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COMMISSION ON HUMAN RIGHTS

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PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 14 August 1989, at 3 p.m.

Chairman: Mr. YIMER

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

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

- (b) ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA (continued) (E/CN.4/Sub.2/1989/9 and Add.1)

1. The CHAIRMAN invited Mr. Nyamekye, Deputy Director of the Centre for Human Rights, to respond to Mrs. Daes' request for clarification concerning the provision of the services of two economists to Mr. Khalifa to help him in his task.
2. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that it had not been possible to provide Mr. Khalifa with the services of two economists to help him in preparing his study, as he had requested, because of the serious financial difficulties facing the United Nations. Arrangements had nevertheless been made, in consultation with the financial services, to assist Mr. Khalifa, who had thus been provided with the services of one consultant for three months in 1988. The same arrangement would be made in 1990. That decision had been approved by the Commission on Human Rights and endorsed by the Economic and Social Council. He wished to point out, however, that all expenses related to the work of the consultant in 1988 had been financed from the Centre's budget and the Centre had received no additional resources for that purpose. It was difficult to envisage how the situation would stand in the future, but he wished to assure the Sub-Commission that no effort would be spared in ensuring that the Special Rapporteur could continue to receive the best possible assistance so that he would be able to carry out his study.

INTERNATIONAL PEACE AND SECURITY AS AN ESSENTIAL CONDITION FOR THE ENJOYMENT OF HUMAN RIGHTS, ABOVE ALL THE RIGHT TO LIFE (agenda item 12) (continued) (E/CN.4/Sub.2/1988/2)

3. Mr. DIACONU said that he shared most of the ideas expressed by Mr. van Boven regarding the item under consideration. International peace and security were indeed two essential conditions for the exercise of all human rights. Any threat to international peace and security was also a threat to human rights. As Mr. van Boven had emphasized, the nuclear arms race, and the very existence of nuclear weapons, constituted a serious potential danger to the right to life, but the same was true of the conventional arms race, which absorbed considerable material and human resources, thus proportionately reducing the resources that could be devoted to the protection of human rights.
4. Underdevelopment was also, as it were, a time-bomb that threatened human rights. Most of the developing countries which had made no social and economic progress during the 1980s were not in a position to guarantee respect for human rights.
5. The interdependence of peace and human rights was therefore unquestionable, but that did not mean that the question of human rights should be used to provoke conflicts or kindle hatred between peoples and countries. Care had to be exercised in that regard since it was for each people and each country to freely determine its own path of development and to ensure the protection and promotion of human rights.

6. Mr. LAGHMARI said that the history of mankind clearly showed that international conflicts could have dramatic consequences for the enjoyment and exercise of human rights.

7. Thus it emerged from chapter I of the Secretary-General's report on the question (E/CN.4/Sub.2/1988/2) that many international instruments adopted by the General Assembly of the United Nations emphasized the interrelationship between human rights generally, or specific human rights and fundamental freedoms, on the one hand, and international peace and security on the other. The Universal Declaration of Human Rights and the two International Covenants on Human Rights recognized notably that the ideal of the free human beings, enjoying freedom from fear and want could be achieved only if conditions were created whereby everyone might enjoy his economic, social and cultural rights, as well as his civil and political rights.

8. Despite the legal arsenal available to the international community for that purpose, it had to be acknowledged that the human rights situation in various parts of the world was particularly gloomy, mainly because of external and internal conflicts. According to a recent report by UNICEF, some 20 million persons, mostly women and children, had been killed during 150 conflicts in the developing countries since the Second World War, and those conflicts had created more than 12 million refugees and displaced persons. Some of those conflicts, related to decolonization and the struggles being waged to exercise the right to self-determination, were still continuing, for example, in Palestine, Namibia and South Africa. Other conflicts reflected the recent history of the third world countries and stemmed for the most part from the colonial heritage or from hegemonistic or neocolonialist policies.

9. Another often insurmountable obstacle to the full enjoyment of all human rights was underdevelopment and the inadequate utilization of the results of scientific and technological developments. Yet those results should permit the economic and social development of peoples and guarantee all human rights and freedoms in accordance with the Charter of the United Nations, as proclaimed by the General Assembly on 10 November 1975 in its Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind.

10. Peace was a right that should be enjoyed by every nation and every human being, regardless of race, conscience, language or sex, as the General Assembly had emphasized in the Declaration on the Preparation of Societies for Life in Peace adopted on 15 December 1978. It was also an essential condition for international co-operation and for the progress, well-being and security of all the peoples of the world.

11. In conclusion, he wished to point out that commitment to peace was one of the teachings of Islam, and for that reason he supported the proposal to carry out an in-depth study of all the aspects of the complex issue under consideration.

12. Mrs. MBONU observed that the importance attached by the Sub-Commission to the question of the relationship between international peace and security and human rights was reflected in the successive changes in the title of that item since its inclusion in the Sub-Commission's agenda.

13. The report prepared by the Secretary-General pursuant to Sub-Commission resolution 1985/2 (E/CN.4/Sub.2/1988/2) reviewed the efforts so far undertaken, both by United Nations bodies and by other organizations, to focus the international community's attention on that question. The relationship between the enjoyment of human rights, economic and social progress and the maintenance of international peace and security was recognized in the Charter of the United Nations and in the two International Covenants on Human Rights, as well as in many declarations and resolutions by the General Assembly, the Commission on Human Rights and the Sub-Commission and by ILO, UNESCO and WIPO in particular, and had also been stressed in a number of international instruments such as the Charter of the Organization of American States, the African Charter of Human and People's Rights, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the Final Act of the Conference on Security and Co-operation in Europe.

14. Human rights and international peace and security were mutually reinforcing since respect for human rights helped to promote peace while conditions of peace enhanced the enjoyment of human rights. For that reason, she could not go along with Mr. van Boven's proposal for the Sub-Commission to delete that item from its agenda. She would rather support the idea of carrying out a deeper study of the subject.

15. Attention was also drawn in the report to a special category of violations of human rights termed gross and flagrant violations that presented the most serious threat to peace. They included apartheid, all forms of racial discrimination, genocide, colonialism, the denial of the right to self-determination, threats against national sovereignty, hunger and starvation - violations which produced the types of violence committed in the occupied Arab territories, in southern Africa and in parts of South-East Asia and Latin America, as well as the tensions raised by the question of ethnic minorities between some developed countries.

16. The report also emphasized that various international forums and many reports and studies had recognized that peace, disarmament and development were essential conditions for the realization of human rights and fundamental freedoms. Peace could even have a positive influence on development, as indicated at the Seminar on the Relations that Exist between Human Rights, Peace and Development held at New York in 1981. It was also noted in the report that the arms race had become a threat to the security of all nations and that general and complete disarmament under effective international control would promote the full realization of human rights and fundamental freedoms. The arms race represented a waste of resources, a diversion of the economy away from its humanitarian purposes and a hindrance to national development. That was the reason for the persistent efforts over the years to halt the arms race.

17. With that in mind, India had proposed the establishment of a United Nations peace fund in 1950, but it had not been possible to put that idea into effect at the time because of various factors, chiefly the then prevailing Cold War and the conflict between North and South. Today, however, the situation had changed. The two super-Powers in particular and the two military blocs in general were ready to co-operate and had entered into negotiations leading, among other things, to the signing in December 1987 of

the INF Treaty to eliminate an entire category of nuclear weapons. The two super-Powers, moreover, were pursuing their negotiations to achieve a 50 per cent reduction in their strategic nuclear arsenals. Considerable progress had also been made in the area of conventional weapons, which had been greatly reduced by the Soviet Union and its allies. The NATO countries had also made proposals towards that end. Lastly, talks had taken place between the super-Powers for a partial ban of underground nuclear tests.

18. Progress had also been made at the political level, especially in Afghanistan and Namibia, and efforts were being continued to resolve the problems of Angola, Western Sahara, Nicaragua and Kampuchea. Mankind was seeing the dawn of a new era marked by understanding and peace among nations. It would be wrong, of course, to be over-optimistic, since some regional conflicts, such as those in Lebanon and Palestine, or the problem of apartheid were still far from having been resolved, but the international community must not admit defeat. It must take advantage of the favourable political climate currently prevailing in international relations to encourage the two super-Powers to pursue their negotiations on disarmament. The hundreds of billions of dollars expended each year on arms could then serve to enhance their countries' economic development, and that would have positive spill-over effects for the third world countries.

19. The work of the Sub-Commission would benefit immensely from any measure to promote disarmament, international peace and the economic and social development of the third world countries. The Sub-Commission must therefore persevere in its efforts.

20. Mr. Tian JIN said that the Secretary-General's report (E/CN.4/Sub.2/1988/2) defined the relations that existed between peace, security, disarmament, development and human rights and clarified all aspects of the question under consideration.

21. With the establishment of détente on the international scene, some sources of tension had diminished in intensity as a result of the negotiations between the super-Powers and the two major military blocs. But some problems, such as those of Afghanistan and Kampuchea, had still not been completely resolved and various regional conflicts, particularly in the Arab territories occupied by Israel and in South Africa, continued to endanger international peace and security. Most armed conflicts constituted a threat to the right to life, which was the most sacred right, and impeded the realization of other rights, such as the right to development. For that reason, as a United Nations body entrusted with the task of promoting and protecting human rights, the Sub-Commission must examine the question of human rights in the context of the international situation, i.e. placing them in an overall perspective.

22. The peaceful co-existence of States was an essential condition for the maintenance of international peace and security. Such co-existence must be based on certain principles established originally by China, Burma and India, which had subsequently attracted the attention of the international community and which were consistent with the spirit of the Charter of the United Nations. Those principles included, above all, mutual respect of the sovereignty and territorial integrity of each State, as well as non-aggression, which meant refraining from the threat or use of force as a

means of settling differences between States, and non-interference in the internal affairs of another State, which meant respecting the right of peoples to choose freely their own political and economic system and their own way of life. That approach would safeguard international peace and security and, consequently, the human rights and fundamental freedoms of the peoples of all nations.

23. In his view, the Sub-Commission should retain the item under consideration on its agenda, in the hope that with the years it would prove less and less necessary to examine the question.

24. Mrs. BANDETTINI DI POGGIO (International League for the Rights and Liberation of Peoples) observed that peace did not simply mean the absence of war but required the establishment of an economic, social, cultural and legal system that would guarantee the full enjoyment of human rights and the rights of peoples.

25. It was not surprising therefore to note that in Central America, to which her organization wished to draw the Sub-Commission's particular attention, although there existed a peace plan freely agreed upon and signed in August 1987 by the Presidents of the five countries of the region, peace was still far from having been re-established. The Esquipulas II Agreements nevertheless represented a major effort to restore peace in the region and to promote international security in accordance with the principles of the Charter of the Organization of American States, the Charter of the United Nations and the Universal Declaration of Human Rights.

26. The parties concerned believed, however, that there could be no peace in the region without respect for human rights, and that in turn was impossible without peace. The prospects of a settlement still seemed remote. The recent meeting of the five Presidents of the countries of the region at Tela had nevertheless reinforced the peace process, although the signatories had not yet given full effect to the principle of simultaneous implementation of the Agreements, above all in respect of the issues involving the political will to secure respect for human rights.

27. Thus, in El Salvador, Honduras and Guatemala, violations of human rights were continuing and affected even the defenders of those rights. In Honduras, in addition to the official policy of eliminating political dissidents, death threats by the Triple A and the activities of the armed forces, endorsed by the Government, were terrorizing the country. Furthermore, a whole range of laws were being violated by a deliberate policy of increasing military spending to the detriment of educational, health and land-use programmes.

28. In Costa Rica, too, the steady expansion of the police and military training programme was leading to more spending in that field to the detriment of the health and education budgets.

29. Nicaragua, despite the Contra activities supported by the United States Government, was the only country in the region that was honouring its commitments under the Esquipulas II Agreements, and thus had been able to present an agreement at the Tela summit signed by the Government of Nicaragua and 20 opposition groups. The Tela meeting had also been a victory for

Nicaragua, since the agreement signed by the five Presidents of the countries of the region laid down procedures and a timetable for the disbanding of the Contras, which must have left Honduras for good by 6 December 1989.

30. In Guatemala, the return of a civilian Government had produced little or no improvement during the past three years. The setting up of the National Commission of Reconciliation was the only positive achievement that could be claimed by the Government. Moreover, the Government had been unable to establish a genuine dialogue with all sectors of society, to resolve the country's structural crisis.

31. However, despite the open policy clearly being pursued by one State in the region, military solutions continued to be preferred, at the expense of political solutions, the real aim of the Esquipulas II Agreements. Deliberately or because of corruption, international aid was all too often used as a tool for the destabilization of countries, impeding progress towards peace. Thus, following a meeting held recently in Guatemala between the representatives of the five Central American countries and those of many other countries, including the European Economic Community, considerable financial resources had been allocated to facilitate the return of refugees from the region but the machinery and procedures for the administration and distribution of that aid had not been defined. That situation gave rise to doubts as to how the aid was really being used.

32. Arms sales by foreign countries, a practice prohibited by the Esquipulas II Agreements and by national laws, posed a further threat to international security.

33. In view of the foregoing, she requested the Sub-Commission to do its utmost to promote the implementation of the Esquipulas II Agreements and called on it to show vigilance in ensuring that no voluntary or involuntary interference resulted in injustices that would lead to social conflicts likely to jeopardize peace and the development of the peoples in that part of the world.

34. Mrs. BONNECHERE (International Association of Democratic Lawyers) said that she wished to speak about the circumstances in which three members of the Irish Republican Army (IRA) had been killed in Gibraltar on 6 March 1988 by soldiers of the British Special Air Services Regiment. The three Irishmen had been unarmed and, contrary to the first official statements, no bomb had been planted on Gibraltar. They had been shot in the back from a distance of one metre. Despite those facts and the urgent appeals by Amnesty International, the National Council for Civil Liberties, the Labour Party and some British newspapers, the United Kingdom Government had opposed any public inquiry other than the Gibraltar inquest which had found those killings to have been "lawful".

35. Her organization regarded that verdict as unsatisfactory for three reasons: first, the proceedings had taken place within strictly defined legal limits and had been further restricted by the secrecy invoked throughout for reasons of security. Second, the proceedings had been biased against the families' lawyer and most of the evidence had been destroyed. The coroner, moreover, had taken a discriminatory attitude towards the Association's

observer. Third, the verdict had not met the requirements of international standards, in particular article 6 of the International Covenant on Civil and Political Rights, which protected the right to life and stipulated that a State could impose the sentence of death only "for the most serious crimes". The Constitution of Gibraltar itself referred only to a concept of "reasonable justification" that was much less exacting.

36. In short, the Gibraltar inquest raised the question as to how a State that was a Member of the United Nations, the Council of Europe and the European Economic Community had been able to decide to have suspects executed rather than arrested and brought to justice. The context of the case, of course, was Northern Ireland where many instances of killings by the forces of law and order had already occurred in circumstances which had never been clarified. For many British and Irish lawyers, only a full public inquiry could disclose the truth about those cases, but there was a danger in holding any such inquiry. Furthermore, a high-ranking British police officer had been removed from one of the cases when he had reported serious irregularities by the police.

37. The Gibraltar case highlighted the ambiguities of the use of armed force in the Northern Ireland conflict, which was now in its twentieth year and whose victims were hoping for a political solution based on the exercise of the right of peoples to self-determination.

38. As Mrs. Thatcher herself had said, freedom would be dead the day when the armed forces of a State could execute those they felt constituted a danger. The United Kingdom Government, therefore, should be consistent and agree to a public inquiry on all the circumstances of the Gibraltar case, as demanded by the families concerned. Her organization hoped that the experts of the Sub-Commission would examine the case and concur in that approach.

39. Mr. RODRIGUEZ HENAO (International Association of Democratic Lawyers), referring to the situation in Colombia, said that in his country the protection of human rights, democracy and freedom of expression had become an offence punishable by death. Activists of the Union Patriótica or of any other left-wing political party, trade union or popular organization who defended the interests of the people - in other words democrats - were sentenced to death. The Union Patriótica, the political party he officially represented, had in the past three years been the target of bloody attacks by paramilitary groups which had murdered more than 1,500 of its members, leaving hundreds of widows, orphans and families in distress.

40. In Colombia 375 political crimes were committed every week and every day brought evidence that members of the armed forces were implicated in those crimes. Colombian democrats lived in terror and the country had been transformed into a theatre for experimenting in the most refined forms of State terrorism, which involved individual and collective murders ranging from the massacre of peasants and the killing of judges to the assassination of trade union officials, public figures and political leaders. The Colombian Government and the President of the Republic Barco Vargas were responsible by their actions or by default for that wave of genocide, which was plunging hundreds of Colombian families into mourning.

41. He had himself been the victim of that "dirty war", since on 24 June 1989, in the town of Villavicencio, while he had been asleep at home with his family a very powerful bomb had exploded destroying all their property. Miraculously, he and his family had been unharmed by the attack. In his capacity as a lawyer, he had been dealing with several court cases concerning the killings of trade union and political leaders and also the discovery of a secret burial place in the region of Meta.

42. During those trials, sufficient evidence had been produced to ascertain the true identity of the perpetrators and accomplices of the process of extermination that had taken place in the region of Meta. They included General Harold Bedoya Pizarro, the drug dealer Victor Carranza, local parliamentarians such as Jorge Ariel Infante Leal and national, regional and municipal officials. He had applied to the judge for the immediate arrest of all those persons a few days before the attack he had just described. Those crimes had so far gone unpunished and the persons responsible continued to hold important posts from which they had planned, directed and carried out the assassination of trade union leaders such as Luis Eduardo Yaya and Luis Augusto Bonilla, political leaders such as Carlos Kovas, the massacre of 17 peasants at Granada, Meta, and the disappearance of hundreds of Colombians, who had been murdered, after being tortured, and whose bodies had been located in a secret burial place at the San Pablo hacienda in the constituency of Puetro Lopez, Meta.

43. He wished to denounce before the Sub-Commission and the international community the perpetrators of all those acts for crimes against humanity, and he affirmed that he was in a position to supply the Sub-Commission with evidence to support his accusations.

44. As an official representative of the Union Patriótica, he requested the Sub-Commission, in accordance with Commission on Human Rights resolution 8 (XXIII), to bring the situation in Colombia to the attention of the Commission. He also called for urgent measures to protect the lives of Angelino Garzon, a trade union leader and general secretary of the Central Unitaria de Trabajadores, Bernardo Jaramillo, a political leader and president of the Union Patriótica and Alfredo Vazques Carrizosa, chairman of the Standing Committee for the Protection of Human Rights in Colombia.

45. Mrs. FARHI (International Council of Jewish Women) observed that there was an idealistic and a realistic approach to the issue of the relationship between peace and human rights.

46. Supporters of the idealistic viewpoint believed that to achieve peace it was necessary to bring about total disarmament - a situation which would allow all human rights to be respected and promoted in all countries. From that standpoint, the arms race was therefore a cause and not a consequence of conflicts.

47. Her organization, however, believed that arms did not explain insecurity or international tensions and that one of the major causes of conflict was the destabilization of the international economic system. That reinforced the need for security and therefore led to an arms race, which in turn created tensions.

48. Seen from a realistic viewpoint, the world today was seen as divided into nations or States. Their duty was to protect their sovereignty. In order to achieve peace, their interests and relationships must be taken into consideration, as well as their duty to protect the security of persons within their jurisdiction. The world was also divided into ideologically opposed groups and their rivalry was inevitable. Those realities could not be altered with simplistic and global formulas, and even less with unilateral solutions. The limitation of arms to the lowest possible level, with verifiable control on all sides, was nevertheless a realistic way of reducing tensions.

49. To say that international peace and security were an essential condition for the enjoyment of human rights could serve as an pretext for States not to protect or promote human rights unless a situation of total peace prevailed. It should not be forgotten, however, that human rights and fundamental freedoms were obligatory and must be protected even in periods of insecurity or in time of war.

50. One must beware, however, of abstract proposals that were submitted as norms and standards but were deprived of any real weight because they were not supported by any supranational authority or institution with binding power. Objectives should instead be concrete and feasible.

51. Realism was more propitious to an understanding of the interests and ideas of others than idealism or the cult of abstract principles. However, realism must not give way to cynicism. Concern must be shown not only for oneself, but also for others and for all human rights, civil and political, economic, social and cultural.

52. Mrs. BERRY (Commission of the Churches on International Affairs of the World Council of Churches) said that the past year had witnessed a revolution in East-West relations. Developments in the Soviet Union had contributed to a fundamental change in super-Power relations.

53. Unfortunately, that process had not yet been translated into changes of attitude in other regions, and some Governments continued to use the bogey of communism as an excuse for heavy militarization of their countries. That was the case in the Philippines, where the situation was of particular concern to her organization as many of its members had been affected by the militarization of society in that country.

54. After the revolution of February 1986, which had brought about a peaceful end to 20 years of dictatorship, the new Government of Mrs. Aquino had entered into a cease-fire agreement with the National Democratic Front (NDF), a coalition of all underground revolutionary organizations, including the Communist Party of the Philippines and its military arm, the New People's Army. Filipinos had enthusiastically welcomed that agreement, which had enabled the reunification of combatants with families and friends and had also significantly reduced instances of human rights abuses by the armed forces.

55. Before the end of the cease-fire period, in February 1987, military and police forces had fired on thousands of farmers demanding genuine land reform in a march on the presidential palace. That had led to the breakdown of negotiations between the NDF and the Government. The day after the end of the

cease-fire period, Mrs. Aquino had declared total war against the NDF. Unprecedented and massive military operations had then been carried out in many parts of the country. Those operations had resulted in the deaths in evacuation centres of hundreds of children and had caused incalculable hardships for the wider population.

56. The most troubling consequence of that policy of total war, however, had been the militarization of political debate in the Philippines. The military had launched a massive campaign of recruitment for the Citizens' Armed Forces Geographical Units (CAFGUS). The Government and the military, furthermore, had sponsored the recruitment, training and arming of vigilante groups, which the Presidential Committee on Human Rights itself had found to be violating human rights. Although national and international pressure had obliged the President to order the disbanding of the vigilante groups in July 1988, they were continuing their activities and persistently violating human rights.

57. Of even greater concern was the fomenting of what could only be described as anti-communist hysteria, not only by the military but also by some foreign religious groups. In that climate, church and human rights groups which dared to criticize the Government and the military were accused of communism. Thus, they became the targets of anti-communist vigilante, military and paramilitary groups.

58. The United Church of Christ in the Philippines (UCCP), a member church of the World Council of Churches, was a case in point. Since November 1987, when the UCCP had been listed as a communist-infiltrated group, members of that church had been victims of harassment, arrest and even murder. Sixteen church leaders, including four pastors, had been killed by fanatical groups. A recent victim of those killings had been the Reverend Vizmina P. Gran, an ordained minister, human rights advocate and congressional candidate. She and her husband had been gunned down in their home, in front of their children, on 1 May 1989. A few days later an anti-communist vigilante group had taken responsibility for the murders. That cycle of violence was unfortunately being intensified. The most recent example had been the massacre on 25 June 1989, by the New People's Army, of 37 recent converts to the UCCP.

59. The World Council of Churches had long held that insurgency and rebellion in many parts of the world were rooted in unjust social, political and economic structures, and not in the infiltration of societies by particular ideological forces. The report of the Secretary-General to the Sub-Commission unequivocally established the link between just development, peace and human rights and noted the inevitable consequences of increasing military expenditures for human rights abuses between and within States. The Council urged the experts of the Sub-Commission to continue to give attention to the linkage between militarization and human rights.

60. Mr. LITTMAN (World Union for Progressive Judaism) said that he wished to refer to the dramatic situation in Beirut, which today was undoubtedly the most brutal example of the fact that international peace and security was an essential condition for the enjoyment of human rights, above all the right to life.

61. An appeal on behalf of Lebanon had been launched four months ago by the following non-governmental organizations: Pax Christi International, Pax Romana, Caritas Internationalis, the World Union of Catholic Women's Organizations, the World Federation of Methodist Women, the International Association for the Defence of Religious Liberty, Defence for Children International Movement, SOS-Torture, the International Movement for Fraternal Union among Races and Peoples, the International League for the Rights and Liberation of Peoples, the International Federation of Women Lawyers, the International Alliance of Women, the European Union of Women, Zonta International, the International Federation of Free Journalists, the International Council of Jewish Women and the World Union for Progressive Judaism.

62. In that appeal, which had been handed personally to Mr. Martenson in April 1989, the above organizations had stated that, having actively participated in the session of the Commission on Human Rights, they had wished to emphasize the principle that the right to life was a right from which all other rights flowed and they appealed to the Secretary-General of the United Nations, to the Under-Secretary-General for Human Rights, and to the international community as a whole, to "request the authorities of the Syrian Arab Republic to cease the bombardment of the Lebanese civilian population of Beirut".

63. He was confident that the number of non-governmental organizations ready to sign such a text would be much greater today, but in view of the gravity and urgency of the situation, those signatories would follow the appeal renewed by his organization concerning the item under consideration. Less than an hour earlier, the International Committee of the Red Cross had itself launched an urgent appeal for a humanitarian truce in Beirut. In those circumstances, the Sub-Commission also had a duty to act.

64. Mr. BARSH (Four Directions Council) said that although the Sub-Commission did not have a mandate to negotiate disarmament, that did not mean it had no business dealing with the issue of peace. On the contrary, questions of international peace and security were absolutely central to any discussion of human rights and violations of human rights often resulted in violence within States. Internal violence could attract intervention, moreover, often leading to wider regional conflicts.

65. Strengthening the enjoyment of human rights could therefore be a factor in preventing war. In 1970, the General Assembly had adopted a Declaration on the Strengthening of International Security, which it had recently reaffirmed in resolution 43/88. In paragraph 22 of the 1970 Declaration, the Assembly had concluded that universal respect for and full exercise of human rights and fundamental freedoms and the elimination of the violation of those rights were urgent and essential to the strengthening of international security, and it had resolutely condemned all forms of oppression, tyranny and discrimination, particularly racism and racial discrimination, wherever they occurred.

66. If the term "racism" was used in the sense proposed by Mr. Eide, namely to include all distinctions which could be described as "ethnic", it could be said that the Declaration had been largely justified by subsequent events around the world. Racism and the problem of socio-economic disparities within

national society were two sides of the same coin. There was a fairly common pattern of events whereby human rights problems became security problems. It began with social and economic disparities which were unresolved or even aggravated by State policies. Economic and social tensions would then express themselves in demonstrations against the State or in various forms of private violence, such as attacks by one group of citizens against others on ethnic, religious, ideological or other grounds, which the State attempted to suppress or to exploit for short-term political objectives.

67. Suppression of those tensions might result in further resistance and the breakdown of social order, which in turn could be the rationale upon which other States decided to intervene directly or indirectly. His organization was not denying the existence of authoritarian régimes or trying to excuse Governments; the point was that authoritarianism and State violence usually reflected a response to inequality, an attempt to use force either to maintain an unequal status quo in ethnic or class terms, or to equalize conditions.

68. Inequality in the enjoyment of human rights - civil and political, as well as economic and social - should therefore be a fundamental concern from the viewpoint of international security and should be addressed at its earliest stages.

69. Unfortunately, the United Nations system was not designed to deal effectively with that reality. Human rights, development and security were separate administrative domains within the Organization.

70. Social and economic tensions could and should be detected and resolved, in the first instance, by development agencies within the United Nations system. Unfortunately, that was not how the system worked. When violence erupted, if the human rights bodies failed, the question was passed on to the political committee of the General Assembly or to the Security Council. Thus different United Nations bodies intervened independently at different stages in the evolution of a problem, but the question of where the United Nations should place its emphasis and how it should decide on its priorities was never adequately studied.

71. His organization believed that the United Nations should intervene most conscientiously at the earliest possible stage, addressing inequalities through the development process before they led to official or private acts of violence. For that to occur, human rights norms had to be put squarely into the administrative process of development planning and project approval, not just as limitations but as goals. National economic growth was giving way to "basic needs" as a standard for development planning. But it was also essential to adopt a broader conception of "basic needs" that encompassed the whole range of fundamental human rights, and not merely those directly related to physical survival.

72. The consultation on the right to development, planned for later in the year, was an important step in that direction. He hoped that the meeting would make specific recommendations on improving United Nations participation in development projects, not only to achieve the enjoyment of social and economic rights but to avert situations which could lead to violence.

73. If prevention was to be effective, moreover, ways must be found to identify emergent problems and measure progress in resolving them, particularly in the social and economic fields. In that regard, his organization viewed the study of economic, social and cultural rights by Mr. Türk as having special relevance and hoped that his final report would contribute to defining appropriate "indicators".

74. Lastly, he wished to emphasize that the task of the Sub-Commission was not simply to criticize but also to offer constructive advice and solutions. As a body of experts, the Sub-Commission should be in the forefront in generating innovative alternatives for strengthening national institutions, or at least studying existing national experience for models that seemed to work. That was the potential role of the study of minorities proposed by Ms. Palley in document E/CN.4/Sub.2/1989/43. Such a study could set an important precedent for approaching the fundamental tensions in society from a positive and practical angle, based on the dissemination of information on successful experiences.

75. To sum up, the United Nations must recognize the chronological relationship of development, violations of human rights and armed conflict by seeking in a more co-ordinated and appropriate way to address the roots of violence through the development process. Human rights bodies should contribute to that approach by helping to design earlier and more effective methods of intervention for the elimination of inequalities, and in that way act most effectively to promote international peace and security.

76. Mr. CHERNICHENKO said that the report prepared by the Secretary-General on the item under consideration (E/CN.4/Sub.2/1988/2) was most valuable. In the light of the comments made by Mr. Van Boven at the previous meeting, he also wished to formulate some ideas with a view to dispelling any misunderstanding about the appropriateness of continuing to study the question of the relationship between human rights and international peace.

77. One might indeed be led to think, after having read the lucid report by the Secretary-General, that there was nothing more to be said and that the time had come to conclude the consideration of the question, particularly as the Sub-Commission's agenda was already very heavy.

78. The item under consideration was without doubt conceptual in nature. In order to avoid falling into the habitual practice of the Sub-Commission, namely a debate followed by a study and then resolutions that were too general in nature, the specific aspects of the question should be emphasized and a number of judgements made to clarify the conceptual positions. One approach, for example, might be to prepare a working paper for the next session that would focus on the various aspects of the problem to be studied, in order to arrive at more specific solutions and develop relevant general standards.

79. The current discussion, and in particular the statements by non-governmental organizations, showed that the question of armed conflicts was central to the issue. In that regard, emphasis should be placed on the very sensitive question of the realization of the right of peoples to self-determination and the principle of freedom of choice. How, in particular, could the struggle for self-determination by means of armed

conflict be reconciled with the rules of the international instruments, which prohibited the violations of human rights that resulted from armed struggle, especially violations of the right to life? Ideally, of course, it would be preferable for the right to self-determination to be exercised simply by means of referendums or democratic elections.

80. It would also be interesting, for example, to study the question of the prohibition of the use of chemical weapons from the viewpoint of contemporary humanitarian law. As a lawyer, he felt that consideration should be given to general but clear principles aimed at prohibiting the indiscriminate use of weapons or the use of weapons that caused needless suffering. Those general principles, however, would still have to be given practical form since, although disarmament was certainly a pressing issue, only partial measures had so far been taken in that respect.

81. With regard to the relationship between human rights and humanitarian law, it seemed to him that humanitarian law should not be applied exclusively to cases of armed conflict. It would be necessary to give it a broader meaning, encompassing conventional human rights, and at the same time lay down humanitarian rules applicable to cases of armed conflict. That question certainly merited consideration both on the theoretical and on the practical level. Since the Sub-Commission at its previous session had already addressed the problem of the use of chemical weapons, there seemed to be no reason why it could not continue to make progress in that field.

82. Mr. VARELA QUIROS said that although the right of peoples to live in peace was enshrined in Article 1 of the Charter of the United Nations, it became increasingly clear each day that it had not yet been fully realized. Despite the doubt expressed by some speakers, the question should therefore remain under consideration and he had listened with great interest to the comments made in that regard by Mr. Chernichenko.

83. The question as to whether the existence of peace was necessary for human rights to be respected or whether it was the enjoyment of human rights that promoted the establishment of peace seemed a theoretical one, but it was clear that if one compared the human rights situation in societies which lived in peace with that of societies involved in conflict, it could be seen that even though peace did not guarantee the enjoyment of human rights, violations of those rights were less apparent in the former than in the latter case.

84. Without making such comparisons, however, the international community should study the standards that provided for the enjoyment of human rights. The relationship between human rights and peace was such that if some of the resources expended on arms were used for development, growth in the developing countries could be accelerated. Admittedly, the Secretary-General pointed out in his report (op. cit., para. 96) that it would be simplistic to suppose that disarmament could ensure development. Nevertheless it was true that, as a result of disarmament, additional resources could be used to benefit the populations of some countries.

85. In several Latin American countries, in particular Colombia, Peru, El Salvador and Nicaragua, clashes between government forces and armed groups had led to the destruction of bridges, roads, hydroelectric power stations and other infrastructures that had been laboriously set in place to allow the

people to exercise some of their rights. Who, then, gained from such actions? Civil and political rights movements must concern themselves also with the economic, social and cultural rights of peoples. That aspect of the problem certainly deserved more thorough consideration by the international community.

86. Unlike other parts of the world, however, Central America had made great efforts in recent years to settle major conflicts through dialogue. Rather than criticizing the countries of that region, it was essential to give them support, in particular through the Security Council, the Commission on Human Rights and the General Assembly. A broad peace process had been initiated with the Esquipulas II Agreements in 1984. The very day on which the current session of the Sub-Commission had opened, the Presidents of the Central American countries had met at Tela to agree on a plan for the voluntary repatriation of members of the Nicaraguan resistance movement and their families. A special tribute should be paid to the Government of Nicaragua, which had made considerable efforts in that regard. The Presidents of the Central American countries had at the same time launched an appeal to the Farabundo Martí National Liberation Front in El Salvador and to the Government of El Salvador, urging them to find a meaningful solution. He was confident that all other Governments would support the process initiated by the Tela Agreements between the Salvadorian guerrilla movement and the authorities of that country.

87. During the visit a few days earlier to his country, Costa Rica, a high-ranking representative of the Supreme Soviet of the USSR had announced that the Soviet Union was suspending shipments of military equipment to Central America. That would undoubtedly be a positive contribution to the process aimed at restoring peace and respect for human rights in a region that had so long been a concern of the Sub-Commission. The problem should therefore be approached with the same optimism that was shown by the Governments of the region, and not with the pessimism displayed by some observers.

88. Mr. EIDE said that it might be appropriate to study more closely the historical context of the problem under consideration. A decisive turning point in history appeared to have been reached: during the Cold War, the two super-Powers had armed and helped other countries militarily, thus leading to a universal process of militarization with potentially serious consequences. While there had been no war between the two major Powers and there now appeared to be no likelihood of such a confrontation, many conflicts had erupted in the third world countries. At present, 80 Governments, or half of the States Members of the United Nations, were involved in some form of armed conflict, with all the negative consequences that entailed for their development. The essence of the question was how the Sub-Commission could draw on the recent positive developments in East-West relations, as well as on specific changes in interventionism, military assistance and militarization in relation to the ideas that had still prevailed in the 1960s, above all in the Western countries.

89. While it was to be hoped that the military régime in Chile would soon be dismantled, some effects of the past were continuing to make themselves felt in that country. Many of the military believed that they had a decisive

political role to play and concepts of "national security" persisted that often had very little to do with democracy. Those vestiges of the 1950s and 1960s were no longer relevant to the 1980s and should disappear in the 1990s.

90. He thought that Mr. Chernichenko had been right to urge that the Sub-Commission should deal with more specific aspects of the question, in particular the elimination of chemical weapons and the question of compliance with humanitarian law in cases of armed conflict. Attention could also be given to the training that members of the armed forces received, to the values that were inculcated in them and to whether they could refuse orders that were inconsistent with respect for human rights. There had been cases recently where young soldiers had used violence against persons taking part in peaceful demonstrations. In order to avoid a situation where young people killed defenceless persons merely because they had been given orders to do so, they must be taught democracy and its implications for human rights, possibly with the help of the services of UNESCO. A trend towards militarization that could be observed today in some societies also ran counter to the whole process of détente that was currently under way.

91. Mr. HAMDAN (Observer for Lebanon) said that the Sub-Commission should not fail to recognize the tragic nature of the situation in Southern Lebanon and the threat it posed for international peace and security. In that regard, it was enough to recall Security Council resolution 425 (1978), which had established the United Nations Interim Force in Lebanon in the hope of restoring peace to the region. In accordance with that resolution, unanimously approved by the international community, Israel must withdraw from all the territories it had occupied in Southern Lebanon and allow the Lebanese authorities to exercise their full legal powers. However, frustrating all hopes for peace in the region, Israel, on the pretext of providing for the security of its colonies in the northern part of the region, had set up a buffer zone which in reality belonged to Lebanese territory but was occupied in violation of the basic rules that governed the maintenance of international peace and security. It was regrettable that the Sub-Commission too often failed to mention the situation in Southern Lebanon and did not insist more often that Israel must respect the provisions of Security Council resolution 425 (1978).

92. The populations affected by the conflict in Lebanon were grateful to the international community for its efforts to re-establish peace and preserve security in the region, to resolve the crisis and avoid further bloodshed. They would like the Sub-Commission to ensure that the attention of international opinion was drawn to the suffering of hundreds of families whose lives were constantly endangered not only in Beirut but throughout Lebanon. It was to be hoped that the international efforts being made to achieve peace would not be thwarted by political manoeuvres.

93. The Lebanese people launched an urgent appeal to the international community to utilize every means to re-establish a balance in the region, and called on the Sub-Commission in particular to authorize its Chairman to make a public statement in favour of peace in Lebanon, so that a peaceful voice could be heard by all the parties concerned and a cease-fire could be declared immediately in Beirut.

94. Mr. HARUN-UR-RASHID (Observer for Bangladesh) said it was clear that peace and security were vital for the enjoyment of human rights, but in the world today the disparity between the rich and poor nations was becoming alarming and international co-operation could not meet the needs of the developing countries. Thus, although the right to adequate food was one of the most fundamental rights, more than 500 million human beings were still suffering from hunger, an intolerable situation in a world which had the means to overcome that problem.

95. It was now universally recognized that a redirection of resources from armaments to development was in the interest of developing and developed countries alike. Yet wars and conflicts were increasing in the world, claiming tens of millions of victims, especially in the developing countries. Furthermore, overpopulation in the third world, the depletion of raw materials and the disparities between rich and poor nations demonstrated the obvious link between socio-economic issues and international peace. Economic underdevelopment in the poor countries bred unrest and created deep social and political tensions, impeding all efforts to promote peace and security, and mass poverty and hunger inevitably led to war.

96. Peace could not be regarded merely as the absence of war, but should be viewed in a positive sense and based on international co-operation, justice, equality among nations and mutual confidence for the benefit of all concerned.

97. It should be recalled that peacekeeping operations were not specifically provided for in the Charter of the United Nations and that the project of a United Nations military force to ensure collective security had never materialized. In 1985, during the commemoration of the fortieth anniversary of the United Nations, many representatives at the General Assembly had expressed the hope of seeing the opening of a new era of peace, justice, social and economic development and progress. They had also referred to the possibility of amending the Charter so that the United Nations would be better able to respond to conflicts or crisis situations. The extent to which the Organization could promote peace and security, however, still depended on how far its Members were willing to collaborate.

98. One important function of the Sub-Commission was to draw the international community's attention to the need to protect and promote human rights. The Sub-Commission could therefore emphasize the fact that peace and security were closely connected with economic issues and that the respect of fundamental rights involved the elimination of poverty and hunger throughout the world.

99. Mr. ALDORI (Observer for Iraq) stated that, in order to preserve human rights, the international community must ensure the maintenance of peace, friendship and co-operation among States. The members of the Sub-Commission could not ignore the adverse consequences of war for the enjoyment of human rights, and in particular of the right to life, which became meaningless in time of war both for military personnel and for civilians. Furthermore, in time of war other freedoms were directly or indirectly denied both by the aggressor and by its victims.

100. The Commission and the Sub-Commission had an essential role to play in that regard and it was encouraging to note that States were closely following their work, showed interest in the reports of their special rapporteurs and took account of their resolutions. Thus, the Commission and the Sub-Commission could undoubtedly have an influence on the international political scene. They could in particular contribute to combating the adverse effects of certain wars, especially through their efforts to minimize the suffering of prisoners of war at the end of hostilities and by participating in the search for missing persons.

101. His Government hoped that, after the conflict between Iran and Iraq and as part of the efforts to re-establish democracy and respect for human rights, the Sub-Commission would be able to assist it in the humanitarian sphere, in particular by helping to resolve the problem of the tens of thousands of prisoners of war who had still not been released. The Sub-Commission could undoubtedly also play an important role in other areas of conflict, especially in Palestine and Lebanon.

102. Mrs. CHAALAN (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, said that she was surprised by the statements made by the representative of the World Union for Progressive Judaism and by his lack of objectivity. In fact, the Syrian Arab Republic had intervened in Lebanon only because of the cultural links that united it with the Lebanese people and had spared no effort to preserve the country's territorial unity. Without the legitimate intervention of the Syrian Arab Republic, Lebanon would have been partitioned. Her country had always endeavoured to reconcile the parties to the conflict and deeply regretted the Lebanese casualties.

103. The attempts to implicate her country in the events were merely aimed at diverting attention from the real conflict and at sowing discord among the Arabs.

104. It was important, moreover, to recognize the Palestinians' right to their own State and to prevent the Israeli authorities from polluting the region and using chemical weapons against the civilian population.

105. Mr. van BOVEN proposed that the Sub-Commission, having heard the appeal launched by the Observer for Lebanon, should entrust its Chairman to make a statement on its behalf urging all the parties to the conflict to put an end to the bloodshed. The International Committee of the Red Cross had already made such a declaration and it would be appropriate for the Sub-Commission to act accordingly.

106. Mr. JOINET, Mr. ALFONSO-MARTINEZ and Mr. BHANDARE fully supported Mr. van Boven's proposal.

DRAFT DECLARATION ON THE INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY,
JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS (agenda item 10)
(E/CN.4/Sub.2/1988/20 and Add.1 and Corr.1; E/CN.4/Sub.2/1989/23)

107. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights), introducing agenda item 10, said that the international human rights instruments contained numerous rules designed to protect the rights of individuals in connection with the administration of justice. To ensure that the principles set out in

those instruments were effectively respected, it was essential to guarantee the independence and impartiality of all those who were involved in the judicial process, including judges, jurors, assessors and lawyers. Already in 1979 the Sub-Commission had recognized the importance of the question and had recommended that one of its members, Mr. Singhvi, should prepare a report on that subject.

108. The Special Rapporteur had since prepared a preliminary report and progress reports and had drawn up a final report. At the fortieth session of the Sub-Commission, the Special Rapporteur had presented a revised version of a draft declaration on the independence of the judiciary, which had been submitted to the Commission on Human Rights at its forty-fifth session.

109. The question of the independence of the judiciary had also been studied under the United Nations programme on crime prevention and control. In 1985 the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and the General Assembly had adopted basic principles on the independence of the judiciary. Subsequently, the Economic and Social Council had adopted procedures for the effective implementation of those principles. Lastly, at its forty-fifth session, the Commission on Human Rights had invited Governments to take into account the principles set forth in the draft declaration in implementing the Basic Principles on the Independence of the Judiciary.

The meeting rose at 6.15 p.m.