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PROTECTION OF MINORITIES

Thirty-eighth session

SUMMARY RECORD OF THE 21st MEETING

held at the Palais des Nations, Geneva,
on Monday, 19 August 1985, at 3 p.m.

Chairman:

Mrs. DAES

later:

Mr. MARTINEZ BAEZ

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Review of developments in fields with which the Sub-Commission has been concerned
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The meeting was called to order at 3.25 p.m.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (continued) (E/CN.4/Sub.2/1985/3-6; E/CN.4/Sub.2/1984/4, E/CN.4/Sub.2/1984/40, E/CN.4/Sub.2/416 and E/CN.4/Sub.2/SR.822)

1. Mr. LACK (World Jewish Congress and Co-ordinating Board of Jewish Organizations) said that, in his report (E/CN.4/Sub.2/1985/6), the Special Rapporteur had analysed developments since the earlier and extremely well-documented study on the subject of the prevention and punishment of the crime of genocide, discussed certain defects in the provisions of the Genocide Convention, made proposals for improving the defective provisions and recommended measures to prevent the future recurrences of genocidal acts. His own organizations supported almost all the Special Rapporteur's proposals and would be willing to join any working group to study how the more important ones could be implemented.
2. The study had the merit of placing genocide in its true historical perspective. Ever since the creation of the United Nations, while the world was still recoiling from the systematic genocide of 6 million Jews, the organizations he represented had advocated effective steps by the international community to suppress genocide and had recognized that genocidal crimes had been committed against other identifiable national, racial, ethnic and religious groups before, during and after the Second World War.
3. The report mentioned, with considerable restraint, some cases of twentieth century genocide in recognition of the fact that the inventory, while not necessarily complete, should none the less do justice to those groups whose collective recollection of those events was part of their existential consciousness. What constituted genocide, as determined by article II of the Convention was summarized with admirable clarity in paragraphs 38 and 39 of the report. Objective historical records would usually demonstrate clearly whether or not the intent to destroy had existed.
4. As for the Special Rapporteur's proposals and recommendations, the organizations he represented supported in particular: the recommendation concerning cultural genocide and ethnocide, since there was a serious threat of cultural genocide against one of the largest surviving Jewish minorities; the suggestion that an optional protocol should be drawn up to provide for cultural genocide and other additions to the existing Convention; the proposals in paragraphs 40 and 41 concerning the culpability of a conscious act or acts of advertent omission; and the proposal in paragraph 53 that a plea of superior orders should be specifically barred under article III of the Convention.
5. They agreed that the importance of the Federal Republic of Germany's comprehensive indemnification and restitution programme should be recognized as a significant act of reparation for the crimes of the Nazi era - an example which had yet to be followed by the German Democratic Republic.
6. They also endorsed the Special Rapporteur's views regarding enforcement, as presented in paragraphs 55 to 59 of the report, and continued to believe that genocide as an international crime should be the subject of universal jurisdiction based on the concept of aut dedere aut judicare. Article 5 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment could provide a useful analogy in that respect in that it founded jurisdiction on the principles of territoriality as well as on the nationality of the offender and the victim. They also welcomed the recommendation in paragraph 64 that extradition should be based on the principles contained in article 8 of that Convention.

7. There was little hope in the foreseeable future of the establishment of an international court of criminal jurisdiction, particularly since the International Law Commission had referred the matter back to the General Assembly for guidance on whether such international criminal jurisdiction should be limited to physical persons or should comprise States or State organs as offenders - a question unlikely to be resolved in the lifetime of anyone present.
8. The international community would also be well advised to give serious consideration to the proposals outlined by the Special Rapporteur on means of preventing future acts of genocide.
9. Much thought would need to be given to the best way of amending or improving the existing provisions of the Convention, bearing in mind the fact that no action should be taken that would weaken or curb the Convention, despite its many imperfections, and that amendment or improvement should not jeopardize the current structure of deterrence and repression, however deficient it might be. All in all, he hoped that the Sub-Commission would strongly commend the Special Rapporteur's report to the Commission on Human Rights.
10. Mr. RAMLAOUI (Observer, Palestine Liberation Organization) said that he had not intended to speak at that juncture but had been compelled to do so when he read the report, and particularly its paragraph 24 which gave examples of past and contemporary acts of genocide, but ignored flagrant cases, known and condemned by the world community, where genocide was still being perpetrated. The purpose of recalling past cases of genocide was to prevent any recurrence of the crime, but there were instances of cases of genocide being cited to justify and to mask current acts of genocide by a group which had, in the past, been itself the target of genocide.
11. The report contained a number of references to Nazi crimes against the Jews but not a single reference to what Israel - a State established on a religious basis - had been systematically doing to the Palestinians since 1948. If genocide was a crime in international law, he failed to comprehend the strange silence about the genocide against the Palestinians by the Israeli authorities. He wondered whether the Special Rapporteur had ever heard of the Balfour Declaration of 1917, which had favoured the establishment in Palestine of a national home for the Zionists; or the Palestine Mandate, given to the United Kingdom Government in 1922 by the League of Nations, which had implemented the Balfour Declaration and helped the Zionists to take over Palestine.
12. Arnold Toynbee, who was quoted in paragraph 24 of the report, had also said that the main responsibility for the suffering of the Palestinians lay with the mandatory Power, which had collaborated with Zionism and turned a blind eye. The genocide suffered by the Palestinians at Israeli hands since 1948 was the result of manoeuvres by the British Empire to safeguard its interests - which ran parallel with those of Zionist exploitation - by setting up Israel at the expense of the Palestinians. That was before the take-over of imperialist leadership, following the Second World War, by the United States of America, which was currently supporting Israel in its policies of expansion, aggression and genocide.
13. He found it difficult to believe that the Special Rapporteur had never heard of the Zionist genocide in 1948, led by Begin and Shamir, when over 400 Palestinians had been slaughtered, pregnant women disembowelled and children thrown into wells. Begin had, in fact, commented that without those massacres Israel would never have been established. The Special Rapporteur must, surely have heard of the press reports in 1983 about the Israeli authorities throwing poison into schools to cause infertility - a crime under article II of the Convention on the Prevention and Punishment of the Crime of Genocide.

14. Even if the Special Rapporteur was unaware of all the foregoing, he could hardly be ignorant of the massacres of the century, at Sabra and Chatila, designed to exterminate the Palestinians, which had caused more than 1,000 victims - unarmed civilians in their homes and camps, whose only crime had been that of being Palestinians. It was true, as Mr. Joinet had pointed out, that there had been an investigation in Israel followed by punishment; but that had merely been a cosmetic exercise, as was clear from the manoeuvre by which Mr. Sharon, who had been dismissed as Minister for Defence, had returned to the Cabinet, thus confirming the collective responsibility of the Israeli Government for the systematic plan to eradicate the Palestinians. The Special Rapporteur must also be aware of resolutions by the Security Council, the General Assembly and the Commission on Human Rights condemning Israeli genocide in Sabra and Chatila, such as resolutions 1983/3 and 1984/11 of the Commission on Human Rights, which the Commission had reaffirmed at its forty-first session.

15. Those were not the only examples of Israeli genocide against the Palestinians. There was flagrant racism in Israeli society and genocide in the Israeli-controlled areas such as Galilee, where Kahane groups had fired on students in the University and on people at prayer in the mosques. Those were crimes under article II of the Genocide Convention, of which he was sure that the Sub-Commission and the Special Rapporteur were fully aware

16. Mr. YAVUZALP (Observer for Turkey) said that paragraph 24, and the long footnote thereto, reintroduced the Armenian question in a one-sided manner and with an erroneous and unjust conclusion apparently based on only a cursory study of the question. The reintroduction was also a dangerous step since it would constitute a reward to terrorism and thus give a new impetus to violence.

17. The question had been the subject of prolonged discussion in the past, in connection with the earlier report (E/CN.4/Sub.2/416), and it had eventually been decided to omit it. The then Special Rapporteur had explained (E/CN.4/Sub.2/SR.822, paras. 45 and 46) that, when deciding whether a given situation constituted genocide, it was important not to confuse genocide with certain other crimes; that many members of the Sub-Commission had been opposed to the idea of reviewing as many cases as possible and that eventually a number of cases considered to be beyond doubt had been taken up. He had further stated that concern had been expressed that the study on genocide might be diverted from its intended course and lose its essential purpose; that it had been decided to retain the massacre of the Jews under Nazism, because that case was known to all and no objections had been raised; but other cases had been omitted, because it was impossible to compile an exhaustive list, because it was important to maintain unity within the international community in regard to genocide, and because in many cases to delve into the past might reopen old wounds which were healing.

18. The omission of the subject from the earlier report had thus been the result of a carefully considered decision reached after years of discussion. The previous Special Rapporteur had been independent, unbiased and objective, and had had no preconceived views on the subject. He had realised that to pass an objective judgement on such a complex and controversial issue would require a thorough study based on complete documentary evidence, which could be obtained only through research in the official archives.

19. The object of the current exercise was to revise and update that earlier report, not to rewrite it. It had been stated in the Commission on Human Rights (E/CN.4/1983/SR.48/Add.1, para. 155) that "the understanding of the Secretariat

was that the Special Rapporteur would revise the study and would update it and in so doing would take into account all developments relating to the question since the study was undertaken." At the same meeting of the Commission, two representatives had stated their understanding that the study would be updated as from the date of publication of the existing version, and no objection had been made to those clarifications.

20. He wondered what evidence had been obtained since then to justify not only changing the conclusion reached after long debate but also passing a definite judgement on the Armenian case. The only evidence that had appeared in the interim had shown that the case was not as simple as claimed and that the proof could be ascertained only through research in official archives and not by reading some well-known books that reflected a one-sided version. Reintroduction of the issue would thus put the Sub-Commission in the position of passing judgement on a complex and controversial issue without complete documentary evidence.

21. Since, however, the issue though irrelevant to the current agenda item had been brought up, he would give a brief resumé of the facts of the case. According to the Genocide Convention, for an act to be qualified as genocide, it had to involve an ethnic, national, racial or religious group; the group had to be subjected to certain acts that were enumerated in the Convention; and there had to be an intent to destroy in whole or in part the group in question. It was the third condition that distinguished genocide from other forms of homicide resulting from wars, uprisings and so forth. There was, unfortunately, a tendency to use the term genocide loosely for almost any case involving considerable loss of life but, if genocide was to be defined as a punishable international crime, care must be taken not to dilute the concept. It would be difficult to qualify the Armenian case as genocide, because the most important element, the intention to destroy in whole or in part, was lacking.

22. Turks and Armenians had lived together in Anatolia in perfect harmony for eight centuries, sharing the same culture and a common Anatolian background. Armenians had taken part in the government and administration of the Empire at all levels and shared and contributed to the Turkish Ottoman culture. The incidents between Armenians and Turks that had occurred in the late nineteenth century and early twentieth century coincided with the weakest period of the Empire and the First World War, surely a most unfavourable period for the Turks to choose to destroy an ethnic group with which they had hitherto lived in peace and friendship. There had undeniably been a deplorable loss of life during the incidents in question; but the accusation of a premeditated intention to destroy the Armenians was unjust and unsustainable.

23. In 1915, security measures had been implemented against an ethnic group that was in rebellion against the State, and was co-operating actively at the front with the invader, and was killing civilians behind the lines. The Armenians had been acting within the framework of a terrorist strategy they had set up for themselves, as openly stated by their political parties, designed to incite the people against the Government and gain the political benefits of Government retaliation, thus lowering the prestige of the régime and encouraging foreign Powers to intervene.

24. Armenians had joined the invading forces. In a letter to the French Minister for Foreign Affairs of 3 November 1918, the President of the Armenian National Delegation had stated that they had been de facto belligerents from the outbreak of war, had fought at the side of the allies on all fronts, had contributed to the Allies' victory in Palestine and Syria, and had dealt a serious blow to the Turks on the eastern front. When such actions were being directed against the very survival of the country, no Government could be expected to stand idly by and take no measures for its security. It had been obliged to transfer Armenian soldiers from combatant to non-combatant units and to evacuate Armenians from the military operations zones to areas where they could not co-operate with the invading forces.

25. Such measures had not been directed against all Armenians: the families of loyal Armenian soldiers and priests, physicians, chemists and civil servants had been unaffected by them. Any country in such a situation would have adopted similar measures. They had not been based on the fact that the Armenians belonged to a particular ethnic, religious or racial group.

26. Despite the limitations of wartime conditions, the authorities had done everything possible to protect those transferred from acts of revenge or banditry, unfortunately without success. It should be remembered, however, that the army had had to cope with both the invading forces and the Armenian rebellion, in a region of banditry and uncontrolled epidemics. Conditions had been made even worse by a desire for revenge on the part of those whose kin had been massacred by the Armenians, and by the acts of some over-zealous officers, but it should not be forgotten that 2 million Turkish civilians had lost their lives during the same period. There were thousands of documents available in the archives to prove that the Government had sought to apply the necessary measures without human suffering and many officers found guilty of negligence had been punished, some with the death penalty.

27. In the light of those facts, no one could objectively qualify those events as premeditated and organized genocide aimed at destroying the Armenians. What had occurred was a cycle of action and reaction in wartime conditions in which both sides had suffered tragic losses. The events were particularly deplorable in that they had taken place between peoples who had had much in common and had long lived in peace before being provoked to act against one another. Anyone might deplore the brutalities and excesses that had occurred, but a distinction had to be made between violence in wartime conditions, on the one hand, and genocide on the other.

28. There was no analogy between the holocaust of the Jews and the events of 1915. The Jews had been massacred simply because they were Jews, and the intention to destroy them had been firmly established at the Nuremberg Trial by an international verdict based on evidence obtained from official documents. The events in Turkey in 1915 had begun with an armed rebellion against the State, that had had to be repressed and both sides had suffered consequent losses. No action had been taken against the Armenians simply because they were Armenians, and there was not a single authentic document to prove that the Government had intended to destroy them, although there were many to prove the contrary.

29. Armenian terrorism had, in recent years, taken the lives of many innocent persons and the terrorists regarded the condemnation of Turkey for the crime of genocide as a stepping-stone to the realization of their ultimate objective of creating an Armenian State within the existing borders of Turkey. The reintroduction of the question into the report would considerably boost the position of those who advocated violence as the most effective method to be followed, thus encouraging terrorism in general, and he hoped that no one would assume such an awful responsibility.

30. Mr. SANZE (Observer for Burundi) said that some of the concepts regarding the crime of genocide used by the Special Rapporteur in his report were far from clear. An examination of the terms of reference of the International Military Tribunal at Nuremberg and of the definition of genocide given in General Assembly resolution 96 (I) would show that no comparison could be made between the crime of genocide perpetrated by the Nazis and the events in Burundi to which Mr. Whitaker had referred.

31. With reference to paragraphs 24, 30 and 36 of the report, he said that those responsible for the violence in Burundi in 1965 had been a mere handful of people in power, and their victims had not been members of any particular tribe but had been taken indiscriminately. The culprits had subsequently been arrested and tried.

32. In 1966, he had attended the General Conference of the International Labour Organisation at which the case of Burundi had been heard, and he had suggested that a delegation from the trade union organization concerned should also appear and present its case, but that delegation had declined to do so. He had also invited the ILO General Conference to send a fact-finding mission to Burundi but, after lengthy inquiries, the Director-General of ILO had considered such a mission inappropriate because the facts had been distorted in certain quarters.

33. He wished to draw the Special Rapporteur's attention to a book published in 1970 and entitled Rwanda and Burundi, page 383 of which referred to the intrusion of external influences into Burundi. He hoped that Mr. Whitaker would take due account of what was said in that publication about the situation of harmony, political homogeneity and unity prevailing in Burundi. Efforts were constantly being made to blame any crisis situation in his country on tribal conflict, and the situation in Africa in general was frequently distorted in television programmes.

34. During the first decade of national independence, from 1962 to 1972, unhappy events had occurred in Burundi. There had been strong resistance to the introduction of certain foreign concepts and a number of lives had been lost in all sectors of the population. The Burundi army had behaved in an exemplary way throughout, and there had been no ethnic discrimination. There had been some sporadic cases of vengeance on the part of citizens who had reacted against violations of human rights, and certain tragic events had been inevitable, but there had been no organized or systematic killing. In such situations, efforts were all too often made to portray the victim as the aggressor and the aggressor as the victim. That applied, in particular, to works such as Selective genocide in Burundi by René Lemarchand.

35. His country was a democracy in which secret ballots were held and a national assembly had been constituted. He drew the Special Rapporteur's attention to a 1983 edition of the periodical Africa, which showed that much of the unrest in Burundi had been brought about by foreign interference.

36. He hoped that further efforts to compare the events in his country with Nazi genocide would be avoided, since they might well undermine the concept of genocide. He invited the Sub-Commission to send a fact-finding mission to Burundi so that it could establish the true facts for itself and thus correct the impression created by the Special Rapporteur's report.

37. Mr. AKRAM (Observer for Pakistan) said that his Government had strongly endorsed the decision of the Commission on Human Rights to update and amplify the 1978 study on the question of the prevention and punishment of the crime of genocide, since it considered that a re-examination of the question was needed in order to take account of the recent broadening of the concept of genocide and to consider whether any shortcomings in the 1948 Convention needed to be made good in the light of experience. The expert from Pakistan had been a co-sponsor of Sub-Commission resolution 1982/2 recommending that a Special Rapporteur be appointed for the purpose.

38. While his delegation welcomed Mr. Whitaker's approach of examining the problem of genocide in its cultural and economic aspects, it regretted some of the comments in the study concerning the alleged genocide of Armenians in 1915 and 1916. In its commonly accepted meaning, the term "genocide" denoted a wilful and conscious attempt to exterminate a particular race or nation systematically and completely, as in the case of the Nazi policies against the Jews and that was not applicable to the unfortunate conflict between Turks and Armenians in 1915 and 1916.

39. Turks as well as Armenians had been killed in the conflict, and the Turkish authorities had made no attempt to exterminate the Armenian people. Moreover, it had not even been established that the Turkish Government had sanctioned the alleged acts of the local Turkish authorities. Some of the evidence cited could hardly be termed impartial, since the assertion of one party to an issue could not be accepted as historical truth. It had been decided, in connection with the earlier study on the subject of genocide, that only those instances of genocide for which impartial and substantiated evidence could be compiled would be taken into consideration, and that cases that might reopen old wounds would be omitted. The omission of the Armenian question from that study had thus been the result of a well-considered decision.

40. The decision to revise and update the report on genocide had been taken on the understanding that such revision would take account only of those events that had occurred since the original version had been drafted. His own delegation had supported that suggestion, no delegation had opposed it, and on that understanding Sub-Commission resolution 1983/2 had subsequently been adopted without a vote. His delegation's approach to the question was still guided by the same considerations, since it believed that any judgement based on historical factors would be at best arbitrary and at worst highly biased.

41. If the references to the Armenian question remained in the study, he feared that they would be seen as vindicating a claim that had been pursued internationally through the use of terrorism and that they would encourage further terrorist attacks on innocent people. His delegation thus associated itself with those who had requested the Special Rapporteur to reconsider the paragraphs of his study in which reference had been made to the so-called genocide of the Armenians.

42. Mr. REUERCHON (Observer for Paraguay) said that the Special Rapporteur's report dealt with an issue that was a sensitive one for all mankind and particularly for his country, which had emerged as an independent country in the nineteenth century following a war against three nations. Having experienced war

and revolution and learned to respect life, his country would have liked to give its full support to the report, but the reference to "the Paraguayan massacre of Aché Indians" as an example of genocide made it impossible to do so.

43. That selective but categorically stated reference had been based largely on publications by Mr. Richard Arens. The Special Rapporteur had unfortunately omitted to mention the many reports submitted on the subject by the Government of Paraguay or other relevant documents, not least the report of a mission to Paraguay in 1979 by the then United Nations Assistant Secretary-General for Special Political Affairs, Mr. Pérez de Cuellar. In that report, Mr. Pérez de Cuellar had stated that there was no evidence that there had been any genocide of the Aché-Guayaki Indians. He had gone on to say that the indigenous population of Paraguay amounted to some 70,000 persons in 17 population groups, including the Aché-Guayaki group of between 800 and 1,000 members, and that that group had met with particular discrimination and hostility from other indigenous groups.

44. A census of the indigenous population taken subsequent to the mission, with the co-operation of the United Nations Fund for Population Activities, had shown that the Aché-Guayaki population, numbering some 1,000 persons, was very much alive. The members of that population had been characterized as nomads and hunters living in the forest areas of the country. Their numbers had been dwindling following settlement in those areas by more numerous groups which were largely engaged in agriculture. Between 1940 and 1950, clashes had taken place with the settlers, who had sought to defend their crops and their livelihoods. Prior to 1958, there had been no government policy for the protection and development of the indigenous communities of Paraguay.

45. On the basis of the aforementioned census, the Government of Paraguay had arranged for the permanent transfer of title to the Aché-Guayaki community of an area of 2,000 hectares of land in the Eastern Region - the group's traditional habitat. In 1981, the national Congress had passed its Act No. 904 aimed at the social and cultural preservation of the indigenous communities, the defence of their heritage and traditions, the improvement of their economic conditions, their effective participation in the national development process and their access to a legal system guaranteeing their ownership of the land and other productive resources on an equal footing with other citizens.

46. The report of the United Nations Assistant Secretary-General for Special Political Affairs to which he had referred, and a report submitted by the Government of Paraguay on the same subject, had been considered in 1980 by the Commission on Human Rights, which had decided not to include the subject in the agenda for its future sessions.

47. It must thus be acknowledged that the Aché-Guayaki Indians had not been the victims of any genocide but were, on the contrary, a flourishing community cared for, like all other communities, by the Government of Paraguay, settled in their own traditional land, and enjoying special programmes for their education, security, health and gradual integration into the national development process on an equal footing with other Paraguayan citizens.

48. Since 1975, the National Institute for Indigenous Affairs had been continuing to pursue the activities initiated by the Government in 1958 and a Department of Indigenous Affairs had been established under the Ministry of National Defence. In July 1985, the Government had granted new titles to the Aví Guaraní aboriginal groups over their traditional land in the department of Canindeyú in the Eastern Region. Fifty settlements, covering 183,074 hectares, had been established for the various indigenous communities.

49. The works by Richard Arens, which the Special Rapporteur had taken as his main source of information on the subject, were thus nothing but sensational fantasy. Following the publication of his booklet, Mr. Arens had been officially invited to visit Paraguay to see for himself the true situation of the Aché-Guayaki Indians. Far from withdrawing his allegations after his visit to Paraguay, however, Mr. Arens had subsequently written to the New York Times to make the absurd and irresponsible suggestion that the Nazi war criminal, Josef Mengele, was carrying out experiments in Paraguay on defenceless Aché-Guayaki Indians. That was despite his own earlier statement that the Aché-Guayaki Indians had been exterminated. In June 1985, it had been proved beyond any doubt that Josef Mengele had died in Brazil in February 1979, and had thus been dead at the time that Mr. Arens had claimed that he was experimenting on Indians in Paraguay.

50. Mrs. POC (Observer for Democratic Kampuchea) said that, in footnote 17 to para. 24 of the Special Rapporteur's report, the then Government of Democratic Kampuchea was accused of having committed genocide against the people during the period 1975 to 1978. The references quoted included Izvestia of 2 November 1978, an edition which had appeared only a month before the mass invasion of Kampuchea by a 200,000-man strong expeditionary force armed by the great Power protecting Viet Nam. Izvestia had, of course, been trying to present the Vietnamese invasion as an act of liberation.

51. None the less, mistakes had been made in the past and excesses had occurred, and their lesson had to be learned. The rulers of Democratic Kampuchea had acknowledged the fact that errors had been committed during the period 1975 to 1978. Once the Vietnamese fifth column had failed in its attempts to destabilize the country, the position had started to improve. In 1978, life had become normal and the frontiers had been opened to tourists and journalists. Hanoi had, however, decided to follow up its subversive attacks by a policy of open and armed aggression against Democratic Kampuchea.

52. As for the most serious accusations levelled against her Government, the ultimate and sole verdict would be that of the people themselves once they had the chance to vote in general elections under United Nations supervision after the Vietnamese troops had all left Kampuchea.

53. It might be wondered, however, how it was that if there had been a genocide in Kampuchea, resistance to the Vietnamese aggressor was constantly increasing and had reached the gates of Phnom-Penh, where the authorities of the puppet régime had decreed a state of emergency. Resistance could succeed only with the support of the general population. It was extremely regrettable, therefore, that the report should state, in paragraph 57, that "some encouragement nevertheless may be drawn from the recent national prosecutions by Kampuchea...". That prosecution, a mere charade carried out by the aggressors to justify their action, had been held in an occupied country and could hardly be qualified as "national". The occupying forces were trying to make Khmers rewrite their own history, and to take over Kampuchea culturally, socially and demographically.

54. At the end of 1978, the Government of Democratic Kampuchea had invited the then Secretary-General of the United Nations, Mr. Waldheim, to visit the country, but the Hanoi authorities had hastened to invade it before that visit could take place. They had not wished the world to know of the true conditions there. They had been propagating the calumny of genocide against the Chams minority because they wished to win the Islamic world to their side and discredit Democratic Kampuchea and to hide the true genocide of the Cham people, who had lived in the

Islamic Republic of Champa in the middle of what was currently Viet Nam and had been completely swallowed up by Viet Nam in the seventeenth century. The survivors of that genocide had produced Chams minorities in several countries of South-East Asia, including Democratic Kampuchea.

55. As for the accusation of killing Buddhist monks, she pointed out that, as reported in Kampuchea Newsletter, Quebec, an eminent Buddhist monk had recently been able to revisit Democratic Kampuchea, even in the current difficult circumstances, to initiate Kampuchean into the monkhood at a newly built temple.

56. The last sentence of paragraph 76 of the report read: "In Kampuchea, however, Pol Pot is still at large, protected by his own army, and presumably also in some measure, by the continued international recognition of his régime". That statement showed a regrettable lack of respect for the overwhelming majority of the world's Governments which recognized the legitimacy of the coalition Government of Democratic Kampuchea. That Government symbolized the desire of the Khmer people to preserve its threatened national identity and represented the major obstacle to attempts of the occupiers to absorb Kampuchea into an Indo-Chinese federation under Vietnamese protection.

57. Mr. DOWEK (Observer for Israel) said that Israel and the Jewish people, the victims of the most atrocious genocide in history, had been accused by some speakers, including Mr. Sofinsky and Mr. Khalifa, of committing genocide against the Palestinian people. Although those allegations were quite absurd, he was obliged to speak out against the systematic attempt by some countries to devalue the word "genocide" and misuse it for their own propaganda purposes and in order to disguise their own misdeeds.

58. There appeared to be no respect, whether for the dead or for the living, and Goebbels' theory that the bigger the lie the greater the chances of its being accepted and that with sufficient repetition it would be taken as an unquestionable fact seemed to be borne out. Nevertheless, it was heartening to remember that the democracies had sacrificed millions of their people in a world war so that lies and demagogy should not be the standards governing international affairs.

59. The massacre of Sabra and Chatila, the massacre of Palestinians at Tripoli, and all the other massacres that had taken place in Lebanon both before the Israeli intervention and since, were atrocious crimes to be resolutely condemned by all. The international community must not just adopt resolutions but also effective measures to ensure that such crimes were never repeated.

60. Although his Government had been only indirectly responsible as a result of the presence of its forces in Lebanon, and although the identity of the true perpetrators of the massacre was well known, it had unhesitatingly held an inquiry at the very height of its struggle against terrorism and its campaign to re-establish the sovereignty and independence of Lebanon. He wondered how many Governments in similar circumstances would have had the courage or the determination to do likewise. The carnage at Tel el Zattar, Tripoli, Beirut, the Chouf and elsewhere had never been the subject of inquiries. No one, apart from the thousands of victims, had ever paid any price for them. Not a single condemnation of these massacres had been made nor had even a draft resolution been submitted in the Sub-Commission or any other body of the United Nations.

61. None of those massacres, and none of the many others that had occurred throughout the world, however shameful and reprehensible, could be qualified as genocide, for there had been no intention of eliminating a people or a race. The situation of the Palestinians living in the Middle East or outside it could not be described as the result of genocide. Those who used the word so lightly and cynically should look at the definition of genocide in the dictionary. It meant the extermination of a race or a people. The Palestinians had never been exterminated. They had never been transported like cattle and cremated in their thousands. In 1948, as all the reference books showed, there had been about 1 million Palestinian Arabs; in 1985 there were over 4 million. The four-fold increase in the numbers of the Palestinian people in a single generation and the improvement of their living conditions in all areas which made them one of the most highly-developed peoples of the Middle East could hardly be described as genocide.

62. As a Jew, he had no need to consult dictionaries or documents to understand the true meaning of the word genocide. The Jews knew about genocide because they had seen 6 million of their people sent to the slaughterhouse, systematically and scientifically exterminated merely because they had been born Jews. There had been a declared intention to eliminate the whole Jewish race from the face of the Earth. And under fine words and rhetoric, there were some who did not hide the fact that if they had a chance they would turn to genocide yet again to solve the problem of their Jewish minorities and what they called the Palestinian problem.

63. Mr. SHAHABI SIRJANI (Observer for the Islamic Republic of Iran), having expressed his confidence in the Special Rapporteur and his belief that the inaccurate information in paragraph 24 of an otherwise excellent report, particularly with reference to Iranian Bahá'ís, was due to the fact that he had been misled by false propaganda, said he categorically rejected any allegations that genocide had taken place in Iran. Such allegations formed part of the widespread malicious propaganda campaign being waged against the Islamic revolution. His country faithfully supported the Convention on Genocide, which was in close harmony with Islamic law and teaching.

64. Slanderous allegations of every possible kind were being made against the Islamic revolution in Iran, for which the Iranian people had sacrificed tens of thousands of lives. Experience had shown that nationalists could never have made such sacrifices. Iran, once a puppet of the United States, had become the home of Islam for the benefit of all mankind. The allegations against Iran arose from the fact that it had been freed by the Islamic revolution from the rule of the agents of zionism and imperialism, and that it had humiliated the United States. Under the revolution and the leadership of Imam Khomeini, the Israeli mission in Tehran had been handed over to the representatives of the Palestinian people to continue their just struggle against zionist aggression and to co-operate with their Muslim brothers in Iran in pursuance of their common search for justice.

65. A member of the Sub-Commission had privately expressed concern to him about the allegations of torture and mistreatment of prisoners in Iran. In fact, the Iranian authorities condemned any deviation from the rule of law in the country. Some years previously, Imam Khomeini had declared the "year of law" in which the rule of law was to dominate over contention, revenge and unlawful practices. In

accordance with the Constitution, the rule of law, guaranteeing the rights of all prisoners and detainees and the rights of recognized religious, ethnic and linguistic minorities to equal treatment and the exercise of their traditional ways of life, was State policy in the Islamic Republic of Iran.

66. History had made it absolutely clear that Bahá'ism was not a religion but a faith and an opinion, created and supported by colonialism for purely political purposes disguised as humanitarian aspirations. Bahá'ism had never been recognized in Iran or in any other Islamic country as a religion, even at the time of the deposed Shah. Even so, Bahá'is were not subjected to persecution, not to speak of genocide. It was true that a number of Bahá'is had been executed in Iran, not because of a State policy of extermination but because of the direct involvement of those individual Bahá'is in activities contrary to the security of the State. Moreover, State policy dictated that all such cases should be dealt with in accordance with the due process of law.

67. Mr. PUTZEYS--ALVAREZ (Observer for Guatemala) emphasized the importance of paragraph 16 of the report in which the Special Rapporteur expressed the view that the study was not only an examination of genocide but also a warning directed against violence and that its object was to deter terrorism or killing of whatever scale and to encourage understanding and reconciliation. In paragraph 78, he pointed out that the Convention's most conspicuous weakness was that it insufficiently formulated preventive measures; in which connection the proposal for international short-term and long-term action related to different stages in the evolution of a genocidal process was most welcome. The proposal in paragraph 85 for the establishment of a new impartial and respected international body whose special concern would be to deal overall with genocide would, if adopted, take the issue of genocide out of the political arena and was thus to be welcomed, since the political element tended to hinder progress in view of the subsidiary issues which it raised.

68. During the discussion in the Sub-Commission, the representative of a non-governmental organization had referred to Guatemala and to another Latin American State as countries in which genocide of indigenous peoples had been taking place ever since the Conquest; he had also alleged that Guatemala was still following practices of genocide and persecution. It was certainly true that, in the recent past, Guatemala had lived through a period of serious violence which had fortunately abated although it had not yet disappeared.

69. The origins of the problem were to be found in a complex socio-economic situation which had been used as a pretext by terrorists. The Government had tried to defuse the situation but external influences had provoked a very violent confrontation between Left and Right as well as a situation which fostered criminality. Out of a total population of almost 8 million, a minority of approximately 3,000 men, comprising both Guatemalans and foreigners, had formed themselves into illegal groups in opposition to the State. The confrontation had been termed an armed conflict of a non-international character, although international forces had provoked, financed and directed the conflict. It was tragic that a large number of Guatemalans had been the victims of such activities, including many members of the predominantly indigenous rural population and members of the armed forces, of whom 85 per cent were indigenous.

70. To refer to such events as genocide, as the speaker had done, was not only out of order but incorrect. The current transitional Government was striving to instal democracy and provide the country with an institutional infrastructure which would put an end to the unhappy experiences of the past. It hoped to achieve that objective by means of free and genuinely democratic elections, through a political opening which would render possible participation of all ideological groups and positions, through amnesty for those guilty of political and ancillary offences and through the promulgation of a constitution in which human rights would be fully reflected. His delegation thus rejected categorically any suggestion that the current Government of Guatemala was guilty of the abominable practice of genocide.

71. Mr. Martinez Baez took the Chair.

72. Mrs. DAES, having expressed her appreciation of the note by the Secretary-General (E/CN.4/Sub.2/1984/4) and the reports submitted by ILO (E/CN.4/Sub.2/1985/4) and UNESCO (E/CN.4/Sub.2/1984/5), appealed for closer co-operation between UNESCO and the Sub-Commission, particularly in the field of promoting and respecting human rights and fundamental freedoms through teaching and education.

73. The Special Rapporteur's report (E/CN.4/Sub.2/1985/6) represented an important revision of and supplement to the original study on the question of the prevention and punishment of the crime of genocide (E/CN.4/Sub.2/416). The main points of the earlier study, including the references to the historical background of the crime of genocide, were similar to those brought out in Mr. Whitaker's updated report.

74. The Convention on the Prevention and Punishment of the Crime of Genocide constituted both a persuasive precedent and a warning example of the need for the completion of a code of offences against the peace and security of mankind and for the establishment of an international criminal court. The Convention was the first example of United Nations criminal law and constituted a basic and semantic experiment of international legislation in the field of individual penal justice. As such, it merited continuous study by international lawyers, legislators and, in particular, human rights experts and activists, in the hope that the Convention might yet prove to be more than a simple contemporary international instrument.

75. The comments made by members of the Sub-Commission and by other representatives had shed ample light on the various aspects of the crime of genocide. There were, however, a few additional points that should be made. The report might well have contained an ad hoc reference to concrete and recent cases of massacres, such as those that had taken place in Lebanon as they very probably amounted to an act of genocide.

76. The issues of cultural genocide and ethnocide should be studied by the Sub-Commission as soon as possible. The concept of cultural genocide envisaged destructive acts against the background of material and immaterial goods which together formed the cultural heritages of the various peoples, the preservation of which was an international concern of the highest importance. She therefore suggested that the Sub-Commission should consider recommending to its parent bodies that the Special Rapporteur be entrusted with the elaboration of a new report on the important questions of cultural genocide, ethnocide and ecocide.

77. Resolutions 1983/1 and 1983/2 of the Sub-Commission had been adopted unanimously, while resolution 1983/33 of the Commission on Human Rights had been adopted without a vote. Every member of the Sub-Commission and of the Commission on Human Rights had had an opportunity to propose amendments to or vote against those resolutions. In those circumstances, there was no justification for infringing upon the independence, objectivity and intellectual freedom of the Special Rapporteur, which constituted the best guarantee for the quality of the Sub-Commission's work.

78. More generally, it was to be hoped that the whole discussion which had taken place would contribute to a better understanding of the repercussions which such a crime as genocide could have not only on the human rights and fundamental freedoms of a people as a whole but also on international peace and security.

79. In the context of the current celebrations of the fortieth anniversary of the United Nations and of International Youth Year, studies such as that prepared by the Special Rapporteur could have a significant impact on the younger generation, which might draw lessons from the past for its safe and humane guidance in the future. One special message which should be addressed to the younger generation should be: "Never again any crimes against humanity, never again genocide against any people of the world community".

80. Mrs. Daes resumed the Chair.

81. Mr. ZMIYEVSKY (Observer for the Union of Soviet Socialist Republics) said that his Government greatly deplored the crime of genocide. The Convention on Genocide, which had been adopted in 1948, was a basic legal document which committed States to prevent and punish genocide as a crime under international law. The report of the Special Rapporteur seemed to imply that research on the issue should be renewed for the purpose of reviewing and revising the Convention, which had been adopted unanimously in 1948. Any such purpose went beyond the mandate given by Economic and Social Council resolution 1983/33.

82. Article II of the Convention had specified that genocide related to the commission of acts with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. Those definitions, which had been accepted by the 96 States that had adopted the Convention in 1948, had stood the test of time. The questions which had been raised seemed to imply an effort to limit the scope of the crime of genocide to State genocide, such as that perpetrated by the Nazi State against one particular group. No specific references had been made to the genocide practised on the Slav and other nationalities of eastern Europe or to the exterminations in Byelorussia, where one person out of four had died. There was no mention of the issues of the extermination of the Indian population of the United States and the sterilization of Indian women.

83. There was also silence regarding the genocide practised by Israel against the Arab people of Palestine. The slaughter that had taken place in Sabra and Chatila in September 1982 represented an orgy of genocide perpetrated by Israel in Lebanon. Even the Western press had placed the moral responsibility for the bloodshed on Prime Minister Begin and Minister of Defence Sharon, who together had issued the order for the Israeli army to enter West Beirut. There had even been a strong reaction in Israel itself, where 400,000 Israelis in Tel Aviv had demanded the resignation of Prime Minister Begin and an inquiry into the episode.

84. Such State genocide by Israel, with the active co-operation of the Zionist leadership, could trace its origins back to the genocide practised by Nazi Germany,

when Zionists had co-operated actively with the Nazis against their own people. Many Zionists had become agents of the Gestapo and had helped to transport thousands of Jews to the gas chambers. It was very regrettable that the author of the report had made no mention of those atrocities.

85. The nature of genocide, as perpetrated by the Nazis or the Zionists, had common roots. It was based on the concept of racial superiority, involving the special role and the purification of a particular nation. The State policy of racism was implemented through violence.

The meeting rose at 6.20 p.m.