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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of  
Discrimination and Protection  
of Minorities  
Fortieth session  
Agenda item 4

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH  
THE SUB-COMMISSION HAS BEEN CONCERNED

Written statement submitted by Human Rights Advocates,  
a non-governmental organization in consultative status  
(category II)

The Secretary-General has received the following communication which  
is circulated in accordance with Economic and Social Council  
resolution 1296 (XLIV).

[15 August 1988]

DEMONSTRATIONS, OTHER PROTESTS, AND THE RIGHT TO  
FREEDOM OF EXPRESSION AND OPINION

1. Commission on Human Rights resolution 1988/37 refers to "the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights [articles 19 and 29 (2)] and the International Covenant on Civil and Political Rights [article 19]." (See annotated agenda, E/CN.4/Sub.2/1988/1/Add.1, para. 28.) The third preambular paragraph of the resolution quotes article 20 of that Covenant, on war propaganda and advocacy of hatred.

2. Among the paragraphs of the resolution the first two stress "detention" and presumably will be discussed at this session under item 9 (a). (See E/CN.4/Sub.2/1988/1/Add.1, paras. 127-133.) Paragraph 3, however, is not so limited. It requests Sub-Commission recommendations "on further measures which may be required at national and international levels to promote and safeguard this right ..." (emphasis added).

3. Detention of course is a major focus of inquiry. Yet the potential impact of other sanctions (e.g., expulsion from university, discipline of personnel, suspension and revocation of licences, and monetary fines) must be kept in mind.

4. The immediate concern of Human Rights Advocates involves demonstrations and other "protests". We deem it indisputable that, as channels for exercising one's "freedom to ... impart information and ideas of all kinds, either orally ... or through any other media" (article 19 (2) of the Covenant), countless demonstrations and other protests indeed have become as important as, e.g., picket lines, posters, handbills, newspapers, other journals, and brochures. In innumerable countries, have not protests helped achieve significant gains for individuals' and groups' human rights? Consider, illustratively, this brief account of a crucial moment in Philippine history (TIME, 3 January 1987, p. 21):

"As the rebels barricaded themselves inside two military camps, first hundreds, then thousands, then tens of thousands of common citizens poured into the streets to offer food, support and protection, if need be with their bodies, to the maverick soldiers and Aquino backers. As civilians, bearing only flags and flowers, took up positions to defend the military men, the world knew that it was watching more than just an electoral upheaval.

Finally, the improbable became the impossible. Marcos' tanks rolled toward the crowds, only to be stopped by nuns kneeling in their path, saying the rosary. Old women went up to gun-toting marines and disarmed them with motherly hugs. Little girls offered their flowers to hardened combat veterans. In the face of such quiet heroism, thousands of Marcos loyalists defected, many simply broke down in tears.

Those demonstrations in Manila were peaceful. They exemplified kinds of free expression protected by the United Nations International Bill of Human Rights.

5. Are further measures at national and international levels required to promote and safeguard the right peacefully to protest? The answer is Yes. Why? Because too many Governments continue to prohibit demonstrations and

other protests. Matters of time, place, and manner may be regulated reasonably; but prohibition, on nearly all occasions, is unjustifiable, as are penalties for "failure to disperse".

6. The Commission, in resolution 1986/4, expressed a deep concern as to "unrestrained use of violence, including lethal force, in dealing with unarmed demonstrators and legitimate protests against the policies of apartheid" (paragraph 56) and demanded that South Africa repeal "its ban on the popular organization so as to afford the masses ... access to legitimate vehicles for expressing their ... aspirations" (paragraph 11). In resolution 1986/24, the Commission "Strongly condemn[ed] the wanton killing of peaceful and defenseless demonstrators" (paragraph 9).

7. Those words suggest that government officials, merely by decreeing "Illegal!", should not have unfettered discretion to interfere with demonstrations. By no means does South Africa stand alone. In the United States, for instance, notwithstanding the famed First Amendment of its Constitution, nearly all government officials assume that they may take action against mere trespassers. This year, illustratively, 1,000 demonstrators were apprehended for peaceful protest (and countless others were deterred by threats) at a nuclear test site.

Compare this excerpt from the letter of 9 April 1986 addressed by the Chairman of the Human Rights Committee to the Secretary-General: "[The Committee formulated a general comment expressing the view that] the production, testing, possession, development and use of nuclear weapons should be prohibited and recognized as crimes against humanity" (A/41/40, p. 120; emphasis added).

8. Paragraphs 63 and 64 (c) of E/CN.4/Sub.2/1988/2 note that gross violations of freedom of expression and association directly correlate with threats to peace and security. Demonstrations and other protests certainly have become prominent occasions for those violations.

9. Reporting to the Commission this year on "further measures ... to promote and safeguard" the right to freedom of opinion and expression, should not the Sub-Commission indicate an intent to inquire into some of the complex human rights problems that seem inevitably to arise in connection with demonstrations and other protests?