



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1990/SR.14
22 August 1990

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 August 1990, at 3 p.m.

Chairman: Mr. TURK

CONTENTS

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

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The meeting was called to order at 3.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued)
(E/CN.4/Sub.2/1990/15-16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10;
E/CN.4/1990/3, 24-27, 45 and Add.1 and 52; A/44/620)

1. Mr. MERILLS endorsed the point repeatedly made in the discussion of item 5 (b) that the question of apartheid was one of the most important on the Sub-Commission's agenda. Apartheid was indeed an abomination in theory and in practice and must figure prominently in the work of any body concerned with the protection of human rights and fundamental freedoms. Unfortunately, however, apartheid was not the only human rights issue and there were many other situations demanding the Sub-Commission's attention. Item 6 provided members with an opportunity to consider those other situations and for that reason in his view was another particularly important part of the agenda. In dealing with that item, the Sub-Commission was dealing with a key element in its work and one which it had a great responsibility to approach with the utmost seriousness.
2. If it was to do its work under item 6, the Sub-Commission needed information about human rights violations wherever they occurred. All members had their own sources of information, just as they had their own views. But all of them needed information from outside sources in order to draw their attention to situations of which they might be unaware, or on which their own information might be incomplete or inaccurate. The role of the non-governmental organizations was vital in that context, and wished to pay tribute to the assistance which the non-governmental organizations gave to the Sub-Commission in its work generally and on item 6 in particular.
3. A number of important and valuable contributions had been made on the situation in various parts of the world, at the previous meeting. It was perhaps invidious to single out particular contributions; however, he wished especially to mention the very clear presentation by Amnesty International on situations of a political oppression and, on a different but related topic, the statement made by the International Association for the Defence of Religious Liberty on the question of religious intolerance. The issues of political repression and of religious intolerance were perhaps the two most serious sources of human rights violations today. He did not, however, mean to underestimate the contribution of the other speakers. All non-governmental organizations had a great deal to contribute to the work of the Sub-Commission and he and his colleagues awaited their further statements with great interest.
4. Mr. AL-SARAWI (Observer for Kuwait) said that his delegation wished to bring to the attention of the Sub-Commission the sudden invasion of its country by Iraq. That violation of the sovereignty of an independent State was all the more unexpected and perfidious because it had been perpetrated by a country with which Kuwait had ties of blood, religion and history and which it had supported at a time of great crisis.

5. That unprecedented act of aggression against Kuwait, a member of the United Nations, the Arab League, the Gulf Co-operation Council, the Organization of the Islamic Conference and many regional and international organizations, had been condemned by the international community. The mass media world-wide had reported on the massive violations of human rights committed by Iraq, including denial of freedom of movement and expression, and the rape, violence and looting that had no counterpart in modern history and recalled the tribal wars of centuries past.
6. He called for the unconditional withdrawal of Iraqi forces from Kuwait in accordance with the Charter of the United Nations. He hoped that his statement would be recorded among the official documents of the Sub-Commission to bear witness to the fact that the civilized world condemned Iraq's barbaric action.
7. Mr. COMTE (Centre Europe - Tiers Monde) said that his organization wished to bring to the Sub-Commission's attention the human rights violations resulting from the continuing war between the Polisario Front and Morocco which still continued despite recent meetings in Geneva on the initiative of the Secretary-General. Two situations were particularly tragic.
8. In May 1989 the Polisario Front had announced the release of 200 Moroccan prisoners of war, who, however, had been unable to return to their families, most of whom had not been officially informed of their release. On 13 February, Mr. Sommaruga, the President of the ICRC, had informed the press that since 1978, the ICRC had not been allowed to visit prisoners in Morocco although it had visited more than 1,000 prisoners in Polisario hands. Mr. Sommaruga had gone on to say that some 200 of those prisoners had been designated for release, but that after six months of negotiations, Morocco was refusing to take back those 200 prisoners.
9. He also wished to recall the case of the many Saharans who had disappeared since 1975: since the beginning of the conflict, several hundred civilians had been kidnapped, imprisoned and often tortured. Reports reaching his organization left no doubt as to the harsh conditions meted out to the prisoners and their total lack of legal protection.
10. His organization requested the Sub-Commission to invite the Working Group on Enforced and Involuntary Disappearances to give priority attention to those matters, and so find out where the Saharans were being held and what were their conditions of detention. He requested the Sub-Commission to assist the international organizations directly concerned to find a solution that would allow the immediate repatriation of the 200 Moroccan prisoners of war.
11. Another member of Centre Europe - Tiers Monde, Mr. Bereket Habte Selassie, would now address the Sub-Commission on the question of Eritrea.
12. Mr. YIMER, speaking on a point of order, pointed out that only accredited representatives of non-governmental organizations were allowed to address the Sub-Commission. He did not believe that Mr. Bereket Habte Selassie was an accredited representative.
13. The CHAIRMAN said that he had consulted the list of accredited persons and it appeared that Mr. Yimer was correct. The Secretariat would check with the representative of Centre Europe - Tiers Monde as to the names of the accredited representatives of that organization.

14. Mr. GUO-Yufang (Liberation) said that the most fundamental human rights included in the Universal Declaration of Human Rights were the rights to democracy, freedom of thoughts, conscience and religion, freedom of opinion and expression, and freedom of peaceful assembly and association. Those rights were being violated by the Governments of some countries, among which was China.

15. The present Constitution of the People's Republic of China upheld the supreme leadership of the Chinese Communist Party, whose leaders used that status to control all aspects of Chinese society. Any attempt to question violation of human rights by top Party leaders was treated as a counter-revolutionary crime. By 1989 even the most acquiescent people in China were no longer able to tolerate the extensive violations of human rights by Party and government officials of all ranks. Demonstrations had begun, and continued repeatedly all over China as well as in Xinjiang and Tibet. The peaceful demonstrations in Beijing had been witnessed by the whole world. Citizens had asked only for the termination of the widespread corruption of government officials and the real implementation of human rights, especially freedom of expression, as well as the most important aspects of democracy. The Government had refused to listen. It had answered only with martial law and military intervention. Since then, the Chinese Government had done nothing to eliminate social inequality and injustice and gross violations of human rights. On the contrary, it had persecuted, detained, imprisoned and tortured and even executed many genuine political dissidents, particularly those who were not well known. Many, whose names might never be known, had been killed or permanently disabled by brutal torture. The families of those executed had even been forced to pay for the cost of the bullet.

16. The whole Chinese people was suffering. The Government was forcing its own ideas upon the people through the wide-ranging campaign of self-criticism and forceful political education. The Government forbade any public expression by means of martial law, new legislation on demonstrations and Party policies strictly controlling the media and any other flows of information. In a word, as bad as the human rights situation had been a year ago, today it was far worse.

17. Some genuine political dissidents had managed to flee to Taiwan and Japan requesting protection; 15 from Taiwan and 1 from Japan had been extradited to China.

18. His organizations respectfully requested the Sub-Commission to express its serious concern at the continuing widespread violation of human rights by the Chinese Government in mainland China, Tibet, Xinjiang and elsewhere; to demand that the Government of the People's Republic of China should end all violence, release all political prisoners whether their names were known to the public or not, and implement internationally-recognized human rights standards.

19. It also asked the Sub-Commission to express its concern at the human rights situation of the Chinese dissidents who had fled to other regions of the world, in particular those now in Taiwan and Japan.

20. Finally, it urged the Sub-Commission to request the Commission to appoint a special rapporteur to investigate all human rights abuses in China and to supervise the development of the human rights situation in that country.

21. This statement was supported by the following non-governmental organizations: Disabled Peoples' International; Pax Christi International; Minority Rights Group; MRAP Movement Against Racism; Human Rights Advocates; International Fellowship of Reconciliation; International Association of Educators for World Peace; International Federation of Women Lawyers; Habitat International Coalition; World Union for Progressive Judaism and International Educational Development.

22. Mr. SPAHIU (Liberation) said that his organization wished to bring to the attention of the Sub-Commission the grave situation in the Yugoslav region of Kosovo resulting from the continued violations of human rights.

23. The situation in Kosovo had deteriorated steadily and was now reaching crisis point. It might easily erupt into an open and bloody conflict between the Serbian security forces and the Albanian people if a way out were not found through dialogue and democratic means. Albanians had no rights or protection, for the Serbian state had outlawed them, denying their individual, collective and national rights. On 2 July 1990 the delegates to the Parliament of Kosovo had issued a statement conferring upon Kosovo equal status in the Yugoslav Federation, thus expressing the political will of the Albanian people, who represented 90 per cent of the population of Kosovo. Three days later, Serbia had forcibly and unconstitutionally dispersed the Parliament of Kosovo, its Executive Council and executive bodies. Police had occupied the television and radio station broadcasting in the Albanian language. On 7 August, Rilindja, the only daily newspaper published in Albanian, had been closed down, so that now over 2 million Albanians had no means of information in their mother tongue. Over 2,000 journalists and employees had no means of livelihood.

24. For a long time now, wide-ranging prohibitions had been imposed on the Albanian people, who had been subjected to mistreatment, beatings, arrest, detention and segregation. They were in a situation of complete insecurity and feared for their lives and work. They were being dismissed from their jobs by means of the notorious "differentiation" process, an ideological purge which had resulted in thousands of workers losing their jobs because of their political views. According to official figures, over 1,800 Albanian policemen had been dismissed for refusing to carry out orders from Serbia after it had suspended the provincial authorities.

25. The Serbian authorities were exerting continuous pressure and provocation in order to make the Albanian people react violently and renounce peaceful resistance so that Serbia could then use all its repressive machinery against the population on the pretext of defending the constitutional order. Since 1981, according to official sources, some 100 Albanians had been killed, over 500 wounded, over 600,000 mistreated in one way or another by the police and security organs and over 3,000 had been given long prison sentences.

26. In March 1990, over 4,000 persons had sought medical treatment, complaining of symptoms of poisoning. The authorities had called that complaint a fake, preventing people from reaching hospital, persecuting those who had transported the sick and mistreating and threatening doctors and medical staff who tried to offer their professional help.

27. The only thing that did function today in Kosovo were the emergency measures and the Serbian police force. All democratic and pluralistic

processes were blocked. The Serbian authorities refused to recognize political pluralism in Kosovo, stubbornly continuing to deny the Albanians their right to equal status in the Yugoslav Federation.

28. The only hope of the Albanian people in Kosovo lay in the pressure that could be exerted by democratic European communities and international bodies like the Sub-Commission. He therefore appealed to the Sub-Commission and to the Under-Secretary-General for Human Rights that a rapporteur be sent as a matter of urgency to the area to study the situation.

29. Mrs. ATTAH, speaking on a point of order, observed that only accredited representatives of non-governmental organizations were allowed to speak. The trend among non-governmental organizations to invite other persons to address the Sub-Commission was contrary to the rules of procedure and unacceptable.

30. The CHAIRMAN urged non-governmental organizations to ensure that persons addressing the Sub-Commission were indeed representatives of those organizations.

31. He would bring the matter to the attention of the Bureau and inform the Sub-Commission of any suggestions that the Bureau might make in that regard.

32. Mr. TEITELBAUM (American Association of Jurists) said that against a background of flagrant social injustices made worse by unbridled economic liberalism, the human rights situation in several countries of Latin America left much to be desired. In Peru, where murders and disappearances were continuing, military control had recently been extended. The Party of the Democratic revolution of Mexico had sent to the American Association of Jurists (AAJ) a list of almost 60 of its militants who had been murdered since Mr. Salinas de Gortari had assumed the Presidency of the country. In the latest presidential elections the candidate of the Party of the Democratic Revolution had lost by a difference of 2 per cent, according to the official figures, in conditions which raised serious doubts as to whether the official result really reflected the will of the people as expressed in the ballot box. The Institutional Revolutionary Party, which had been in power in Mexico for many decades, no doubt had to learn how to accept the real possibility of taking turns in office.

33. On 20 December 1989, United States troops had invaded Panama. They had been due to be there for no more than 24 hours. That period had now been multiplied by almost 250 times, but United States troops were still occupying the Republic of Panama and did not give the impression they were preparing to leave in the immediate future, since they were intervening in all aspects of the Republic's administration. It had not even been possible to establish the total number and identity of those killed by the invasion. Common graves had been discovered, but the authorities had refused to identify the corpses, alleging lack of facilities. Representatives of the victims had appealed to the Organization of American States.

34. The situation in Guatemala was deteriorating. Talks were being held between the armed opposition and the political parties, but it would be desirable for the Government, too, to participate in them with the mediation of the United Nations, as in the case of El Salvador.

35. The situation in Colombia was rather more complicated than it appeared. There was not only a confrontation between the Government and the armed forces on one side and the drug traffickers on the other. Mrs. Sanchez, a Colombian member of AAJ who had recently had to leave her country, would explain what was happening there.

36. Mrs. SANCHEZ (American Association of Jurists) said that, as counsel for the defence of political prisoners, she had been in possession of denunciations to the Government Attorney sent by three officers and one non-commissioned officer in the army, in which General Faruk Yanine Diaz, among others, was accused of having ordered in writing the murder of 65 peasants in the Carare-Opon area. Of these, eight were reported to be guerrillas of the National Liberation Army and the rest were peasants. In the denunciations the Commander of the Seventh Brigade had also been accused of having organized the murder of Senator Pedro Nel Jimenez in 1986, as well as the attack on the present Minister of Health, Andoni Navarro. Captain Coy had explained in detail the methods used to gain the confidence of victims and then to make them disappear.

37. The Government Prosecutor had also been informed in writing of the monies received by senior officers from drug traffickers. In a notebook and videos found in the house of a drug trafficker General Maza Marques was directly accused of illicit activities.

38. In another denunciation Corporal Silva, commander of the Puerto Bello post in El Urabrelates had explained how he and other soldiers had been forced to give false testimony to the Government Attorney's Office concerning the murder of 42 peasants whose corpses had been found, after a search warrant had been issued two months after the event, on the estate of a drug trafficker.

39. All those denunciations, duly signed, had been delivered to the Government Attorney, who had replied, in her presence and in that of a Senator, that although the information supplied might very well be true, it was very difficult to investigate the armed forces, who might kill him. She had delivered the same denunciations to the Minister of the Interior and to the Director of Public Prosecutions but had obtained no reply and none of the officers who had originated the denunciations had been called upon to confirm his testimony. When it had become known that she was in possession of the information, she had had to seek asylum abroad, with all her family.

40. Such events were by no means exceptional. The murders, summary executions, illegal or arbitrary detentions, the practice of torture, enforced disappearances and other gross violations of human rights and fundamental freedoms were only too well known. However, it was important to note that, unlike what happened in many other cases, the cases which she had described were fully documented, with witnesses and sufficient evidence, but so far no action had been taken to investigate them and to punish those responsible. The international community was called upon to take cognizance of such situations and to adopt the most appropriate measures possible to put an end to the annihilation of the Colombian people and to secure effective respect for human rights and the rule of law in her country.

41. Mr. KIRKYACHARIAN (Movement against Racism and for Friendship among Peoples) said that the world was living through a period in which old historical conflicts were leading to explosions of violence and even to a

return to an abominably savage past, of which the anti-Armenian pogroms at Baku and Soumgait were examples. The conflicts that were arising as a result of the re-emergence of ancient divisions among peoples should not be underestimated.

42. With two other representatives of non-governmental organizations, he had tried to collect information on the real situation in Kosovo. Although their inquiry had been brief because the police had cut it short, it had convinced him that serious events were taking place there. Over the past 10 years dozens of people had been the victims of police and military repression. X-ray evidence had shown that in several cases special ammunition had been used. There were very many cases of torture, and detention without trial was common.

43. The most disturbing aspect of the repression had been the poisoning of several thousand schoolchildren and workers, almost all of them ethnic Albanians, at the end of March 1990. The authorities of the Republic of Serbia, of which the autonomous territory of Kosovo formed part, saw the case as a gigantic hoax. Of course, no interpretation could be excluded a priori, but the hypothesis that it was a hoax involving a large number of actors, including children under four years of age, and made to seem authentic by dozens of false witnesses, including doctors, surgeons and university lecturers who had misled a number of foreign investigators, was really difficult to accept.

44. For example, at Pec the NGO visitors had received impressive evidence from some 10 doctors and departmental chiefs, but the head of the neuropsychiatric department, who was a Serb, had refused to talk to them. At two hospitals at Pec and Prizren, the NGO mission had been informed that the medical files relating to the poisoning had been confiscated by the police and never returned.

45. He was not, of course, in a position to demonstrate that there had in fact been a criminal poisoning by means of chemical agents, but neither had the Belgrade Government supplied proof that there had not been a poisoning. International opinion should therefore demand that full light be shed on the case and that a scientific investigation be undertaken by neutral experts.

46. The United Nations also had a duty to call upon the parties to try to understand one another. For the moment, the main effort had to be made by the Serbian side. It seemed absurd that an absolute majority of the deputies to an elected assembly should be prevented from taking their seats and should have to adopt a resolution standing on the steps outside the building: the resolution was not in itself incendiary, since it merely proclaimed that the territory had been converted into a federal republic. It seemed shocking to assimilate the political activity of the Albanians, who were claiming the right to manage their own affairs directly, to terrorist and fascist activity. In all likelihood Serbian public opinion had a misconception as to what was meant by a "minority". Admittedly, Albanian-speakers were only a minority of the total population of the Republic of Yugoslavia, as were the Montenegrins. But how could that be an obstacle to their accession to the status of adults having a recognized right to self-determination? It had been painful to note the violent nature, tinged with racism, of the allegations made by the Serbian side. Serbian public opinion and the Belgrade Government must respond to the appeal for wisdom made some months ago in a major French

newspaper by Ismail Kadare and must bury chauvinism. Every people had its own identity and history, but an understanding of other peoples was essential for civilization and peace.

47. Mr. MOSES (International Organization of Indigenous Resource Development and Grand Council of the Cree (of Quebec)) explained that he was speaking on behalf of two indigenous peoples' non-governmental organizations and on behalf of the Assembly of the First Nations of Canada, the national organization that represented the Indians of Canada.

48. In the first place, he thanked the Sub-Commission for taking, at the beginning of its present session, the decision to call upon Canada to report on its actions in Kanesatake and Kahnawake, which would in future prove to have prevented a further tragedy from taking place. The Sub-Commission had acted when the Premier of the Province of Quebec had issued an ultimatum to the indigenous peoples, when Indians had been surrounded by hundreds of heavily armed police, when the threat of force had already been invoked, and when food, water, medicine and advisers were being denied to Indians solely on the basis of race. The action taken by the Sub-Commission had forced Canada and Quebec to realize that any act of violence against the indigenous peoples of Canada would be seen and heard by the whole world. It was that which had averted further violence.

49. The Sub-Commission's preoccupation with Indian rights, its interest in their situation, and its demand for constant information on any changes or new developments was the only protection which the Indians now had against the use of force. By taking their situation into consideration, the Sub-Commission had gained the respect of the indigenous peoples and had demonstrated that it had the practical authority to require States to respect basic human rights and fundamental freedoms.

50. His present statement was not intended to inflame the situation between Canada and the indigenous peoples, who hoped that a peaceful and equitable solution could be brought about. However, Canada as a State had taken a serious turn for the worse. It had decided to abandon all restraint and its international reputation for respect for human rights. The test of a State was not in its laws or in the statements made by its diplomats, but the real respect it demonstrated for human rights. Canada had failed the human rights test with its indigenous peoples. The federal armed forces had now been authorized to act in the crisis; it was only the fourth time since the Second World War that Canadian troops had been called upon to use force against the civilian population. Large mobs of non-indigenous persons had been incited against the indigenous peoples and had attacked them in the streets, shouting racist slogans. According to human rights groups in Canada, that activity was being encouraged by elements of the Ku Klux Klan, who had been distributing hate literature and leading racist demonstrations and violent confrontations with indigenous people in and near Montreal. A member of Canada's Parliament who in previous years had called publicly for the forcible removal of all Indian people to the barren coast of Labrador had now called openly for the federal armed forces to attack indigenous communities with tanks and machine guns. Canadian racism and hostility to Indians and to black people had gained a dangerous degree of acceptability. The chief of police of Quebec had stated that he could no longer exert sufficient control over events. He called the crisis the worst in the history of Quebec. Inflamed by government rhetoric

against indigenous people, citizens in Quebec were arming themselves with baseball bats and chasing Indians down the streets. Blacks, too, were now being attacked with baseball bats.

51. Such was Canada, the country where the indigenous peoples must live. Geographically, it was their homeland. All across Canada the Government had decided to confront indigenous peoples. A Government which had ignored their rights for centuries was now using violence against them when they objected to its conduct. Little by little their land had been taken away and their situation had now become desperate.

52. His own people, the Crees of James Bay in northern Quebec, were the victims of a huge hydroelectric project which had flooded their ancestral lands and poisoned the food they ate. That was environmental racism: governments did things on indigenous lands that they would never attempt to do anywhere else. The concerns of indigenous peoples were always judged to be less important than the interests of the non-indigenous populations in the urban centres. The environment was being destroyed, and the indigenous peoples along with it.

53. The James Bay hydroelectric project had been built without any environmental impact review. The Government of Quebec had decided to build two additional projects on indigenous lands which would destroy the land, the forests, the geese and the ducks and other animals and fishes upon which the indigenous peoples depended for food. That was the same Quebec which had initiated violence against the Mohawks, which had attacked the Mic Mac people, and which denied the indigenous peoples their right to self-determination. The Government of Quebec had lost all sense of human values and would use violence against indigenous peoples for anything: for fishing, or for a golf course.

54. All across Canada the attack against indigenous peoples was continuing. In British Columbia indigenous forests were being destroyed. In Alberta, the lands of the Lubicon Indians had been given to a Japanese paper manufacturing company after a few weeks of negotiations. In the North West Territories, the Deno people had rejected the unfair terms of a land claims settlement dictated to them by the Government of Canada as a last and final offer, a settlement which would have forced them to surrender the indigenous rights which the Sub-Commission was now working to protect.

55. Some way must be found to stop such a terrible attack. The Canadian Human Rights Commission had stated that racism against Canada's aboriginal peoples was the most serious and pressing human rights problem in the country. In its latest report it had described the continuing human rights tragedy of the indigenous people as a national shame.

56. Canada had attempted to suppress that information and to prevent the Sub-Commission from learning about the real situation. It had recently taken the unprecedented decision to withdraw the report it had submitted to the Committee on the Elimination of All Forms of Racial Discrimination, in which the Government had praised its own respect for indigenous rights.

57. Canada refused to acknowledge its own official racism embodied in the Indian Act, the Ministry of Indian Affairs and Northern Development, and the Department of Indian Affairs, legal institutions of racism and apartheid. Bishop Tutu was now in Canada and had confirmed that the conditions to be found in Canada were similar in many instances to those of apartheid in South Africa. There was one important difference: the indigenous peoples of Canada were few in numbers. But they were the majority in over 90 per cent of the territory claimed by Canada, which had now decided to use force to remove them. The indigenous people could not lose any more land and still remain a people. They were desperate. An end would not come when the present crisis near Montreal was settled. Only international opinion prevented a bloodbath. The indigenous peoples of Canada therefore urged the Sub-Commission not to abandon them. Canada had truly changed. If the Sub-Commission had not been meeting when the crisis had occurred, there would have been many violent deaths. A special rapporteur should be recommended for appointment by the Economic and Social Council to report on the rights of indigenous peoples in Canada and Quebec. At the very least, the Sub-Commission should continue to observe and receive communications on indigenous rights in Canada after the end of its present session.

58. Mrs. GRAF (International League for the Rights and the Liberation of Peoples) said that her organization, whose work was to protect the rights of people mainly in the third world, had for some time been alerted to the situation of a people in Europe. An unproclaimed state of emergency was in force in Kosovo, Yugoslavia. Following a mass poisoning of over 6,000 persons, mostly of school age and almost all of them belonging to the ethnic Albanian community, between 23 March and 2 April 1990 a delegation of non-governmental organizations, in which she herself had participated, had visited five localities in Kosovo where it had interviewed a large number of witnesses and victims with a view to collecting serious evidence of violations of human rights. The delegation had been in front of the Parliament building at Pristina on 2 July 1990 when 114 Albanian-speaking members of parliament out of a total of 183 had proclaimed, in front of the bolted door guarded by Serbian policemen, a constitutional declaration of sovereignty. On 5 July 1990, the Albanian-speaking radio and television stations had been occupied by the police, as well as the Albanian-speaking press building. Any dissemination of independent information in the Albanian language had then ceased.

59. There were numerous cases of persons having been arrested, imprisoned without charge, beaten, tortured, wounded, held incommunicado, dismissed from their jobs, or even killed. In one case, a lawyer had been arrested and beaten by the police for having testified to the NGO mission. Moreover, some 1,800 Albanian-speaking policemen had been dismissed and replaced by Serbs, with the result that no Albanian-speaking policemen were left in Kosovo. The poisoning of Albanian-speaking schoolchildren had taken place a few days after children of different ethnic origins had been segregated in separate classes. The medical records of poisoned persons had been seized by the police, and the doctors who had treated them had been threatened. At Urosivac the police had tried to prevent doctors from treating victims of the poisoning and had confiscated a large quantity of medicines provided by humanitarian organizations. A report produced by the NGO mission contained further details and was available. It should, however, be borne in mind that that mission had been short and had been cut short even further by the police, who had held its members up for two days running before finally ordering them to leave the territory. It had thus been deprived of a certain amount of evidence.

60. In view of the foregoing, the International League for the Rights and the Liberation of Peoples requested that a mission of experts be organized under the authority of the Sub-Commission to acquaint itself with the whole file on the spot, including the transmittal of all documents and the hearing of all witnesses.

61. The state of emergency in the Karabakh imposed under article 4 of the International Covenant on Civil and Political Rights was giving rise, in practice, to violations of international law, including massive and discriminatory displacements of the Armenian population. The International League for the Rights and the Liberation of Peoples considered that the repeal of the state of emergency and the re-establishment of the legal Soviet power were prerequisites for any solution to the Karabakh problem. The exercise of its people's right to self-determination was the natural framework for a long-term solution. Armenians and Azeris could settle their joint problems only by respecting the rights of peoples, apart from manoeuvres and pressures.

62. Mr. BARSH (Four Directions Council) said that, in order to play its role effectively and not merely duplicate the work of the Commission, the Sub-Commission should make its contribution in terms of greater access to relevant information; earlier detection of emergency situations; greater expertise in interpreting information; and more independence from national political interests.

63. In recent years the focus of attention had been on the criterion of independence which had been reinforced by clarifying the legal status of the Sub-Commission's members and by use of the secret ballot. The Sub-Commission had been able to act in several cases that the Commission could not address because of the strategic alliances of the countries involved. Such resolutions as those on China and East Timor had however been directed at public opinion rather than the Commission.

64. The Sub-Commission's role in appealing directly in such cases to public opinion was a critical element in maintaining the objectivity and credibility of the United Nations human rights system as a whole. On the other hand, focusing on publicizing a few cases each year could divert attention from human rights problems elsewhere in the world, particularly those which had not yet reached the same scale or levels of violence.

65. Relatively little attention had been given to non-judgemental forms of United Nations involvement, in resolving emergency situations, such as good offices, contacts, mediation, informal reviews or dialogue with Governments and technical assistance. Such measures could be highly effective at the very earliest stages of a problem before the cycle of repression and counter-violence had set in. To function effectively, such non-judgemental mechanisms must be triggered swiftly, without exhaustive preliminary studies. They must remain highly flexible and adapted to the circumstances of each situation. They must involve ongoing, informal supervision by the Sub-Commission. The Sub-Commission's swift and informal action in regard to the situation of the Mohawk Indians in Canada had so far helped prevent violence and represented an example of a future direction which the Sub-Commission might wish to take.

66. It was also worth considering the work of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the

Organization which had been preparing guidelines for the peaceful resolution of international disputes and for the conduct of good offices, fact-finding and mediation missions. A parallel set of procedures for situations involving human rights might be very useful.

67. Only about one tenth of the situations discussed in the Sub-Commission each year resulted in resolutions. Nine tenths of the information received, including the explanations of Governments, was essentially lost. All that was said in the Sub-Commission was, of course, reflected in the summary records which however were edited heavily with the aim of preserving the skeleton of speakers' arguments. Thus, while the important part of the statements made in the Sub-Commission were the details, the summary records were edited to delete detail and preserve legal arguments and rhetoric.

68. In 1989, his organization had prepared a model report, based on statements made at the Sub-Commission's session in 1988 to show that it could be as straightforward an administrative task as the preparation of the summary records. Such a report would give the Commission and the public a context in which to view the resolutions or decisions adopted each year on a few cases. It would draw attention to signs of trouble in many countries which had not been the subject of any formal decision and it would be more objective than the current report of the Sub-Commission because it would be based on all information received rather than on a vote. The proposed report would simply comprise the text of statements, edited to preserve contentions of fact rather than argumentation, together with observations by the experts and replies by Governments. It could take the form of an annex to the report of the Sub-Commission. Such a report would help to substantiate the resolutions adopted each year but it would also preserve the major part of the evidence of what was going on elsewhere in the world.

69. Since the Sub-Commission was accessible only to accredited non-governmental organizations and met in Geneva, organizations and movements in poorer countries had difficulty in participating directly and effectively. Indeed, the only access available to most groups in the developing countries was through the 1503 procedure which meant that most of the information received was locked away in the confidential files. To the extent that publicity was power in the business of human rights, that meant that the procedure providing the greatest access was the least effective. Such discrimination might be overcome by providing public reports in summary form of all 1503 communications received by the Centre and by allowing public discussion of individual communications. A further suggestion would be that all people and grassroots organizations in all countries should be given equal and effective access to the United Nations human rights programme through decentralization of the activities of the Commission and the Sub-Commission. Such decentralization could include, for example, holding some of the sessions of the Sub-Commission's working groups away from Geneva in order to reach regions and organizations not adequately represented in Geneva or by convening special sessions of the Sub-Commission at the regional level.

70. In conclusion, he drew the attention of the Sub-Commission to document E/CN.4/Sub.2/1990/NGO/3 which contained some ideas for the proposed World Conference on Human Rights. Such a conference would be useful as a way of evaluating the existing human rights machinery and developing new approaches. It should not concentrate on standards but on making existing standards more effective.

71. Mr. YIMER asked the Chairman to ensure that representatives of non-governmental organizations and the observers of States be given the floor only after it had been ascertained that they were duly accredited.

72. Mr. MENDOZA (Observer for El Salvador) said that the violent military offensive launched by the Frente Farabundo Martí (FMLN) on 11 November 1989 had ended hopes of an early end to hostilities. In the declaration of San Isidro de Coronado, in December 1989, the Central American Presidents had appealed to the Secretary-General of the United Nations to exercise his good offices with a view to renewing the dialogue in El Salvador. Early in 1990, representatives of the Government of El Salvador, of the FMLN and the Secretary-General had signed an agreement in Geneva on the process of dialogue. The people and Government of El Salvador greatly appreciated the Secretary-General's participation in that event.

73. Article 1 of the Geneva agreement provided that the purpose of the process would be to end the armed conflict as soon as possible by political means, to stimulate the democratization of the country, to guarantee full respect for human rights and to reunite Salvadorian society. The agreement also stipulated that the initial goal of the dialogue would be to end the armed conflict and all acts prejudicial to the rights of the civil population. The final object of the dialogue would be to reincorporate FMLN members into the civil, institutional and political life of the country.

74. Pursuant to the Geneva agreement, three dialogues had taken place early in 1990. The first, in Caracas, provided that the following seven points should be discussed, namely: armed force; human rights; judicial system; electoral system; constitutional reform; economic and social problems; verification by the United Nations. The meeting had also stipulated that the armed conflict should end before mid-September 1990 with a view to achieving an electoral, legislative and municipal process in an atmosphere of peace, full participation and freedom from intimidation, with particular reference to the elections to be held in March 1991.

75. The second dialogue had taken place in Mexico in May 1990 and had started to address the two first points. No agreement had been reached. Parallel to those meetings, the FMLN had been threatening to launch another military offensive.

76. The third meeting had taken place in Costa Rica where an agreement on human rights had been signed. In a press release, the representative of the Secretary-General had announced that first substantive agreement of the negotiating process had been reached. The agreement represented a commitment by the Government of El Salvador concerning respect for and guarantee of human rights. The agreement also stipulated that a United Nations mission would monitor human rights but would only start to function as from the cessation of armed confrontation. The Salvadorian people had urged the immediate implementation of point 1 of the agreement regarding human rights in the hope of putting an end to FMLN terrorism. Terrorist activities had however continued. The next dialogue was scheduled to be held in Costa Rica from 17 to 22 August 1990.

77. During the 1980s many distinguished citizens had been murdered but the Government of El Salvador had stated that it would give its support to pending judicial proceedings designed to shed light on those assassinations. Many of

the murders which had taken place in 1989 had been perpetrated by the FMLN which had claimed that such summary executions had been performed pursuant to decisions of its own courts. Those courts had been repudiated by international opinion as they did not comply with the minimum requirements of justice. The Salvadorian people hoped that the violence of the 1980s would not continue into the 1990s and that the process of democratization, already begun, would guide the future life of the nation.

78. Mr. van BOVEN, referring to the statement by the Four Directions Council, said it was his impression that at present non-governmental organizations and the observers of States were participating in the discussions of the Sub-Commission to a greater extent than were the members themselves. The Sub-Commission served as a forum for the exchange of views and all information provided, both by the observers of Governments and by non-governmental organizations, was therefore greatly appreciated. It might perhaps be worth considering whether in future the Sub-Commission might be able to obtain a broader range of information by means of hearings for both Governments and non-governmental organizations. Such hearings would of course have to be organized so that Governments and non-governmental organizations would know exactly when the Sub-Commission would be addressing certain issues. In that way repetition could also be avoided. One problem was that, currently, the Sub-Commission must await information before it could proceed to work. His suggestion, which would of course require further thought, would provide a full opportunity for all to contribute to the discussion on a particular situation.

79. Mrs. KSENTINI expressed the hope that Mr. van Boven would provide a more detailed outline of his proposal so that members could explore it fully.

80. Mr. EIDE said it was his understanding that all members were somewhat unhappy with the way in which the Sub-Commission was working. Serious events were taking place throughout the world and organizations were coming to the Sub-Commission for help. The Sub-Commission however had difficulty in sifting evidence and, on a number of occasions, the evidence had led to confrontation. It would therefore be useful for the Sub-Commission to ponder some of the questions which had been raised, including those made by the representative of the Four Directions Council. There were two aspects of the issue. The first related to presentations by non-governmental organizations and the second concerned the responses of Governments to those presentations.

81. On the first point, it would be very helpful if non-governmental organizations could be brought to understand the problems facing Governments in particular situations. It would also be useful if non-governmental organizations could draw attention in their presentations to what others, for example opposition parties, were doing in the human rights field in particular countries. It must always be remembered however that the Declaration of Human Rights had laid down that human rights must never be used to destroy human rights.

82. On the question of government responses, Governments could simply deny allegations, using familiar key words such as "fabrication" or "politically motivated", although that response had become much rarer over the years and Governments were becoming more constructive. Instead of denials, they were now indicating that problems existed and that they were taking steps to overcome them. In a number of countries with which the Sub-Commission had

dealt in recent years, negotiations were under way, as in the case of El Salvador. He felt, therefore, that on both sides of the political spectrum there were those who wanted a peaceful human rights-oriented solution and those who wanted to persist in confrontation and violence, possibly for reasons of personal prestige, through ideological blindness or for other reasons. It could not simply be said that Governments violated and non-governmental entities were victims all the time: the situation was more complicated on both sides. There might therefore be reasons for pursuing the idea of mediation and conciliation possibly on the lines suggested by the Four Directions Council. That course would, of course, not always be possible. For one thing, some Governments maintained a strong doctrinaire and confrontational attitude and were unwilling to accommodate people with different views on life. In such cases there would be little prospect of mediation. However, until very recently he had seen little prospect of mediation in South Africa, but now, even there, negotiations were taking place, so perhaps no case was completely immune to such possibilities, depending of course, on influence and pressures from outside.

83. He suggested, therefore, that the Sub-Commission should try to identify situations where there were such prospects and, in cases where there were none, to exert stronger pressure to bring them into a process of peaceful negotiation towards a human rights-oriented solution. Countries, Governments and peoples were increasingly recognizing that confrontation, violence and destruction impeded development severely and were probably the main causes of many of the developing countries' problems. Such a change of attitude might also help to improve the economic and social situation of the countries concerned, although it would also need a change in North-South relationships as well. The opposition movements should drop their attitude of confrontation and try jointly to find a common denominator with a view to improving the situation of the people of their countries.

84. Mrs. WARZAZI said that she was eagerly waiting for Mr. van Boven's explanation; she had been agreeably surprised by Mr. Eide's statement, which seemed to offer the right kind of approach and she therefore thought it would be wiser to listen to everyone - non-governmental organizations and Government replies - and thus ascertain what was true and what was not true. The Sub-Commission should not take any stand until everyone had been heard.

85. Mr. van BOVEN said that, since so many observers of States had requested to speak in exercise of the right of reply, he would postpone his statement. In any case, some of the situations on which those observers wished to respond would also be taken up later. For the purposes of an efficient debate, therefore, it would be best for the Sub-Commission to listen to as many views as possible and then draw its own conclusions. That in fact was the gist of his statement and was why the members of the Sub-Commission were for the time being remaining silent.

86. Mr. CHERNICHENKO, said that he had been impressed by some of Mr. van Boven's ideas and saw no contradiction between them and what Mrs. Warzazi had said. He agreed that the best way for the Sub-Commission to proceed would be to listen to the non-governmental organizations and to Governments, to obtain as much information as possible, and then decide what to do. At the present time, the Sub-Commission must decide what to do about urgent cases, whether to act itself or whether to refer them to the Commission on Human Rights for action.

87. He had listened to non-governmental organizations on numerous agenda items, some of them duplicating one another. In his opinion, it would facilitate the task of both the Sub-Commission and the non-governmental organizations if the debate on human rights could be concentrated under agenda item 6 - even if it meant spending more time on that item - so that the same information would not be given under different agenda items and duplication would be avoided.

88. The CHAIRMAN reminded observers that statements in exercise of the right of reply should not exceed five minutes.

89. Miss CHAALAN (Observer for the Syrian Arab Republic), speaking in exercise of the right of reply, referred to allegations against her country by Amnesty International and Pax Christi. The representative of Amnesty International had mentioned certain countries, including the Syrian Arab Republic, but had not mentioned the flagrant violations by the Israeli authorities against Palestinians in the occupied territories. Why should the representative of Amnesty International remain silent when her organization was supposed to defend human rights? Had the human rights situation improved? Had genocide, the murder of mothers and children, deportations, all ceased? The fact that there were documents on such violations did not dispense Amnesty International from speaking about them.

90. Regarding the allegations concerning human rights violations, the Syrian Arab Republic respected all human rights and the Constitution and the laws provided for all who violated them to be punished. Amnesty International should take care to provide more accurate information in future if it wished to maintain its integrity.

91. She said that the representative of Pax Christi had provided no proof in respect of the allegations made. She wished to confirm what everyone knew, namely, that Syrian citizens of Kurdish origin had the same rights and duties as all citizens. There was no discrimination on racial, religious or ethnic grounds. Syrian Kurds were fully integrated and worked for the development of the Syrian Arab Republic, holding posts at all levels in the army, administration and elsewhere. In conclusion, she said that Pax Christi's allegations concerning the need for the appointment of a special rapporteur were contrary to the facts and her country rejected them as interference in internal affairs and sabotage.

92. Mr. AL-DOURI (Observer for Iraq) said that reference to violations of human rights in Kuwait after the entry of Iraqi forces involved the Sub-Commission in matters outside its mandate. His country respected and defended the human rights of Arabs and foreigners in Kuwait and punished all who violated them. He read out an article from the International Herald Tribune which stated that there were very few checkpoints in the city, that even British and United States passport holders were not being harassed at them or elsewhere and that on the whole, the Iraqi troops had been courteous and friendly to everyone, including Kuwaitis, and for the most part appeared to be disciplined.

93. The speaker who had referred to Iraq knew more than anyone about Iraq's respect for religious and other principles and about the violations that had occurred under previous Governments. The words "ingratitude" and "treason"

applied to Kuwait, which, at a time when Iraq was defending it, was stealing Iraq's oil. He reserved the right to reply to a number of non-governmental organizations at a later stage.

94. Mr. BEN MALIK (Observer for Tunisia), referring to allegations made at the previous meeting by the Union of Arab Jurists concerning torture and other practices in Tunisia, described the achievements in the promotion and protection of human rights in Tunisia since the change that had taken place in 1987. His delegation had spoken on that subject and pointed out a number of misunderstandings, during the discussion of the initial report of Tunisia to the Committee against Torture under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 25 April 1990, and in the Human Rights Committee on 16 July 1990, during the discussion of the third periodic report under article 40 of the International Covenant on Civil and Political Rights. The Tunisian delegation had also submitted information to the members of the Committee against Torture, and the Committee had commented on Tunisia's remarkable achievements in absolute respect for human rights. The bodies he had mentioned always met in public when examining reports of States parties to international human rights instruments.

95. Mr. RASAPUTRAM (Observer for Sri Lanka) said that, in referring to his country at the previous meeting, the representative of Pax Christi had condemned violence and illegal use of force from whatever quarter. He would agree with that, particularly when a group in Sri Lanka bent on disintegrating the country suddenly decided to reject with violence and murder a political negotiating process which had been painstakingly built up over a long period of time. The representative of Pax Christi, however, seemed to have ignored that situation and instead had indulged in sweeping generalizations, for example, that the security forces had been given carte blanche. His country welcomed constructive criticism, but rejected sweeping allegations which masked the complexities of the situation.

96. The security forces of Sri Lanka had had to deal with an extraordinary law and order situation in 1989 at a time of heightened violence by subversive groups, but the Government had openly stated that there might have been a few cases of dereliction of duty. The law enforcement authorities were seeking to investigate those cases, a number of which were currently before the courts awaiting trial.

97. The representative of Pax Christi had also referred to detention and to certain emergency regulations, being probably unaware of the fact that, on the invitation of the Government, the International Committee of the Red Cross had been operating in Sri Lanka since October 1989, conducting a regular and comprehensive programme of visits to places of detention, and had submitted reports to the Government concerning possible improvements. The Government had also instituted an independent mechanism called the Independent Surrender Committee, consisting of representatives of all political parties, to reintegrate misguided young people into the mainstream of society. Many of the persons detained for suspected subversive acts had now been released and the Government was carrying out a comprehensive rehabilitation and reintegration programme.

98. With the return to normality in southern Sri Lanka, the Government had progressively repealed a number of emergency measures introduced at the time

of heightened violence in 1989. Perhaps the representative of Pax Christi was not aware that the emergency regulation to which he referred had been repealed.

99. The situation in Sri Lanka was a complex one, deriving from interacting social, economic, humanitarian and political factors. His country had endeavoured to deal with those issues on a broad front, with due regard to human rights. Over-simplification such as that of Pax Christi was not helpful.

100. Mr. JOINET, speaking on a point of order, said that it was useless to cite reports by the International Committee of the Red Cross, its reports being confidential to the State concerned, without indicating whether they were positive or negative. Mention of such reports did not constitute proof that the situation had improved.

101. The same comment would apply to all statements by observers.

102. Mr. BENHIMA (Observer for Morocco) said that the representative of Centre Europe-Tiers Monde (CETIM), with its traditional venom against Morocco, had raised the question of the 200 Moroccan prisoners of war in the hands of the Polisario, in a manner which ill-concealed the misrepresentations in which he had engaged earlier on in the Commission on Human Rights. That representative had mentioned the President of the International Committee of the Red Cross, Mr. Cornelio Sommaruga, by name and quoted part of a statement made by him on 13 February 1990.

103. His capacity as the official representative of Morocco and his respect for the code of conduct regulating the exercise of his functions precluded him from disclosing the substance of his discussions with Mr. Sommaruga and his collaborators. Those discussions had focused on the conditions for the release of the prisoners to the competent Moroccan authorities; proposals and counter-proposals had been made but no conclusion reached, because a gesture presented as being prompted by humanitarian concern had in fact been made with a view to gaining a political and media success for Morocco's adversaries. Morocco could not take part in such a sham, and the failure of the ICRC's efforts had been due to mishandling which could in no way be attributed to Morocco.

The meeting rose at 6 p.m.