnage, following similar carnage only 21 years earlier, that had led Western States to agree in the interests of world peace, on the civil and political rights of man, rapidly followed by the development of economic, social and cultural rights in whose expansion the third world had played a prominent role. Rights were still evolving and it was the third world thinkers who had recently set the pace in relation to the right to development, to self-determination and to peace. The interdependence of human rights, the maintenance of international peace and security and the achievement of development were clearly spelled out in the report of the Secretary-General in document E/CN.4/Sub.2/1988/2. She hoped that Mr. Türk's follow-up report would include concepts and procedures fostering and enhancing human rights, peace and development.

27. Third, although economic, social and cultural development and patterns varied from country to country, human rights standards must be absolute, subject only to very narrowly circumscribed exceptions, limitations and conditions permitting derogation. They must not be relative - that would lead States into temptation and encourage the approach that the end justified the means. It did not - it always corrupted and perverted. While it must be understood that States had to cope with internal dissidents, violence, terrorism, outside intervention and destabilization, those aspects were explanations together, very often with earlier governmental misconduct, of what was going on, but they were not justifications. The standards must be observed except to the very limited extent that departure was permissible.

28. In that connection she would like to advocate a new international standard, that all confessions should be inadmissible unless made in open court or before a judge with an independent lawyer representing the accused. There would always be argument about the provable extent of torture, ill-treatment, undue influence and and so forth and even with such a standard, prisoners could be beaten up before or after going to court, but such a rule would help.

29. Fourth, the use of double standards was not a failing unique to developing countries, as Mrs. Warzazi had pointed out. Western countries had long used double standards in relation to their strategic allies and trading partners - Israel and South Africa. And what could be a greater double standard than the notion that all men were equal, contrasted with the doctrine that had prevailed in the United States of America until 1954 and the denial of civil rights and equality to black Americans until 1964 and 1966? But, the application now of double standards by developing countries provided yet another alibi for Western States which supported trade and indirect arms deals with Israel and South Africa. She hoped that the Sub-Commission would not invoke double standards by only criticizing, rightly, the Federal Republic of Germany and Switzerland, whose industries supplied technology for weapons of mass destruction, including chemical and bacteriological weapons, although such States claimed that they did not really know enough to say what was being done by their own industry. The Sub-Commission, equally, must not say it did not really know enough to make a finding that chemical weapons were used against the Kurds in Iraq or that it had not enough of a prime facie case to seek investigation of allegations of the use of chemical weapons against UNITA forces in Angola. It must request investigation and discovery of the truth when the matter came up under item 4.

30. Fifth, all States and Governments at all times were continuously responsible. Speaking of her own country, she had been surprised at a Home Office memorandum at the time of the United Kingdom's accession to the European Convention on Human Rights stating that there was no reason for the United Kingdom to change its law or administrative practices because they fully conformed with international standards. Since then her country had passed the Race Relations Act, the Equal Pay and other Acts and was still a frequent defendant before the European Commission.

31. Sixth, breaches differed in degree and kind, except in inter-State cases, such as Cyprus and Turkey where grave violations had been found to be committed by Turkey. The fact that Western European States were not at present grossly violating human rights or engaging in a consistent pattern of violations, was due to their economic good fortune, the lessons they had learned from two world wars and the institution of the European Convention on Human Rights.

32. Seventh, it was essential to devise adequate judicial, investigative or conciliatory bodies on a regional basis. That was what she hoped ultimately would emerge from the African Charter of Human and People's Rights.

33. Eighth, even where regular international conciliation or investigating machinery existed, States differed in the extent of their co-operation with such bodies. In 1988, all Western European States, despite extensive reservations in the case of Turkey, had granted the right of individual petition under the European Convention, whereas she understood that as many as 15 African States had still not even ratified the African Charter. Such machinery was the best way forward, and if African States were to create and use it, they would face far fewer complaints in forums such as the Sub-Commission.

34. Ninth, the Sub-Commission's specific task under agenda item 6 was to look at current or recent violations - where the latter had not previously been raised. Past violations were not the Sub-Commission's concern except as historical background. She therefore profoundly disagreed with Mrs. Warzazi's view of the United Kingdom and its relationship to Northern Ireland. Since the end of 1984 there had been lengthy negotiations, leading to an international treaty, registered with the United Nations, between the United Kingdom and the Republic of Ireland. Both States recognized the right of self-determination for the people of Northern Ireland and both had agreed by treaty to enact legislation to reunite Ireland when that could be shown in a border poll or plebiscite, to be the wish of a majority of the people of Northern Ireland. The Anglo-Irish treaty had been a historic turning point, creating a unique quasi-confederation with joint authority between the United Kingdom and Ireland. No one must be impatient for an immediate change in Northern Ireland affairs after 808 years of struggle between England, Scotland and Ireland. In 40 years or so, the Catholics would be the demographic majority in Northern Ireland and long before then, in the context of the European Economic Community, the largely Protestant Unionist community would come to terms with the fact that its future lay in Ireland, hard though Unionists now found that to accept. Peaceful evolution was what was required, not bombs and bullets or a British pull-out, as in India, Palestine and Cyprus, since a "troops out" policy would lead to a fearful civil and even international war. It should be remembered that international destabilization and interference was not the prerogative of Western powers only: much against the wishes of the Irish and United Kingdom Governments, the Libyan Arab Jamahiriya gave aid to the Irish Republican Army and until recently the United States had tolerated arms supplies and funding for the IRA. South Africa, seeking knowledge of the manufacture of certain advanced missiles in the possession of Unionist workers in Northern Ireland, had supplied arms to an extremist Protestant terrorist group. Destabilization was destabilization, whether committed by the United States of America or the Soviet Union in Latin America, or by both in Africa, or by China in Asia, or by the Libyan Arab Jamahiriya or South Africa or by Cuba on behalf of the Soviet Union in various locations.

35. Tenth, the Sub-Commission had a specifically defined mandate regarding agenda item 6, being required under Economic and Social Council resolution 1235 (XLII) and Commission on Human Rights resolution 8 (XXII) to examine information relevant to gross violations of human rights and fundamental freedoms; and to study and investigate situations revealing a consistent pattern of violations of human rights. To make such findings, the Sub-Commission must have reasonable cause to believe that those characteristics were present. Only then, under Commission resolution 8 (XXIII), paragraph 6, could it draw such matters to the Commission's attention. That was why, for the time being, she had referred to Western European States only in passing.

36. Eleventh, the Sub-Commission complemented other United Nations bodies which might provide more appropriate venues for dealing with certain violations. The International Labour Organisation, for example, had better machinery for dealing with ill-treatment of migrant and other workers. The arms trade and demilitarization were better dealt with by the United Nations General Assembly or the Conference on Disarmament unless there was a specific gross violation. Those, of course, who invented, experimented with, marketed

and sold weapons of mass destruction were highly culpable, but those who used them were worse. According to estimates, the number of countries possessing them ranged from 15 to 36 but few had used them. She would not mince her words about the responsibility of the Soviet Union, the United States of America, France, China and the United Kingdom for encouraging arms purchases, let alone Sweden and other arms suppliers. She was delighted to note that the debate in the Commission and the Security Council on supplies of armaments to Iraq had meant that the United Kingdom would not be supplying Iraq with Hawk Helicopters which could be modified to deliver chemical weapons. She hoped that other Powers would ensure that their own arms and aircraft industries did not step in to fill that gap.

37. Twelfth, she had said earlier that the Sub-Commission should confine itself to current violations, but that history was sometimes relevant. That was the more so because the observer for China had attacked and attempted to discredit her by using the oldest rhetorical trick of misquoting her. He had alleged that she had said 18 million people had been killed in the Cultural Revolution. She had in fact said that there had been estimates of as many as 18 million people who had died as a result of policies then followed and that many had been deliberately killed. The observer for China had then challenged her source. Similarly, Mrs. Ksentini had spoken of China currently acting out of character. That unfortunately was a grave misapprehension. Her source of information on China was at the highest level within the Chinese State system. In the past 40 years, 80 million people had died, their deaths being unnecessarily accelerated by Chinese policies, 40 million of them from hunger. In the years of the Great Leap Forward, there had been 40 million deaths. Between 2 and 3 million had been executed. In 1957 up to 1 million people had been executed. Between 1965 and 1976, during the Cultural Revolution, 20 million had died of starvation or malnutrition or been executed. And there had been other regressions and purges. Tiananmen Square and subsequent purges had put the view that China had turned her back on such policies in question.

38. Last, on the right approach to resolutions: the Sub-Commission must be concrete, specific and not rhetorical; members must use their expertise to make distinctions and differentiations; they must not confuse causes and explanations with forbidden conduct - torture was torture and the worst terrorism did not justify its infliction; and the Sub-Commission should not categorize States as first, second or third class, but should give details of the date and nature of the violations. Distinctions should be made as to the degree of violation, whether it involved Government policy, or whether the Government had deliberately flouted international standards and refused to co-operate with international human rights bodies, or to what extent a Government was genuinely investigating alleged violations by groups within the State.

39. She believed that, apart from country-specific resolutions, the Sub-Commission should adopt a general resolution with several parts, which would not refer to any State which had been publicly dealt with at the current session by way of other Sub-Commission procedures. In the gravest cases of violations, the Sub-Commission should deplore the listed States' violations and report on them to the Commission. In the case of States, it should express its grave concern in respect of consistent patterns of violations.

40. In other cases where the Sub-Commission had received disturbing information from non-governmental organizations - such as the relocation programme for indigenous peoples in the United States of America, it might better deal with it through the relevant working group or under another agenda item.

41. She would be happy to add to her draft resolution the names of any States suggested by members in accordance with the criteria she had set out, i.e. when there was evidence constituting reasonable cause for believing that there had been gross violations of human rights or a consistent pattern of human rights violations. Such evidence could be from members, States, non-governmental organizations and even from newspapers, since the International Court of Justice had ruled that reports in newspapers constituted an important source of information.

42. Mr. ILKAHANAF said that, despite the numerous resolutions adopted by the Sub-Commission and other international forums, human rights violations continued unabated in different parts of the world. There seemed to be an understanding that condemnation would not go beyond words and that enforcement machinery, if any, was ineffective. Some cases of violations were more gross and frequent than others. Particularly notorious were those of Israel and South Africa. He had already spoken of violations in South Africa and hoped to revert to them under agenda item 5 (b).

43. Israel, which was a member of the United Nations and called itself a democratic and peace-loving country, used arms against unarmed women and children - as witnessed television reports of young children confronted by heavily armed soldiers. Provocations such as those gave momentum to the struggle, and unless Israel understood that, the struggle would continue. The intifada was the result of Israeli intransigence and unwillingness to allow the Palestinians their right of self-determination and end the occupation of their territories. The intifada would continue, become revitalized or take new forms, unless and until the Israelis left the occupied territory of Palestine.

44. The leader of the Palestinian people had come to Geneva to denounce terrorism, but instead of welcoming the move, Israel had resorted to terrorism. Previous speakers had referred to a Bill in the Knesset which, under the heading of prevention of terrorism, was itself a terrorist act, giving the authorities the right to search premises without proof of an offence having been committed and hearing of evidence in the absence of the party concerned. Such legislation must be deplored and reference must be made to it in resolutions concerning occupied Palestine.

45. Violations of human rights in many countries must be considered in the context of the root causes, such as economic difficulties and lack of awareness of the instruments relating to human rights. In many countries, economic conditions were such that even the essential needs of the population could not be met. Those who had a stake in the economy did everything in their power to maintain their privileges, and any protest was suppressed. Thus, in many countries, economic development would not help to improve the human rights situation.

46. With regard to lack of awareness of international human rights laws, in many countries conditions were such that the administrators of justice, law enforcement officers, military personnel and prison officers were not informed of the existence of international instruments guaranteeing certain civil rights to every individual, either because those responsible were not aware of such instruments, or because there were no adequate funds for translating or disseminating such instruments. He welcomed and appreciated the efforts of the Centre for Human Rights to help with that problem.

47. He could not agree with Mrs. Palley's proposal for a comprehensive resolution. In the first place, it was a principle of law that every case must be considered on its own merits. Secondly, it was the practice of the Sub-Commission to consider every situation on an individual basis. Thirdly, a resolution of the kind in question would not have any material effect on the States concerned. Lastly, he doubted whether members would be able to support the whole of such a resolution.

48. Mrs. DAES said that in view of the importance of item 6 she would make two separate statements, the first dealing with human rights violations in the Republic of Cyprus and the second on violations of human rights in other countries.

49. Fifteen years had elapsed since Turkey had committed the crime of aggression against Cyprus, a peaceful and non-aligned country. Since then some 30 per cent of the territory of Cyprus had remained under Turkish military occupation and all Cypriots were suffering from gross and systematic violations of their human rights and fundamental freedoms.

50. Sadly, from the adoption of General Assembly resolution 3212 (XXIX) and its endorsement in Security Council resolution 365 (1974), Turkish troops had remained in Cyprus illegally, an action constituting the crime of aggression and a threat to international peace and security. Cyprus remained tragically divided and refugees were still waiting to return to their homes and property of which they had been dispossessed by force of arms.

51. Many United Nations organs had adopted a number of substantive resolutions on Cyprus which, regrettably, had been disregarded by Turkey.

52. The fate of many people, including some Greeks missing as a result of armed conflict in Cyprus, remained unknown. She again appealed to Turkey and all other parties concerned to facilitate, in a spirit of co-operation and goodwill, the mission of the ad hoc Committee on Missing Persons in Cyprus established by the General Assembly in 1978.

53. The martyrdom of the enclaved persons including children continued, despite the humanitarian efforts of the United Nations Peacekeeping Forces in Cyprus to alleviate their suffering.

54. The women of Cyprus, together with women from other parts of the world, had held a peaceful demonstration in support of their sacred right to return to their homes and the reunification of their illegally divided country. The Turkish military forces had reacted by arresting some 108 women and other individuals in the demilitarized zone controlled by the United Nations Peacekeeping Force and by ill-treating the Bishop of Kitium.

55. Another disturbing act at which the international community had expressed grave concern was the looting and export of antiques and religious artefacts from the areas occupied by Turkish troops, in the systematic destruction of the centuries-old cultural and religious heritage of the Greek Cypriots. Reports on the looting had been published inter alia in the Turkish Cypriot daily Halkin Sesi of 15 February 1989 and in four articles published in the weekly magazine Olay by a Turkish Cypriot journalist, Mr. Mehmet Yasn. Icons and other items had been illegally exported from the occupied area of Cyprus and sold on the international market, and officials of the illegal Turkish administration of the occupied area had been accused by the Turkish Cypriot press of aiding and abetting that illicit trade. The international as well as the Turkish and Turkish Cypriot press had published photographs of archaeological sites and churches in the occupied areas of Cyprus that had been systematically plundered. Numerous articles in foreign newspapers had also dealt with the pillaging and destruction of the cultural heritage of Cyprus in the wake of the Turkish invasion and occupation of northern Cyprus in 1974. Recently a United States court in a judgement of historic importance had acknowledged the illegal trading and export of mosaics from the Kanakaria church in the occupied area of Cyprus.

56. The settlers established by Turkey in the occupied area of Cyprus should return from whence they came. The Turkish Cypriot daily Yeniduzen had stated that 46,216 settlers from the Turkish mainland had settled in the northern occupied area. However, the true number was about 65,000, which confirmed the Greek Cypriot position that the real intention of Turkey was to change the demographic character of Cyprus.

57. It was clear that Turkey had no real interest in the fate of the Turkish Cypriots and that its intended policies were at the expense of all Cypriots.

58. Moreover, the illegal administration of the occupied area of Cyprus continued to change the Greek names of certain villages in the northern part of the island to Turkish ones. Innumerable properties had been expropriated and Greek Orthodox churches and graves had been desecrated. The problem was so serious that the United Nations Forces in Cyprus had felt the need to raise it with the illegal Turkish Cypriot authorities in the occupied area.

59. Every support should be given to the initiative and efforts of the Secretary-General and to the talks sponsored by the United Nations for a peaceful solution to the Cypriot question. In order to achieve a just, fair and lasting solution, the following preconditions were essential: the immediate withdrawal of the Turkish armed forces and the demilitarization of the Republic of Cyprus; the withdrawal of the Turkish settlers and their return to their places of origin; the reunification of the island of Cyprus and condemnation of the purported secession of the occupied territory; the safeguarding and implementation of the fundamental freedoms of movement and settlement and the right to property; the respect and restoration of the human rights of all Cypriots and observance and implementation of all United Nations resolutions, in particular Sub-Commission resolution 1987/19.

60. The future of mankind was based on the rights and freedoms inherent in a democratic and free society. Such a society should be enjoyed by all Cypriots without discrimination as soon as possible.

61. Mr. van BOVEN said that item 6 was the most complex and delicate item on the Sub-Commission's agenda, touching upon the shortcomings of societies, upon political factors and the tragic fate of many people.

62. He agreed that the Sub-Commission should not deal only with the symptoms but also with the root causes of human rights violations. External factors such as economic situations, the debt crisis, the borders drawn by colonial powers irrespective of the desires of the peoples concerned and policies of expansion and domination could not be ignored. Internal factors in societies also had to be taken into account. Those included the arbitrary rule of despotic leaders, mismanagement and disrespect for the human being.

63. No country or group of countries could escape justified criticism. The attitude of the Western nations should be questioned: many of them were involved in the lucrative arms trade, contributing to the deterioration of the environment, or involved in the sexual and economic exploitation of women and children, particularly from the third world. In the recent past, policies of anti-semitism, racism and genocide had been carried out.

64. Another cause of violations was gross ignorance about human rights. In that respect the role of the media, which gave the impression that the whole world was watching, was important. Admittedly their interest was selective, but it had been media focus on the war in Viet Nam that had made the position of the United States finally untenable. The deliberate killing of a journalist in Nicaragua had been one of the factors leading to the downfall of the Somoza régime. There was, however, little media coverage in closed societies.

65. The previous week, observers for some non-governmental organizations had said that progress was being made in setting up monitoring and supervisory machinery on the basis of treaties, special procedures and reports by special rapporteurs of the Commission on Human Rights. However, the potential of such procedures was not being used in full, and in that connection the International Court of Justice could play a more important role in international human rights issues. Monitoring and supervisory procedures emphasized the accountability of States, and people were still investing their hopes and expectations in the United Nations and looking to it for relief and justice.

66. There had been positive developments in the realization of human rights throughout the world. There were prospects of a return to democracy in Chile and of long-awaited independence for Namibia; there were hopeful signs in Paraguay and, most hopeful of all, the advent of perestroika in the USSR.

67. He agreed with Mr. Khalifa that the Sub-Commission was facing problems because of the enormous amount of sometimes contradictory information it received from different sources, from which it was often hard to distinguish what was true. The Sub-Commission therefore needed to strengthen whatever fact-finding capacity it had. He wondered who selected the information - non-governmental organizations, the media or the experts themselves - and on the basis of what criteria. The Sub-Commission still had a long way to go in arriving at a fair judgement of the issues involved.

68. He agreed that it was unnecessary to aim at a political or geographical balance in discussing human rights issues, since in so doing the Sub-Commission might lose sight of the human factors involved. Each situation must be examined on its own merits and in its historical context.

69. He believed that the analytical and advisory role of the Sub-Commission should be strengthened. There was a tendency for the Sub-Commission to be used merely as a forum, but that was only one of its functions. Its major work should be seen as assisting the Commission on Human Rights to deal with human rights violations wherever they occurred.

70. On the basis of the wealth of information he had received, he wished to mention a few issues of particular concern to him. Over the years, but to an increasing degree recently, there had been an excessive use of force in crushing peaceful demonstrations, resulting in indiscriminate killings of large numbers of people.

71. In 1988 peaceful demonstrations for democratic goals in Burma, now the Union of Myanmar, had been put down with excessive violence and many casualties.

72. The previous week the Sub-Commission had heard many statements about the terrible tragedy in Beijing on 3 and 4 June 1989. One of the first to react to that tragedy had been the Special Rapporteur of the United Nations on Summary and Arbitrary Executions who had cabled to ask for further information. Many people were apparently still being detained in the aftermath of those events. In that connection, the version of events given in the statement by the observer for China in many respects contradicted information received from other sources.

73. Another feature of concern was the violation of the collective or group rights of distinctive groups, peoples and minorities to which Mr. Khalifa had referred, with patterns in some instances of forced assimilation, forced integration or forced removal resulting in repression, loss of life and attacks on life and property and often also a denial of the distinct character of the peoples involved.

74. He shared the concern expressed regarding the situation in Bulgaria which had led to a mass exodus of ethnic Turks to Turkey. He had not found the observations of the Government of Bulgaria convincing, particularly as to why those people wished to leave Bulgaria. On the other hand, he recognized that recently-adopted legislation and policies allowing Bulgarian citizens to leave their country and also to return to it were unique in eastern Europe.

75. The situation of the Kurdish minority in Turkey, whose national aspirations had not been taken into account when national borders were drawn up, was also of great concern, as was that of the Hungarian minority in Romania. The question of the use of chemical weapons against the Kurdish minority in Iraq by Iraqi forces was also very worrying. In that connection he was perplexed at an official Iraqi statement to the effect that Iraqi armed forces had never used chemical weapons in such operations, since he had a great deal of information to substantiate the allegation of the use of chemical weapons.

76. Another minority issue of concern was the denial of group and individual rights to the Tibetan people and the denial of their distinct religion and culture.

77. Two further issues that had still to be resolved were the question of the continuing repression of the people of East Timor, and the prospects for peace and reconciliation for the Eritreans in Ethiopia.

78. A third phenomenon was that of patterns of inequality and of violations of the fundamental rights of those working for change. In El Salvador, for example, the lives of human rights workers and others working for change were in constant jeopardy. The massacre at El Aguacate in Guatemala in November 1988 had not been an isolated incident, but was part of a continuing pattern of disappearances, massacres and killings. It was to be hoped that the recent Tela Agreement between Central American Heads of State and the process following Esquipulas II would lead to greater justice, equality, independence and self-determination in the region. Yet it was clear that the world was still divided into first-, second- and third-class citizens. The latter class included children who were victims of infant mortality, indigenous peoples, many of whom were still not treated on an equal footing as human beings, and many rural workers throughout the world, especially in Latin America. Such persons' lives were cheap: westerners still tended to show more concern at the killing of one white person than at the death of thousands of black people. The great lesson of the Universal Declaration of Human Rights, which had proclaimed freedom, equality and respect for all human beings, irrespective of their colour, race or sex, had still to be learned in a world where that pattern of inequality, continued to prevail. In that context, the question of the policy of systematic liquidation of opponents pursued in Iran was a further matter that should continue to be examined by the rapporteur.

79. Mrs. Palley had prepared a preliminary paper on issues relating to the rights of minorities (E/CN.4/Sub.2/1989/43). Those issues would be with the Sub-Commission for a long time, and the Sub-Commission should try to deal with them concretely and comprehensively.

80. One final constant factor was the issue of forced removals of people, for racial reasons (as in South Africa), for security reasons (by Israel in the occupied territories), and for economic reasons (in the case of indigenous peoples). That issue, too, would need to be studied in depth at some point in the future.

81. Mr. CHERNICHENKO said that, in view of the wealth of material for discussion under item 6, the Sub-Commission must consider how it might make that discussion more effective. Mr. van Boven had rightly said that the Sub-Commission should probably give consideration to the criteria adopted in selecting information for discussion. But the question should perhaps be put more broadly, with consideration given to the methods adopted for the discussion itself. He proposed to structure his remarks around two theses, which he would then comment on briefly and clearly.

82. The first thesis was that the primary task of the Sub-Commission must be to work on the elaboration of norms and recommendations, containing international standards in the field of human rights. That should be its fundamental objective under all items, and item 6 was no exception. Clearly, however, it should not duplicate the work of the Commission on Human Rights.

83. His second thesis was that, when discussing violations of human rights in various parts of the world, so as to act in their expert capacity and avoid politicization of their work, the Sub-Commission should avoid taking decisions and adopting resolutions regarding specific countries. In order to maintain its status as an expert body, the Sub-Commission should primarily adopt resolutions on broad themes, and should strive to develop general procedures. However, there were some exceptions to the above rule. His remarks did not apply to the 1503 (XLVIII) procedures established by the Economic and Social Council. Of course, decisions on individual countries must be taken within that procedure. A second exception was that, if in its expert capacity it was entrusted by the Commission on Human Rights with the study of a specific aspect of violations in particular countries, that task might naturally lead to the adoption of a resolution. It seemed to him that the initiative should come from the Commission. Of course, if it was a question of situations regarding which there was an international consensus - where world opinion was agreed that massive violations of human rights really had occurred - then, in its expert capacity, the Sub-Commission could adopt a resolution with regard to that country. A final exception, which had rarely if ever arisen, was that of a country specifically requesting the Sub-Commission to discuss a domestic situation and to adopt an appropriate resolution, or agreeing to such a procedure.

84. He wondered how best the Sub-Commission could combine depoliticization with reactions to human rights violations, bearing in mind that that reaction must be swift. Discussions must be held on such questions. When he said that the Sub-Commission ought to avoid adopting resolutions on individual countries, he did not wish to deprive experts and observers of the right to express their opinions. There could and must be fairly lengthy and substantive discussion. That was already an adequate response at expert level; reactions must be timely and swift, particularly as the experts' opinions would be recorded in the summary records and reflected in the media. But discussions must also take place among the experts: they should not be allowed to become a debate between observer Governments, or mutual accusations. In that case, the Sub-Commission would simply become a branch of the Commission on Human Rights. That did not mean that the Commission and Sub-Commission should adopt quite different approaches, turning the latter into a forum for mutual accusations between observer States. The Commission, too, was a humanitarian organ. It was often said within the Commission that it was not a political organ. Of course, it was a political organ in the sense that it was a body for intergovernmental co-operation on human rights questions. It was political in the broad sense of the word, in that it was a forum for co-operation and co-ordination of policies, on humanitarian issues. The task of the Sub-Commission was somewhat different.

85. With regard to another very important and as yet unresolved problem, the Sub-Commission was of course free to discuss breaches of countries' obligations ergo omnes in the field of human rights: that was clearly a purely international problem. Twenty or twenty-five years before, it had been

generally felt that individual cases could not be discussed by the Commission or the Sub-Commission. The view of the role of the bodies was now changing. Flagrant violations were often dealt with both there and by higher bodies. How, then, was it to reconcile that with the principle of non-intervention? In his view, the best way to consider individual cases was to work out some treaty-based machinery, giving the widest possible character to the Optional Protocol to the International Covenant on Civil and Political Rights. He had often said that the best approach was to start with oneself - a comment which applied both to experts and to observers. Many of his colleagues had adopted that approach. His own country deserved criticism in that regard, since the question of accession by the Soviet Union to the Optional Protocol had not yet been resolved.

86. He wished also to state that, while the information provided by the non-governmental organizations was of indisputable value, unfortunately not all their observers always perceived the specific nature of the Sub-Commission as an expert body. For example, within the Working Group on Indigenous Peoples, the Sub-Commission was discussing a draft declaration. Many non-governmental organizations had spoken within the Working Group about violations of the rights of the indigenous populations. However, those statements would have been more appropriate if made under item 6 in plenary. As it was, the Working Group was marking time on the issue. The situation was different with the working groups within the Commission. There, the non-governmental organizations submitted specific proposals, thereby assisting the working groups. If working groups within the Sub-Commission were to emulate that practice, more progress would be made.

87. Another matter for concern was that some NGOs sometimes singled out specific countries as targets. He could understand their concern in that regard. But the result was to introduce an unacceptable element of imbalance and politicization into the Sub-Commission's work, at the expense of other, perhaps more serious situations.

88. He concluded on an optimistic note. Of course, the Sub-Commission could not solve every issue at a stroke. Perfection did not exist in the world. However, it must strive for perfection.

89. Mr. SADI said that the intention of those who had originally formulated item 6 appeared to have been to cast a catch-all net to ensure that absolutely no human rights situation failed to be reflected in the agenda. Perhaps that was not the truth of the matter. But his personal impression was that the deliberations and interventions under the item lacked focus. In his view, the significance of the Sub-Commission's discussions lay more in an attempt to gauge the phenomenon of human rights violations, especially in countries suffering under apartheid, colonialism or occupation, than in an attempt to pass judgement on any given situation. In that regard, it was time that the Sub-Commission construed the scope and dimensions of colonialism more liberally than had hitherto been the case. The Sub-Commission had taken judicial notice of the fact that traditional colonialism in the form of external subjugation and denial of self-determination had more often than not been replaced by internal colonialism, under which subjugation and frustration of the right to self-determination sometimes continued in an even harsher form. It must be remembered that self-determination was a continuing process, which did not end at the point in time when independence was declared.

90. Returning to his original point, he submitted that the nature of the Sub-Commission's debate was not such as to form a credible basis for condemnation, or, indeed, for non-condemnation. By and large, the Sub-Commission had been "touching" on various situations that fell within the purview of the item. To condemn or not to condemn an individual country or régime was a very serious matter, which implied making findings that were not necessarily warranted on closer and more judicious examination. Thus, in his view, not to condemn was as awesome a responsibility as to condemn, and he took his part in the decision making very seriously.

91. He saw no sound rationale for condoning deliberation on a situation that was already dealt with under a separate agenda item, except in so far as it might complete the overall picture of human rights violations. As a particular example of his point, he referred to the matter that had received the most attention that year under item 6: namely, China. Year in, year out, certain speakers would single out a particular country for attention. There was nothing inherently wrong with that procedure. But, on close scrutiny, it could be seen that what had actually taken place was the following: a number of sources had made a number of assertions, accusing the Government of China of a multitude of very serious human rights violations. In return, the Chinese observer, in exercise of the right of rebuttal, had made a series of counter-assertions, purporting to refute his accusers' assertions. In judicial terms, both sets of statements must be classified as allegations. There was no reason to suppose that at least some of the accusations made were not true. Conversely, one had no right to dismiss all the rebuttals made by the Chinese Government. Perhaps the full truth lay somewhere between the two sides, or perhaps that elusive truth lay closer to one side than to the other. The answers to all of those questions would never be known.

92. The Sub-Commission was not a judicial body, and was thus able to depart from orthodox legal constraints. Yet it must also endeavour to investigate situations, rather than simply passing verdicts. If its investigatory procedures were inadequate or flawed, it must try to rectify them. In his view, condemnations regarding China or any other situations falling within the all-embracing item 6 should be left to the Commission on Human Rights. The Sub-Commission would be better employed in gathering substantiated information and making the necessary assessments as to its veracity.

93. With regard to the heart of the matter, namely, the situation of human rights violations world wide with particular reference to apartheid and colonialism in all their traditional and contemporary forms, it was obviously still premature to issue a clean bill of health. It was now generally acknowledged that human rights could flourish only in a truly democratic system of government. In other words, human rights and non-democratic systems of government were mutually exclusive. Perhaps the Sub-Commission was wasting its time in attempting to discuss the realization of human rights in their individual and collective dimensions, while divorcing the issue from the question of democracy. Fortunately, the United Nations system had incorporated the guidelines on the requirements for an operational democracy, which could be found in the International Covenant on Civil and Political Rights. What was beginning to happen in the USSR, Poland and Hungary was a fine example of what needed to be done elsewhere.

94. Lastly, he considered that the question of the Turkish Muslims in Bulgaria had not been given sufficient attention. The problem had two dimensions: an ethnic and a religious dimension. In view of the scale of the problem, which involved hundreds of thousands of people, and of the fact that problems of that kind might arise again, it should have received more attention from members of the Sub-Commission.

95. Mrs. WARZAZI said that Mrs. Palley's remarks had failed to convince her, inasmuch as they appeared to constitute a justification for her first statement. The Sub-Commission had two tasks: the first, under the terms of the 1503 (XLVIII) procedure; the second, to deal with violations of human rights throughout the world. In the context of the latter responsibility, it had, as Mr. van Boven had pointed out, to transmit to the Commission not cases of massive and systematic violations, but simply cases of violations of human rights. If there were to be two sets of standards, then it was those countries with the policies and the means to implement them that should bear the brunt. She thought that the criterion imposed on States in the matter of their contributions as States Members should also be applicable when it came to evaluation of violations of human rights. The better the financial, economic, social and educational position of a country, the more it was, as it were, penalized at the budgetary level in comparison to other countries. The same should be true of assessment of human rights violations: that was an equitable and realistic rule. In the same way, it was the Sub-Commission's duty to monitor very closely violations in all countries of the world, whose Governments were now aware of its vigilance, as was evidenced by the massive attendance in the conference room.

96. Mrs. Palley had said that the Western countries had ratified the various human rights conventions. But how long had it taken those Western countries to sign and ratify those conventions and to show their willingness to subject themselves to the control of a European body responsible for the defence of human rights? With regard to Northern Ireland, Mrs. Palley had said that the Sub-Commission must not be impatient with the long process that would lead to a solution of the conflict. But should such patience be confined to the case of Northern Ireland?

97. According to Mrs. Palley, the Sub-Commission should not deal with migrant workers, since that task was performed by the ILO. But that organization was empowered to deal only with violations of labour rights. What, then, was to become of human rights and racism? It was from the starting point of racism that, as early as 1972, the General Assembly had made migrant workers one of its major concerns. The proof was that a draft convention was now being prepared, the purpose of which was to defend all the rights of migrant workers.

98. She concluded by referring to a recent incident in a major Western country. The mayor of a small town had authorized the bulldozing of a mosque. Worshipers had been inside the building at the time, and there had been casualties. The incident had received little attention in the press. But what an outcry would have ensued in the international press if, in her own country for example, the mayor of a small village had authorized the demolition of a church or a synagogue! She offered that thought as an illustrative example which, as experts, they might like to keep in mind.

The meeting rose at 1 p.m.