



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1989/SR.32
28 February 1989

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE 32nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 February 1989, at 3 p.m.

Chairman: Mr. BOSSUYT (Belgium)

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

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES
(agenda item 10) (continued) (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45
(chap. I, sect. B, decision 2), E/CN.4/1989/15, 16, 17, 18 and Add.1, 19,
50, 58 and 63; E/CN.4/1989/NGO/3, 12, 30, 35, 38, 40, 41, 49 and 52;
E/CN.4/1988/17 and Add.1; E/CN.4/Sub.2/1988/12, 15, 18/Rev.1, 20 and
Corr.1 and 20/Add.1 and Add.1/Corr.1; A/43/779; A/C.6/42/L.12)

1. Miss. ROUSSO-LENOIR (International Federation of Human Rights) said that a joint mission of members of the International Federation of Human Rights and of Humanitarian Lawyers had visited Tokyo from 8 to 17 November 1988 to investigate the situation of persons held in custody at police stations, and the difficulties Japanese lawyers were having in providing effective assistance to the suspects. According to the Japanese Code of Criminal Procedure, detention in custody, which was theoretically limited to 72 hours, could in practice be extended to 23 days (even 28 days in certain cases), during which time most of the suspects were held in detention centres at Japanese police stations.

2. The mission had discovered that a person held in custody at a police station was subjected to long and repeated interrogations during which he was tied to a chair and badgered. Confessions obtained in such circumstances were responsible for many errors of justice. The right of suspects to legal aid, guaranteed under the Japanese Constitution, was seriously compromised during the entire detention period. Many lawyers had been able to meet their clients for only a quarter of an hour on one or two occasions in the course of the 23 days, without having access to the detainee's file. Lawyers' correspondence with detainees was censored.

3. The material conditions in which such detainees lived were not in keeping with the international norms; visits from their families were difficult to arrange; and there was little recourse against misuse of authority by the police officers conducting the investigation.

4. Although the Japanese Parliament was currently considering a number of bills which would change the custody régime, the Japanese Government had no intention of eliminating detention at police stations. On the contrary, the new texts on the subject would tend to institutionalize the practice. Japan had been criticized for its system of detention in custody at a meeting of the Sub-Commission on Human Rights at Geneva in July 1988, a criticism to which it had not yet replied.

5. In Libya, the right to move freely about the country was periodically restricted, and numerous control posts had been set up in different parts of the country. Freedom of speech and the press, the right to assemble and freedom of association were non-existent. The mass media which were

controlled by the Government, were the instrument of fanatical witch-hunting campaigns which stirred up public hatred against individuals or sectors of the population. In January 1989, security forces had brutally interrupted prayers at the Ali Ibn Abi Taleb Mosque at Tripoli, and a demonstration of students of the University of Tripoli had been severely repressed and a number of arrests made. On 20 January 1989, four persons had been killed for protesting at the abrupt banning of a football game between Libya and Algeria.

6. Persons held in Libyan prisons were subjected to near fatal floggings and beatings, and public executions were broadcast live on Libyan television. Although more than 400 prisoners of conscience had been freed in March 1988, more than 100 political prisoners had been held in custody since 1984, without being informed of the reasons for their detention and without access to a lawyer or the prospect of a trial. Those prisoners had recently been informed that they would be freed in March 1989, and the Federation hoped the Libyan Government would keep its promise.

7. The Federation was also concerned at the threat to the lives of Libyan dissidents living abroad. Between 1980 and 1987, a number of Libyan dissidents residing in Europe had been murdered, and there was reason to fear a recurrence of such acts.

8. In October 1988, the Algerian authorities had savagely suppressed a popular uprising. The Federation had received 100 complaints and certified testimonies describing the methods used by the Algerian security services in the course of the uprising. People had been arrested in their homes, at their workplaces, in the street or in cafés, either for having participated in the events, having gone to look for a missing relative or for having met, by chance, members of the security forces. Arrested without a warrant, people had been forced into the boots of cars or into police vans and had been taken to police stations, gendarme headquarters or barracks and military camps, where they had been mercilessly tortured. It would take too long to give an account of all the victims, and she would mention only one example. On 5 October 1988, at El-Harrach, Hamid Iguer had been murdered by a bullet shot point-blank into his head by a police officer; he had been 10 years old.

9. The International Federation of Human Rights called upon the Commission to take urgent measures to halt and prevent such wanton acts of violence, torture and murder. The international community should put pressure on the countries which continued to resort to the heinous and unjustifiable practice of torture and other cruel and inhuman treatment or punishment.

10. Mr. RAJAMOORTHY (Regional Council on Human Rights in Asia) said that, while his organization welcomed the Malaysian Government's release of all but two of the 106 persons who had been detained without charge or trial in October 1987, it was concerned that the freedom of movement and speech of many of those released had been curtailed. It urged the Malaysian Government to release the remaining detainees and remove all the restrictions imposed on the ex-detainees.

11. In Singapore, eight persons who had been detained under the International Security Act and released in 1987, had been rearrested in April 1988 for making a public statement alleging ill-treatment and torture during detention. At the time of their rearrest, the Government had promised to establish a commission of inquiry to verify their allegations of torture.

However, the Government had not proceeded with that inquiry and four of the eight persons were still in detention. The Court of Appeal had ordered the release of the four detainees but the Government of Singapore had immediately rearrested them. The Government had then amended the Constitution and the relevant laws to prevent any judicial review of preventive detention orders by the Courts. He urged the Government of Singapore to restore the right to judicial review of preventive detention orders and to release unconditionally all those still in detention.

12. Mr. Cheah Thye Poh, who was about 50 years old, had been held in detention without charge or trial for the past 24 years, most of which he had spent in solitary confinement. He was being detained solely on account of his political beliefs, and the recent amendments to the Constitution of Singapore excluded all possibility of reviewing his case. The Regional Council appealed to the Commission to call upon the Government of Singapore to release Mr. Cheah.

13. On 7 February 1988, in the village of Talang Sari in South Sumatra, the Indonesian army had killed a number of civilians. According to the Indonesian Government, the incident had occurred as the result of an attack on the army by a Muslim fundamentalist group, and the 27 persons killed had all been members of that group. According to independent sources in Indonesia, however, including human-rights activists, at least 100 people, mainly civilians and including women and children, had been killed, and the victims were ordinary villagers who had earlier been evicted from their village as part of a Government programme.

14. The events which had led up to the violence between the villagers and Government forces were not clear, and efforts by independent groups, including journalists, to visit the area had been thwarted by the authorities. He submitted that the Commission should request the Government of Indonesia to set up an independent commission of inquiry to investigate the killings and lift all restrictions on visits to the area by journalists and other concerned persons.

15. Mr. GONZALES (International Indian Treaty Council) said that the number of native Americans and people of Hispanic and African origin in United States prisons was disproportionate to their overall shares in the population. The United States judicial system practised a policy of "selective persecution" of people of colour, and his organization implored the Commission to investigate the needs of over 100 political prisoners in the United States.

16. For over a decade, the International Indian Treaty Council had been providing the Commission with extensive documentation on the case of the leader of the American Indian Movement (AIM), Leonard Peltier, who had been imprisoned for defending the natural and human rights of the Indian peoples of the United States. The United States had consistently violated the human rights of Indian peoples through its crimes against humanity, including acts of genocide; denial of the right to self determination; denial of fair and due process of law; racial discrimination; cruel, inhuman and degrading treatment and punishment; denial of freedom of religion; and denial of the fundamental rights of prisoners.

17. The case of Leonard Peltier involved all of those violations. Peltier was currently serving two consecutive life sentences at Leavenworth Federal

Penitentiary as a result of manufactured "evidence", the suppression of crucial defence evidence and lying by Government witnesses. The overwhelming national and international support for a retrial of Leonard Peltier included 55 members of the United States Congress, 60 members of the Canadian Parliament, four Nobel Peace Prize recipients and numerous religious leaders. On 17 April 1989, a legal argument was to take place before the Supreme Court of Canada concerning the illegal extradition of Leonard Peltier from Canada in 1976, and the Commission should monitor those proceedings in order to prevent further crimes against human rights.

18. Another miscarriage of justice involved two young Tuscarora Indian men, Eddie Hatcher and Timothy Jacobs, who, on 1 February 1988, had taken over a newspaper office in Robeson County, North Carolina. The two men had demanded that a state task force should be set up to investigate the Robeson County sheriff's office and district attorney's office for corruption, police brutality, racism and discrimination. The two men had surrendered after 10 hours and had released all their hostages unharmed.

19. After an extensive legal battle, during which they were held in detention without bail, the two men had been acquitted of all Federal charges on the grounds of "just cause". The North Carolina State judiciary had then initiated an independent grand-jury investigation in which both men had been indicted. Since 1 February 1988, there had been 14 unsolved deaths in Robeson County, and at least one person had died in police custody. Several of those who had recently died had been potential witnesses in the case.

20. The International Indian Treaty Council wished to point out that the United States had waited 40 years to ratify the Convention on the Prevention and Punishment of the Crime of Genocide, and demanded that it ratify as soon as possible the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. More than 60 million indigenous people in the Americas had been sacrificed, and the existence of indigenous peoples hung in the balance. Those peoples must be given a chance to survive.

21. Mrs. WOLF (International Federation Terre des Hommes) said that her Organization wished to draw the Commission's attention to the serious violations of human rights in Colombia.

22. On 26 January 1988, in the settlement of Aguasucia Honduras, Department of Cauca, two Indian peasants - Elicejio and Luis Alfonso Paja Pillimue - had been assassinated by a self-defence group as they worked in the fields. Their family and the settlement had immediately lodged a complaint but the authorities had refused to prosecute the suspects.

23. On 1 February 1988, the headman of the settlement of Vitoyo Jambolo, German Escué, had been tortured and murdered by members of the armed forces. His mother had lodged a complaint but had received no response.

24. Those two examples of aggression illustrated the difficult situation of the Indians in Colombia. The activities of the Indian Regional Council of Cauca, which had been supported by Terre des Hommes for six years, had been constantly obstructed. Abduction, murder, rape and bombing continued to decimate the indigenous population.

25. On 27 June 1988, at Bucaramanga, Department of Santander, Christian Roa, the head of the Foundation for the Promotion of Culture and Popular Education (FUNPROCEP) had been abducted when leaving his office. He has not been seen since. Roa had been a member of the Executive Committee of the Workers' Trade Union (USITRAS), and President of the Trade Union of Workers in the Industrial University of Santander (SINTRAUIS). His sister and his colleagues had sent a number of letters to the Governor of the Department, to the Attorney-General and to the Regional Attorney and had also applied to the civilian and military authorities. All of their efforts had been unsuccessful.

26. There had been a considerable increase in the number of political crimes committed with complete impunity in Colombia, and the Colombians were in an extremely distressful situation. The entire judicial apparatus in the country was paralysed and completely unable to cope with the situation.

27. The International Federation Terre des Hommes urged the Colombian Government to do everything in its power to stop the activities of military and civilian self-defence groups by repealing Act No. 48 of 1968 and Order No. 005, dated 9 April 1969, of the High Command of the Armed Forces; to take the necessary steps to ensure that members of the armed forces who were guilty of crimes or who participated in illegal acts were brought before the civil courts; to re-establish the normal functioning of the judicial system, in particular with regard to the prosecution and sentencing of murderers and kidnappers; to make a clear distinction between permanent laws and measures adopted during a state of siege; and to ensure respect for the various international human-rights instruments which Colombia had signed and ratified.

28. The Commission should appoint a special rapporteur on Colombia to investigate the causes of the paralysis of the entire judicial system and to determine the various reasons for the serious increase in human-rights violations in that country.

29. Ms. COOK (Amnesty International) said she welcomed the Commission's decision in 1988 to renew the mandates of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteurs on questions relevant to torture and on summary and arbitrary executions. Both the Working Group and the Special Rapporteurs provided valuable mechanisms for the protection of fundamental rights to life and the physical and mental integrity of individuals.

30. Governments could put an end to human-rights abuses if they had the will to do so. The recommendations of the Working Group and Special Rapporteurs could, if properly implemented, provide safeguards against such violations. They were no more ambitious than the measures already required of all Governments by international law. They called, for example, for an end to prolonged incommunicado detention, for the effective investigation of complaints of torture, abduction or extrajudicial execution, and for the bringing to justice of the perpetrators of such crimes.

31. Incommunicado detention provided precisely the type of setting in which torture was most likely to occur. With regard to China, for instance, her organization had received persistent reports of the torture and ill-treatment of Tibetans detained for pro-independence activities. Most had apparently been held incommunicado, with torture being used to extract confessions or as

a punishment. Few detainees were known to have been charged and there appeared to be little, if any, judicial supervision of those arrested.

32. Incommunicado detention for indefinite periods and an absence of safeguards such as redress by the courts or access to a lawyer or relatives, had contributed to the prevalence of the torture of suspected political opponents in Iran. In many cases, prisoners were reported to have been executed in secret, after summary trials, relatives being informed only after the event.

33. Incommunicado detention accompanied by torture had long been a feature of the legal system applied to the political opposition to apartheid in South Africa. Under the emergency regulations, any person suspected by any security force member of being a threat to public order could be detained for an initial period of 14 days, during which time torture frequently occurred.

34. Much of the widespread torture occurring in Turkey took place during incommunicado detention, which was routinely extended in political cases for up to 15 or 30 days. Her organization and the Special Rapporteur on questions relevant to torture had made recommendations that the period of incommunicado detention there be radically reduced.

35. She emphasized the importance of serious investigations into alleged violations because of the secrecy usually surrounding them. In Somalia, where the Government was currently reviewing detentions as part of its amnesty programme, no investigation was known to have been initiated into recent reports of torture and extrajudicial executions. Many people had reportedly been tortured on suspicion of involvement with the rebels after opposition guerrilla attacks, while hundreds of extrajudicial executions of unarmed civilians by Government forces were reliably reported to have taken place in the north.

36. Her organization knew of not one instance in which the Syrian Government had instituted an independent and impartial investigation into complaints of torture at the hands of its security forces. Among the many reports of torture received in 1988, two had involved deaths in detention following such allegations. Torture in that country was a matter of deep and long-standing concern to her organization.

37. Governments sometimes set up mechanisms with the declared aim of investigating human-rights violations but the mechanisms failed to produce results. There was a plethora of such mechanisms in Guatemala, for example, where the bodies in question had even invoked the confusion concerning their respective competences in order to justify their lack of success. That had been their explanation for the failing to clarify any one of the hundreds of cases of disappearance or extrajudicial execution submitted to them by her organization. Although a new co-ordinating commission had been set up with the capacity to respond to international human-rights bodies on human-rights questions, past experience suggested that, whatever its intentions, it might not be able to provide genuine information on disappearances or extrajudicial executions.

38. Although serious machinery for independent judicial investigation might exist in some countries, its efforts to investigate human-rights crimes could be sabotaged. Thus, the Government of India had not responded to her

organization's request to observe court investigations into alleged reprisal killings and torture of villagers by the Assam Rifles in Manipur State, despite the fact that the state government concerned had given its assent.

39. Even when investigations confirmed allegations of human-rights violations amounting to crimes, they could only contribute to the prevention of further offences if the criminals were brought to justice. Following allegations of torture in the Philippines, the Government-appointed Commission on Human Rights had recommended that certain military officers be prosecuted. Instead they had been promoted. Her organization did not yet know of any military or police officer who had been convicted of a serious human-rights offence since the current Government had come to power in 1986.

40. Her organization was routinely informed by Governments that the grave human-rights violations documented did not occur, or that they were only isolated aberrations. Some Governments stated that all allegations were investigated. She believed that failure to implement fully internationally-mandated safeguards and measures reflected a lack of commitment to the eradication of such violations. She hoped that the Commission would maintain the credibility of its own mechanisms by judging the credibility of Governments according to their practical application of the recommended safeguards and measures.

41. Mr. FIBLA (Christian Democratic International) said that he had recently been released from prison in Cuba after 26 years as a political prisoner. No other physician in history had ever been imprisoned for so long.

42. Referring to prison conditions in Cuba, he named three political prisoners who had died of starvation in the Boniato prison in 1972. Their deaths had resulted not from a hunger strike, but from the extremely poor food supplies normally provided. All the other prisoners there suffered from various degrees of vitamin deficiency. In the La Cabafia military prison in 1973, food rations had been so meagre that the inmates of two wings had agreed to pool their food and eat on alternate days only. In the secret prison, Punto X, meals had consisted, in one case, of only 13 beans, and in another, of a piece of pumpkin rind. A small potato, one sardine and a little soup were served at the Isla de Pinos prison.

43. As for other living conditions, in 1967, 120 men had been held completely naked in 10 cells at the Cinco y Medio prison at Pinar del Río. Daily searches were carried out to ensure that they had not even a scrap of paper to cover themselves with. Overcrowding was usual in prisons. At La Cabafia three-hundred or more prisoners shared only two lavatories, and many suffered from frequent diarrhoea. The Boniato prison had cells without windows or lights and the men were held in perpetual darkness.

44. As far as medical care was concerned, he pointed out, since political prisoners refused to wear prison uniform, the authorities refused to take them to hospital. Accordingly, they had been without medical care for many years. In 1975, in the Boniato prison, prisoners had reacted angrily to the refusal of the authorities to allow a man with severe toothache to be treated unless he wore prison clothes. Warders had fired at the prisoners, killing one and seriously wounding five others. In the same prison, another prisoner suffering very severe pains had been told that he could be treated only in prison uniform. Specialists were allowed to see patients for only 50 seconds in the presence of a warder.

45. He described a number of incidents relating to medical conditions in Cuban prisons. A prisoner with a broken shoulder had had to wait for over a month to have it set in plaster. An army doctor had taken medicines away from prisoners at the La Cabafia prison, while all the special diets ordered by the prison doctor had been suspended at the Boniato prison. A number of political prisoners had received electric-shock treatment at the psychiatric hospital. One of them had subsequently been unable to recognize his own wife.

46. Fifteen patients suffering from AIDS had been admitted to the Combinado del Este prison hospital in 1988, not because they were offenders, but because they had escaped from the special isolation centre for AIDS sufferers. In that connection, he said that all Cubans were liable to be tested for the disease; there was no question of any freedom of choice.

47. Although all the long-term political prisoners should have been released by the end of 1987 in accordance with an announcement by the Ministry of the Interior, five were still in prison. In fact, there were several thousand political prisoners in Cuba, protesters being arrested almost daily. Cuban citizens had no right to express their opinions in the press, organize free trade unions, move freely from place to place, consult the doctor of their choice, or work wherever it suited them. All aspects of life in the country were rigorously controlled.

48. He called upon the Commission to continue the investigation it had begun of the situation in Cuba in order to become aware of all the human-rights violations taking place there.

49. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination) said that the human-rights situation in Tibet had continued to deteriorate. Since the beginning of a series of demonstrations in 1987, many hundreds of Tibetans had been arrested and imprisoned, most of them being neither charged nor brought to trial. Those released reported inhuman treatment in prisons and the methodical use of torture during interrogation sessions. Prisoners were suspended from beams, for example, and electrified truncheons were used to administer electric shocks. Such accounts were consistent with others from different parts of China, where officials had acknowledged that torture by security personnel was a persistent problem. They insisted, however, that the practice did not exist in Tibet.

50. Prisoners were continually harangued about their political and religious views, and beaten and tortured if they persisted in their opinions. They were released only if they confessed they had been mistaken. Those holding strong political and religious views were likely to remain in prison. In fact, nearly half the Tibetans still in prison in December 1988 were monks or nuns, arrested for putting up posters, for example, or for speaking to foreigners. There was great concern that those who remained in prison would undergo torture because of their views.

51. Protesters were subjected to increasingly harsh treatment. The People's Armed Police had opened fire without provocation upon unarmed demonstrators on International Human Rights Day. Although a number of people were killed and many injured, the Chinese Government had acknowledged only one death. Eye witnesses claimed that the man in question had been shot at point-blank range. Since then, the police had entered monasteries and private homes and made a number of arrests. It was feared that the new prisoners were also in danger of being tortured or of receiving inhuman treatment.

52. His organization called upon the Chinese Government to put an end to its repression of the Tibetan people, and also to stop the ill-treatment of Africans who were studying in China.

53. He drew the Commission's attention to the state terrorism practised by Israel, throughout the Middle East. The Israeli army daily committed human-rights abuses in southern Lebanon, arresting those who refused to collaborate and taking them to detention camps in Israel. He referred also to the state terrorism practised by Israel in the air, pointing out that the Israeli secret service had recently been found to be responsible for sabotaging an Italian plane in 1973. It also practises terrorism at sea and had hijacked a number of ships. Several men taken by force for interrogation in Israel from a Honduran-registered ship, the "Nadija" were still being detained. According to a recent report, in the three-year period prior to publication, over 100 people had been arrested by Israeli naval forces outside Israeli jurisdiction and taken by force to Israel, where they had been charged with violating local law and given long prison sentences.

54. Ms. DIAZ (Women's International League for Peace and Freedom) said that the human-rights situation in Colombia was so grave that six high-level commissions, including one from her own organization, had visited that country in the past year. The practice of selective abductions and murders had gone from an individual to a collective basis, reflecting a plan to exterminate whole sectors of the population; the victims included defenders of human rights, trade-union leaders, members of student, indigenous and peasant movements and left-wing politicians.

55. Two particularly distressing instances were the disappearance, torture and murder of Beatriz Helena Monsalve, who had been six months pregnant, and her secretary. In 1988, at least 16 women, two of them very young girls, had been murdered. Thousands of women and children suffered not only from the destitution resulting from violence but often as direct victims; many of them were on the black lists of paramilitary groups and their children were used as hostages.

56. A feature of the situation was the relatives' ignorance of the victims' whereabouts. On a few occasions the victims were traced to a prison, or released after illegal detention, and in a few cases were found dead after torture and summary execution. The involvement, in many cases, of the armed forces and security services had been referred to in chapter IV, paragraph 73, and chapter VI, paragraph 126 of the report by the Working Group (E/CN.4/1989/18/Add.1). In one case, the abduction of 13 students, the five members of the armed forces found responsible had been sentenced to only a few days' suspension from duty.

57. The Government of Colombia had informed the Working Group on Enforced or Involuntary Disappearances that it was making every effort to protect its citizens' rights. However, the Presidential Adviser for the Defence of Human Rights, whose Office it had established, was confined in practice to disseminating information and providing training for some State officials; he had no power to check the daily violations of human rights. Other officials who could be effective, such as the Attorney-General of the Nation, did not receive the requisite support. He had even lost control of the judicial police.

58. The tabling of a parliamentary bill to make enforced disappearance a crime had been objected to by the Ministry of Defence, which, in a letter dated 26 October 1988, asserted that such disappearances could not be treated as a crime and claimed that the bill would undermine the right of free action, inhibit the work of the forces of law and order and foster terrorism. That response was eloquent testimony to the way in which some of the national authorities viewed the problem.

59. The ineffectiveness of the application for a writ of habeas corpus, noted in the report (E/CN.4/1989/18/Add.1, paras. 57-63), was also true of other legal remedies also. For that reason, organizations seeking to protect human rights had begun to invoke international instruments and approach international forums such as the Inter-American Commission on Human Rights. The latter, as a result of one case brought to its attention, had found the Colombian Government in violation of article 5 of the American Convention on Human Rights through the acts of its agents; the authorities' reaction had been to arrest the mother of the victim concerned and demolish her house.

60. The Working Group should not be satisfied, therefore, until its recommendations had been put into effect; its activities had reassured Colombians that the international community was paying serious attention to their situation, but it should not be forgotten that the disappearances and other human-rights violations were continuing. She therefore hoped that the Commission would renew and if possible broaden the Working Group's mandate, study the Sub-Commission's draft declaration on the protection of all persons from enforced or involuntary disappearances (E/CN.4/Sub.2/1988/28, annex I) and consider the possibility of adopting a convention against that offence which was undoubtedly a crime against humanity.

61. Mr. GALLARDO (World Federation of Democratic Youth) said that human-rights violations in Colombia had reached horrendous proportions. There had been 6,579 killings in 1988, of which some 2,800 had been politically motivated; 261 victims had been added to the already long list of disappeared persons, many of them young people and students. His organization endorsed the call by the families of many disappeared students for news of their whereabouts - a call which, like the assertions of the participation of paramilitary groups in the disappearances, had evoked no clear response, as was shown in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1989/18/Add.1).

62. Since the late 1970s, torture had been used systematically in Colombia; some 300,000 cases had been registered since 1978 and many reports had testified to its use, although outlawed in the country, in connection with interrogation in detention centres and military barracks. His organization had denounced the practice before the Sub-Commission at its previous session, having given details of torture inflicted in June of that year in the barracks of the San Mateo de Pereira Battalion on a group of suspected guerrillas.

63. The violence in that country was being fuelled by the existence of over 150 paramilitary groups which were committing aggression against all the nation's social and political organs. His organization denounced the death threats against students, signed by groups within the universities such as the so-called "Anti-Communist Youth of Colombia" and others. It was up to the authorities to investigate the activities of such groups and take the

requisite steps to safeguard the right to life and dignity of all members of the university community, the upholders of the intellectual freedom that was essential to democracy.

64. There was growing disquiet in Colombia at the impunity with which human rights were violated - the outcome of culpable inactivity on the part of the Government, which showed no willingness to support the full enjoyment of human rights by all its citizens. There was an urgent need for political dialogue, involving all the insurgent forces. The Government should seize the opportunity provided by the current pre-election year to take positive steps towards peace and democracy in the country.

65. Mr. PARADA (International Union of Students) said that the Association of University Students of Guatemala had informed his organization's secretariat about the way in which students and young people in that country were afflicted by repression, detention and disappearances. One example was the discovery, 10 days previously, of the body of a university student, Oscar Guillermo Rios, showing evident signs of torture. Four days later, the body of another student, Miguel Enrique Tzoc García, who had disappeared the previous day had been discovered.

66. The Centro Universitario de Occidente which those students had attended, had been the target for repression on a number of occasions, an earlier instance being the abduction and subsequent killing of Danilo Alvarado and Rene Leiva, members of the University staff, in October 1987. The Guatemalan Government had taken no action in response to the complaints made; despite the announcement by a death squad that it had a "hit list" of 200 persons, the Minister of the Interior had stated that there was no link between that and the two recent murders. Such was the extent of political violence and the smear campaign against people's organizations. The International Union of Students called for the return unharmed of the other abducted students, and the identification and punishment of those responsible for murdering Rios and Tzoc.

67. His organization was also concerned about the situation in Puerto Rico, having been informed of the detention of 15 independence activists. One of them, a student named Ricardo Jiménez, had been arrested and sentenced to 90 years' imprisonment. During his early years of confinement, he had been frequently transferred from place to place and denied the access which prisoners normally had to cultural and educational programmes. Another detainee, María Haydee Torres, had been separated from her fellows immediately after her arrest in 1980 and sent to New York, being held there, for a long time incommunicado, as a political prisoner and her health had suffered as a result. A third case was that of Filiberto Ojeda Ríos, detained as a result of a paramilitary operation in 1985 and taken by the FBI to the United States. The release on bail subsequently allowed to others detained at the time had been denied to Ojeda five times, and when finally released he had been kept under house arrest in the United States until imprisoned again, despite poor health. Ojeda was still in detention, 14 months later, awaiting trial.

68. His organization had sent a delegation to visit Colombia, at the request of that country's National Union of Students. The systematic violation of human rights being perpetrated there affected not only those connected with students and youth but all social and trade-union sectors. In 1988 there had

been over 6,000 murders and hundreds of disappearances; and there was documentary proof of a link between the perpetrators and the armed forces. The judicial system was incapable of safeguarding human rights, and current legislation was not aimed at solving the problem. The Government was not doing all it could to put an end to the misdeeds. The latest cases to be reported were the murder of the trade-union leader Francisco Dumar, following detention and ill-treatment by army personnel, and the disappearance of Julio César Agudelo, Isidro Caballero and María del Carmen Santana.

69. The students and people of Colombia needed the international community's co-operation if they were to emerge from the dark night of terror. His organization was sure that the Commission would increase its efforts to that end, and hoped that the Working Group on Enforced or Involuntary Disappearances would continue and expand its work in Colombia and report again to the Commission at its next session.

70. Mr. SALAZAR (Andean Commission of Jurists) said that his organization much appreciated the work of the Commission and of the Working Group on Enforced or Involuntary Disappearances, which had helped to make the world community more aware of that form of human-rights violations. The practice was, unfortunately, still widespread and often used as an instrument of policy by military dictatorships against opponents or in cases of national unrest.

71. In Chile, the only country of the Andean region still under military dictatorship, enforced disappearances had been a systematic practice for almost a decade, and the fall in the number of cases in recent years did not reflect any change in the authoritarian régime's features. There had been no real effort to investigate the hundreds of cases documented over the past decade, let alone to punish those responsible. On the contrary, the latter were protected by an amnesty promulgated by the Military Government itself; and there seemed a danger that documentary evidence held by the Catholic Church - the Vicaría de la Solidaridad of the Archbishopric of Santiago - relating to victims of repression would be seized by a military prosecutor - presumably with a view to shielding the perpetrators from punishment once democracy had been restored in Chile.

72. With regard to cases of disappearances in Ecuador which had occurred in 1984, 1985 and 1988, there was reason to suppose that the security forces had been implicated, although there was no indication that the incidents reflected a systematic practice on the part of the authorities. It was to be hoped that the new Ecuadorian Government, which had made respect for human rights a major plank of its political platform, would undertake the requisite investigation with a view to punishing those responsible.

73. The case of Colombia gave cause for considerable concern. According to the information available, human-rights organizations had recorded 154 cases of disappearances during the first half of 1988 alone. The Working Group on Enforced or Involuntary Disappearances had been informed in 1988 of 70 new cases in Colombia. A high proportion of the cases were attributed to paramilitary groups which frequently acted with apparent impunity with the direct support or the acquiescence of members of the armed forces. The documented cases suggested that the disappearances were frequently followed by summary executions. Some bodies identified as those of persons reported to have disappeared bore traces of torture.

74. As for Peru, the information received by the Working Group for 1987 indicated that it was the country concerning which the greatest number of cases had been reported. During 1988, non-governmental human-rights organizations in Peru had been informed of nearly 400 cases of disappearances. In most cases, the persons making the reports attributed the disappearances to members of the armed forces. In view of the great number of reports, in July 1987 the Office of the Government Attorney had instructed a Senior Prosecutor to open an office at Ayacucho, one of the areas with the largest number of disappearances. The Special Senior Prosecutor had succeeded in clarifying a number of cases. In October 1988, however, shortly after he had presented to the Government Attorney a report on the murder of peasants, in which he had recommended that the Head of the Politico-Military Command of the area should be indicted, his office was closed on the grounds of a lack of funds and he was transferred to another part of the country.

75. To act against the practice of enforced disappearances, it was important that the rule of law should be fully effective. That presupposed both the detailed investigation of each of the cases reported and the punishment of those found to be responsible. Otherwise, impunity would give rise to a spiral of barbarity and violence which affected not only human life but also weakened institutions and legality, thereby opening the way to violent reactions.

76. The functioning of adequate protection mechanisms was essential in order to prevent disappearances. One of the features of the institutional framework in which enforced disappearances occurred was the ineffectiveness of legal protection mechanisms. Although all the countries in the Andean region had established the remedy of habeas corpus, it was frequently insufficient or clearly ineffective. The weakness of the institutional apparatus when faced with the security forces and scepticism regarding the effectiveness of guarantees resulted in an alarming lack of protection for the citizens.

77. In the case of Colombia, an outstanding characteristic in that respect was the serious limitations which had been placed on habeas corpus by Decree No. 182 of January 1988 which established that an application for a writ of habeas corpus could be made only to the highest court judge of the locality when it was a question of the alleged commission of an offence classified in the Anti-Terrorism Statute. That was a serious restriction, since the number of senior judges in the country was not more than 180 and the rural areas, which were precisely where disappearances had a tendency to occur, were left unprotected. Furthermore, the procedure required the judge to obtain the views of the Office of the Attorney-General and, in some cases, information from State security bodies, a situation which made it difficult to issue a writ of habeas corpus and facilitated such practices as enforced disappearances and arbitrary detention.

78. In the case of Peru, it could not be said that the habeas corpus rules were inadequate. The basic problem was that the remedy had been ineffective in practice in reducing the number of disappearances. The lack of confidence on the part of the population, the weakness of the judiciary and the dominance of the military authorities in various parts of the country left the people seriously unprotected, despite the existence of a constitutional Government and the remedy of habeas corpus. Furthermore, the state of emergency in force for 40 per cent of the Peruvian population frequently led the police, military and judicial authorities to assume that, in such circumstances, habeas corpus

could not be used. However, Peru conferred constitutional status on international human-rights standards. One of them - the American Convention on Human Rights - stipulated that habeas corpus was a judicial guarantee which could not be suspended, as stressed by the Inter-American Court of Human Rights in its advisory opinion OC-8/87.

79. Mr. BOFILL (International Federation of Free Journalists) said that he had been unable to approach the mission which had visited Cuba because at the time he had been subjected to a climate of physical aggression by the governmental authorities which had made him fear for his personal safety. However, the Cuban Committee for Human Rights had arranged for more than 12 of its members to work with the mission. At that time, the Cuban Committee had wished to indicate its concern at the policy of threats used by the Government of Cuba in the areas where the mission was operating in order to intimidate the people so that they would not submit their complaints.

80. As a result of an attempt to report the human-rights violations to which they had been subjected, more than 30 persons had been arrested by the repressive forces of the Government of Cuba. Three of them were still in prison. Others had been imprisoned subsequently on flimsy pretexts. It was known that the mission had asked President Fidel Castro to guarantee that persons who submitted complaints would not be the subject of reprisals and that the Cuban Government had given such guarantees. However, what was certain was that the delegation from the Commission had hardly left Cuba when the witnesses, dissidents and conscientious objectors had been arrested and beaten.

81. The Cuban Committee for Human Rights had transmitted to the mission reports containing evidence and first-hand statements denouncing political assassination, torture, arbitrary arrest, religious persecution, violations of the freedoms of expression, movement, association, and many others, which had made it quite clear that the Government of Cuba violated human rights not as isolated incidents or irresponsible acts that might be committed by certain officials but as part of a deliberate policy which made use of generalized instruments of terror in order to silence any peaceful demonstration of popular discontent or political opposition.

82. The information and testimony provided by the Cuban Committee for Human Rights had clearly demonstrated that Cuba violated the right to life. The Committee had also subsequently accused the Government of murdering at least five young Cubans who had been shot by the police despite the fact that they were defenceless. The Committee had also passed on the request made by a group of Cuban mothers for the return of the remains of their sons who had fallen in the wars waged in Africa.

83. The official Cuban press had recently given accounts of mass arrests and imprisonment for so-called "crimes against the people's economy". The acts in question resulted from the fact that the Cubans were suffering from a severe shortage of the basic necessities of life and those indiscriminate acts of generalized terror had been used in other instances in Cuba to silence the protests of the people because of the economic problems facing the country. Consequently, their punishment constituted, once again, violations of human rights.

84. His organization wished to denounce the continued use in Cuba of torture as a means of obtaining confessions from detainees and also of forcing prisoners to accept the so-called "re-education plans of the Government", which were merely systems designed to destroy the dignity of the Government's political opponents.
85. His organization fully endorsed the statements made at previous meetings of the Commission by Cubans who had denounced the existence of torture and other human-rights violations in Cuba. They, and many other Cubans, had been victims of human-rights violations in Cuba and had first-hand knowledge of the situation in that country.
86. He himself was one of more than a million Cuban citizens who were illegally prevented from returning to the national territory and lived outside the country, making use of their innate right to freedom of movement, which was guaranteed by the Universal Declaration of Human Rights. The National Assembly of the Republic of Cuba was entitled, under the Constitution, to enact legislation banishing certain citizens, thereby preventing their return to the island. That had not been done, but the governmental practice of imposing de facto banishment was another eloquent demonstration of the fact that the situation prevailing in Cuba violated human rights and fundamental freedoms and was to all intents and purposes a state of permanent martial law.
87. Mr. EVANS (Commission of the Churches on International Affairs) said that over the past few years, members of churches and staff of religious organizations associated with his organization had suffered from arbitrary arrest, indefinite detention and the attendant human-rights violations such as torture and disappearance.
88. While his organization was encouraged by the adoption of a Body of General Principles on detention by the General Assembly in December 1988, it believed that the conditions of administrative detention prevailing in a number of countries represented a fundamental denial of the spirit of those principles.
89. He noted that several Governments continued to resort to administrative or preventive detention measures as a political weapon for silencing social critics and political opponents and that, in such cases, administrative detention measures typically allowed for arbitrary arrest and indefinite detention of individuals without charge, trial or other judicial recourse, on the sole prerogative of a government minister or other security official; permitted extended periods of incommunicado detention; and provided for restrictions on the individual's fundamental rights even after his release.
90. During the past year, some States appeared to have actually reinforced their determination to employ such measures by adopting legislative and constitutional amendments that expanded the discretionary powers of executive authorities and further restricted access to legal protection by those subjected to arbitrary detention.
91. A case in point was that of Malaysia where, at the end of 1977, the authorities had invoked the Internal Security Act (ISA) when arbitrarily arresting 119 persons. Many of those detained were Members of Parliament, but most of them were drawn from a wide range of church, environmental,

trade-union and professional organizations. All had been detained as a result of their involvement in legitimate, non-violent social activities and, in some cases, solely on the basis of their personal religious beliefs. Several had allegedly been beaten and subjected to other forms of cruel and degrading treatment. Although most of them had since been conditionally released, they continued to have restrictions applied to their freedoms of expression, association and movement.

92. None of the detainees had ever been formally charged or brought to trial before a court of law. It was even more disturbing, therefore, that the authorities had moved to entrench the arbitrary nature of the ISA through the adoption in July 1988 of legislative amendments which eliminated the right of ISA detainees to seek protection or effective remedy of abuse through application for a writ of habeas corpus.

93. Similar developments had occurred in Singapore, where the Government continued to use administrative detention measures against political opposition leaders and non-violent social critics, many of whom were church workers. Detainees had been subjected to arbitrary arrest, incommunicado detention and torture, and denied access to judicial appeal. In December 1988, the Singapore authorities had announced their intention of withdrawing access to habeas corpus proceedings for prisoners held under administrative detention orders.

94. In situations where administrative detention was regularly practised, it was not uncommon for allegations of torture to arise also. The incommunicado detention provisions of such measures offered not only an opportunity for torture but actually facilitated its use. In some States, particularly those coping with insurgencies, administrative detention did not occur so much through the use of formal legal instruments but as a regular, officially sanctioned military practice. As pointed out in the report of the Special Rapporteur on questions relevant to torture (E/CN.4/1989/15), such circumstances also revealed a pattern of routinely practised torture. His organization shared the view that Governments bore a special responsibility for investigating and preventing that practice.

95. Such a situation currently obtained in the Philippines. According to reliable reports from church and human-rights groups in that country, a widespread pattern of torture had re-emerged since 1987. By the end of 1987, some 1,463 complaints of torture had been filed with the Philippines Commission on Human Rights. Methods of torture included beatings, electric shocks, stabbings, suffocation with plastic bags or water, and sexual abuse. In that connection, he referred to the case of the former director of the Ecumenical Centre for Development in the Philippines, who had been abducted near his home in Manila, held in solitary confinement and subjected to water torture and beatings severe enough to cause broken bones.

96. Referring to the report of the Working Group on Enforced or Involuntary Disappearances, he noted with dismay that significant increases were reported for 1988 with respect to both the number of countries in which disappearances had occurred and the number of individual victims. As in 1987, the situation appeared to be most serious in Peru. In that country, with a democratically elected Government, disappearances were due to two main factors: a guerrilla movement which practised terrorism and a counter-insurgency strategy applied by the security forces which were exercising power in some regions by declaring emergency law and suspending all civil rights.

97. He referred again with particular concern to the situation in the Philippines, where the number of disappeared persons had almost doubled in 1988 over the previous year. His organization was alarmed that virtually all of the 100 cases reported by church groups in the Philippines during 1988 had involved members of legal non-governmental organizations, primarily church and human-rights groups, peasant and trade-union organizations, which had been repeatedly and publicly threatened by military authorities.

98. In conclusion, his organization urged the Commission once again to give special attention to the problem of impunity laws being granted in several countries to members of the armed forces and other Government agents who had been responsible for committing human-rights violations. That trend, which served only to undermine both the long- and short-term objectives of those who sought to protect and promote human rights, had continued to advance during the past year. For example, as recently as December 1988, the Government of Sri Lanka had enacted an Indemnity Act which effectively absolved all government agencies of any legal responsibility for any human-rights violations committed in the past 10 years.

99. Mr. BATISTA PIERA (Pax Romana) noted that there were various legal instruments which protected human beings against torture, such as the Universal Declaration, the 1947 Geneva Conventions, the International Covenant on Civil and Political Rights, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Constitutions of many countries. However, torture continued to be applied in many countries, as indicated in the excellent and very detailed report of the Special Rapporteur on questions relevant to torture (E/CN.4/1989/15).

100. It was regrettable that mankind, which had made such significant technological advances in the past few decades, was still unable to eradicate that horrible practice. His organization, which was non-political and exercised no governmental functions, appealed to all Governments not to make use of torture in any circumstances. In that regard, it attached great importance to the programme of advisory services and to the recommendations made by the Special Rapporteur in his report. Any effort to eliminate torture was a positive step, and he thought that non-governmental organizations could play a very important role in their respective countries in that regard.

101. While commending the Commission on its work in connection with torture, he wished to urge those States that had not yet done so to accede to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as an effective step in the campaign to defend human rights.

The meeting rose at 5.55 p.m.