



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1989/SR.40
27 October 1989

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE FIRST PART (PUBLIC) * OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 1 September 1989, at 3 p.m.

Chairman: Mr. YIMER

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- (a) Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism
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* The summary record of the remainder of the first part (public) of the meeting appears as document E/CN.4/Sub.2/1989/SR.40/Add.1; the summary record of the second part (closed) as document E/CN.4/Sub.2/1989/SR.40/Add.2; and the summary record of the third part (public) as document E/CN.4/Sub.2/1989/SR.40/Add.3.

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The meeting was called to order at 3.25 p.m.

SLAVERY AND SLAVERY-LIKE PRACTICES:

- (a) QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM
- (b) EXPLOITATION OF CHILD LABOUR (agenda item 14) (continued)
(E/CN.4/Sub.2/1989/37, E/CN.4/Sub.2/1989/38, E/CN.4/Sub.2/AC.2/1989/CRP.1)

1. Mr. DAYAL (Observer for India), speaking in exercise of the right of reply, said that, at the Sub-Commission's preceding meeting, the representative of the International Commission of Health Professionals had expressed concern about cases of alleged trafficking in organs in India. His Government shared that concern and was processing comprehensive legislation relating to the removal of organs for the purpose of transplants. The International Commission of Health Professionals had also referred to cases where kidneys had been removed from individuals without their consent or knowledge. Those were cases of medical malpractice and they were liable to punishment under the laws already in force in India.

2. Mr. GOKCE (Observer for Turkey), speaking in exercise of the right of reply, said that, in his statement at the preceding meeting, the representative of the International Commission of Health Professionals had made a misleading reference to the case of Turkey. He wished to state categorically that trafficking in organs was not only illegal, but did not occur in Turkey. However, the Turkish authorities had received reports of some cases of Turkish citizens from low-income sectors of the population who had been paid for donating their organs in operations which had taken place abroad. When that illegal trafficking had been discovered, the Turkish Government and public opinion had reacted strongly and all the necessary measures had been taken to prevent such cases from occurring again in future.

3. He regretted that the representative of the International Commission of Health Professionals had referred to Turkey without first having conducted a thorough investigation.

4. Mr. EIDE said that, since the Working Group on Contemporary Forms of Slavery had not been requested to deal specifically with matters relating to children, it had discussed the question only to the extent that the sale of children, the prostitution of children and the use of children in pornography were in fact contemporary forms of slavery. The question was very complex and the Working Group had therefore referred to it only in a very limited way in its report. In that connection, it was to be hoped that, when the draft Convention on the Rights of the Child had been adopted, a special committee would be set up to consider all matters relating to the rights of the child.

5. He hoped that it would be possible for the Sub-Commission to adopt draft resolution E/CN.4/Sub.2/1989/L.62 on the militarization of children without amendment.

6. The CHAIRMAN said that the Sub-Commission had completed its general debate on agenda item 14.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Consideration of draft resolutions relating to agenda item 4 (continued)
(E/CN.4/Sub.2/1989/L.52; E/CN.4/Sub.2/1989/L.54)

New draft resolution E/CN.4/Sub.2/1989/L.54

7. Mrs. PALLEY said that Mr. Alfonso Martínez had withdrawn draft resolution E/CN.4/Sub.2/1989/L.52. She hoped that the Sub-Commission would adopt new draft resolution E/CN.4/Sub.2/1989/L.54 by consensus.

8. New draft resolution E/CN.4/Sub.2/1989/L.54 was adopted without a vote.

Consideration of draft resolutions relating to agenda item 9
(E/CN.4/Sub.2/1989/L.20; E/CN.4/Sub.2/1989/L.21/Rev.1; E/CN.4/Sub.2/1989/L.48; E/CN.4/Sub.2/1989/L.56; E/CN.4/Sub.2/1989/L.61; E/CN.4/Sub.2/1989/L.67; E/CN.4/Sub.2/1989/L.68; E/CN.4/Sub.2/1989/L.69; E/CN.4/Sub.2/1989/L.70; E/CN.4/Sub.2/1989/L.71)

Draft resolution E/CN.4/Sub.2/1989/L.20

9. Mr. TREAT said that draft resolution E/CN.4/Sub.2/1989/L.20 on the prevention of hostage-taking was designed to condemn that practice, as well as the torture and killing it often involved, and to condemn, in particular, the kidnapping and murder of United Nations staff members. He hoped that the draft resolution would be adopted by consensus.

10. Mrs. DAES said that she fully supported the draft resolution, of which she also wished to become a sponsor.

11. Mr. SADI said that the word "Censures" in operative paragraph 2 was weaker than the wording used in the other paragraphs and he would therefore like it to be replaced by the word "Condemns".

12. Mr. TREAT endorsed the amendment proposed by Mr. Sadi.

13. Mrs. BAUTISTA said that she wished to join the sponsors of the draft resolution.

14. Mr. LAGHMARI said that the draft resolution did not relate to a particular category of hostages only. The fourth preambular paragraph should therefore be amended to read: "Distressed by the abduction of innocent persons ...".

15. Mr. ALFONSO MARTINEZ said that he would abstain if a vote was taken on the draft resolution because it related to specific cases on which no general opinion could be formed.

16. Draft resolution E/CN.4/Sub.2/1989/L.20, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.21/Rev.1

17. Mr. DIACONU, referring to operative paragraph 3, said that he wished to know whether the sponsors' intention was that the issue of the right to a fair trial should be dealt with under a separate item on the agenda of the Sub-Commission's forty-second session or under agenda item 9.

18. Mr. ALFONSO MARTINEZ said that the issue could be considered under agenda item 9, but the sessional Working Group on Detention could discuss it on a preliminary basis prior to the Sub-Commission's forty-second session.

19. Mr. JOINET said that it would be more rational if the brief report on existing international norms and standards pertaining to the right to a fair trial, which was to be prepared by two rapporteurs, was first submitted to the Working Group on Detention at its next session.

20. Mr. van BOVEN, speaking as a sponsor of the draft resolution, suggested that, in order to take account of the comments by Mr. Joinet, the words "for submission to the Working Group on Detention" should be added at the end of operative paragraph 1. The second preambular paragraph should also be amended to read: "Recalling further article 14 of the International Covenant on Civil and Political Rights and, in particular, its paragraph 3 (a), which states ...". Operative paragraph 3 might read: "Decides to add the issue of the right to a fair trial to the agenda for its forty-second session as a sub-item to the item relating to the administration of justice and the human rights of detainees".

21. Mrs. DAES endorsed the amendments proposed by Mr. van Boven and also proposed that the word "brief" in the second line of operative paragraph 1 should be deleted because rapporteurs usually did not prepare reports that were too long. She also proposed that the words "and to the Sub-Commission as a whole" should be added at the end of the amendment to operative paragraph 1 proposed by Mr. van Boven in order to indicate that the Sub-Commission would be able to consider the report in plenary.

22. Mr. DIACONU said that, since the Sub-Commission itself would be adopting the draft resolution, the words "Proposes that the Sub-Commission" in operative paragraph 1 should be replaced by the word "Decides".

23. Draft resolution E/CN.4/Sub.2/1989/L.21/Rev.1, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.48

24. The CHAIRMAN said that the statement of the administrative and programme budget implications of draft resolution E/CN.4/Sub.2/1989/L.48 was contained in document E/CN.4/Sub.2/1989/L.76.

25. Draft resolution E/CN.4/Sub.2/1989/L.48 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.56

26. Draft resolution E/CN.4/Sub.2/1989/L.56 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.61

27. Mr. TREAT said that he wished to join the sponsors of the draft resolution.

28. Draft resolution E/CN.4/Sub.2/1989/L.61 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.67

29. Mr. van BOVEN said that he wished to join the sponsors of the draft resolution.

30. Mrs. MBONU proposed that the words "without financial implication" in operative paragraph 6 should be deleted because it was not clear whether Mrs. Bautista would be able to continue to carry out her study under such conditions.

31. Mr. JOINET said it was for Mrs. Bautista herself to say whether or not the continuation of her study would have financial implications.

32. Mrs. DAES said that she wished to join the sponsors of the draft resolution and that she supported the amendment proposed by Mrs. Mbonu.

33. Mr. ILKAHANAF said that he also supported Mrs. Mbonu's amendment.

34. Mr. DIACONU said that he could accept the draft resolution, but he would abstain if it was put to a vote because he considered that there was no reason to restrict the study to be entrusted to Mrs. Bautista to the situation of United Nations officials and, as it were, to place them in a separate category from other citizens by affording them broader protection.

35. Draft resolution E/CN.4/Sub.2/1989/L.67, as amended, was adopted without a vote.

Draft decision E/CN.4/Sub.2/1989/L.68

36. Mr. JOINET said that, since the Sub-Commission had not had time at the current session to give him the necessary instructions for his report on administrative detention, it would be preferable if he waited until 1990 and revised his report in the light of the discussions at the current session. He also pointed out that the title of the report in the second and third lines of the draft decision should be amended to read: "Report by Mr. Louis Joinet on administrative detention".

37. Mrs. DAES proposed that the last part of the draft decision should be amended to read: "... examine these proposals as a matter of high priority and the revised report at its forty-second session".

38. Draft decision E/CN.4/Sub.2/1989/L.68, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.69

39. The CHAIRMAN said that Mr. Türk wished to join the sponsors of the draft resolution.

40. Mr. ILKAHANAF and Mr. SADI said that they also wished to become sponsors of the draft resolution.

41. In reply to a question by Mrs. KSENTINI, the CHAIRMAN said that it was for the Sub-Commission to decide to whom it would entrust the task of preparing a report on the application of international standards concerning the human rights of detained juveniles.

42. Mr. SADI said he thought that Mr. Carey was in the best position to undertake that type of work.

43. Mr. ALFONSO MARTINEZ, speaking in his capacity as Chairman of the Working Group on Detention, said that the members of the Working Group had agreed on the name of Mrs. Bautista, who had said that she was willing to prepare the report.

44. The CHAIRMAN said that, if he heard no objection, he would take it that the Commission decided to adopt, without a vote, draft resolution E/CN.4/Sub.2/1989/L.69, operative paragraph 2 of which would be amended to read: "Decides to request Mrs. Bautista to prepare a report ...".

45. It was so decided.

Draft resolution E/CN.4/Sub.2/1989/L.70

46. The CHAIRMAN said that Mr. Türk would like to become a sponsor of the draft resolution.

47. Mr. JOINET said that he also wished to become a sponsor of the draft resolution, provided that the sponsors agreed to add a new preambular paragraph, which would come after the second preambular paragraph and would read: "Recalling Commission on Human Rights resolution 1989/25 transmitting the text of the draft second Optional Protocol to the International Covenant on Civil and Political Rights relating to the abolition of the death penalty to the forty-fourth session of the General Assembly of the United Nations for appropriate action,".

48. Mr. SADI, referring to operative paragraph 1, said that he did not see how the Sub-Commission could urgently appeal to States which at present applied the death penalty to persons under the age of 18 "to stop forthwith this practice", since an entire legislative process would be necessary.

49. Mr. ALFONSO MARTINEZ said that the sponsors had included that paragraph in the operative part of the draft resolution because they believed that many States which had capital punishment did not actually apply that penalty to persons under 18 years of age. He could agree to the amendment Mr. Joinet had proposed to the preambular part of the draft resolution.

50. Mr. ILKAHANAF said that he did not see any reason to amend paragraph 1, where States which had not yet done so were simply requested once again to enact legislation prohibiting the application of the death penalty to persons under the age of 18.

51. Mr. JOINET said that the purpose of the preambular paragraph he was proposing was to recall that the death penalty was contrary to the intangible right to life.

52. Mr. LAGHMARI said that the new preambular paragraph proposed by Mr. Joinet created some confusion, since the draft resolution under consideration related only to the application of the death penalty to minors, whereas the second Optional Protocol referred to the application of the death penalty in general.

53. Mrs. DAES said she found that Mr. Joinet was right to draw attention to the Commission on Human Rights resolution relating to the second Optional Protocol. In order to dispel Mr. Sadi's doubts about operative paragraph 1, the text might be amended to read: "... apply the death penalty to persons under the age of 18 to take the necessary legislative and administrative measures to stop forthwith this practice".

54. Mr. DESPOUY said that he wished to become a sponsor of the proposed text.

55. Mr. ALFONSO MARTINEZ said that the amendment proposed by Mrs. Daes made the sponsors' intentions clearer and that they could therefore accept it.

56. Mr. SADI said that, since the legislation of some countries provided, for example, that capital punishment was applicable as of the age of 17, there seemed to be no other alternative than to urge those countries to amend their legislation.

57. Draft resolution E/CN.4/Sub.2/1989/L.70, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.71

58. Mrs. BAUTISTA, Mr. JOINET and Mr. ILKAHANAF said that they wished to become sponsors of the draft resolution.

59. Mr. CAREY proposed that the seventh preambular paragraph should be amended to read: "... refrain from aggressive measures, such as the use of fire-arms and tear-gas ...".

60. Mr. EIDE said that Mrs. Daes should be included among the sponsors of the draft resolution. He did not really understand the meaning of the amendment proposed by Mr. Carey.

61. Mr. CAREY, revising his amendment, said that the following wording might be used: "... refrain from measures such as the use of fire-arms and tear-gas ...".

62. Following a discussion in which Mr. SADI, Mr. CAREY and Mrs. BAUTISTA took part, Mr. EIDE proposed the following wording: "... refrain from the use of fire-arms and tear gas, as well as equally harmful devices, except ...".

63. Mr. CHERNICHENKO said that he also wished to become a sponsor of the draft resolution.

64. Draft resolution E/CN.4/Sub.2/1989/L.71, as amended, was adopted without a vote.

Consideration of draft resolutions relating to agenda item 12

New draft resolution E/CN.4/Sub.2/1989/L.22

65. Mr. TÜRK recalled that the consideration of the draft resolution had been postponed on account of the problems to which it had given rise. Following consultations with the sponsor, a new text had been prepared. The draft resolution had the same symbol. The first preambular paragraph had been replaced by the following text: "Taking account of the recommendations contained in Commission on Human Rights resolution 1982/7". The word "also" at the beginning of the second preambular paragraph had been deleted. The other preambular paragraphs were unchanged.

66. Operative paragraphs 1 and 2 were to be left as they stood. However, it was proposed that operative paragraph 3 should be deleted altogether and that the following paragraphs should be renumbered accordingly. The text of paragraph 7, which became paragraph 6 of the new text, was to be replaced by the following: "Invites Mr. Bhandare to prepare, without financial implications, a working paper on the problem of the interrelationship between international peace and the effective materialization of human rights, particularly the rights to life and to development, for consideration by the Sub-Commission at its forty-second session". The reason for that change was that, once the Sub-Commission had received the working paper to be prepared by Mr. Bhandare, it would be able to decide on a procedure for the subsequent consideration of that question. The remainder of the draft resolution was to be deleted.

67. He hoped that the draft, as amended, would be adopted by consensus.

68. Mr. JOINET said that the draft resolution gave rise to two problems as far as he was concerned. First, as a matter of principle, he was opposed to the idea of a draft resolution, especially one on a subject as broad as disarmament, being submitted by a single sponsor. Secondly, the request made by the Commission on Human Rights dated back to 1982 and the draft resolution under consideration merely reiterated what had been envisaged at that time. Since then, however, there had been many changes and he failed to see how a study carried out in 1990 in the same spirit as in 1982 could be regarded as serious and comprehensive. He therefore proposed that the words "taking full account of the desire for transparency which is, in some parts of the world, having very positive effects on disarmament and peace" should be added at the end of paragraph 6, which was to become paragraph 5 in the new version.

69. Mr. SADI said that, in his view, a subject as broad as that of human rights and international peace should be discussed at a conference, not only in a working paper. However, if the other members of the Sub-Commission thought that such a study was necessary, he would be prepared to accept the proposal and the new text of the draft resolution.

70. Mr. ALFONSO MARTINEZ said he could not agree with the idea expressed by Mr. Joinet that some draft resolutions were more important than others and, more specifically, that draft resolutions submitted by a single expert were worth less than others. He requested Mr. Joinet to tell him which rule of the rules of procedure made that kind of distinction. In his opinion, it was completely unfounded and he rejected that way of interpreting the Sub-Commission's work.

71. He was not, in principle, opposed to the amendment proposed by Mr. Joinet, but he would like to have some clarifications on "the parts" of the world where disarmament and peace initiatives had been taken because, as far as he knew, the Soviet Union and the eastern European countries were the only ones.

72. Mr. van BOVEN said that the amendments introduced by Mr. Türk were entirely acceptable. He nevertheless drew the Sub-Commission's attention to the fact that the matter under consideration was one of the ones that the Sub-Commission had decided, in 1985, to discuss every two years as from its thirty-ninth session. It was therefore important to abide by that decision and the working paper to be prepared by Mr. Bhandare should be submitted to the Sub-Commission only when that question would again be included in its agenda at its forty-third session.

73. The CHAIRMAN said that Mr. van Boven's comment was very much to the point and should be taken into account.

74. Mr. DIACONU said that, although he did not understand why operative paragraph 3 had been deleted, he would not insist that it should be retained. In his opinion, transparency or "glasnost" had nothing to do with the question of the relationship between human rights and international peace and should therefore not be mentioned in the draft resolution.

75. The CHAIRMAN said that there was still no consensus on draft resolution E/CN.4/Sub.2/1989/L.22. He therefore proposed that its consideration should be postponed until a later stage to give members an opportunity to hold further consultations to prepare a new text that would be acceptable to all.

76. It was so decided.

Consideration of draft resolutions relating to agenda item 13

Draft resolutions E/CN.4/Sub.2/1989/L.43, E/CN.4/Sub.2/1989/L.44, E/CN.4/Sub.2/1989/L.45, E/CN.4/Sub.2/1989/L.46, E/CN.4/Sub.2/1989/L.47/Rev.1, E/CN.4/Sub.2/1989/L.49

77. Mrs. DAES said that all the draft resolutions relating to indigenous populations had been unanimously adopted by the Working Group on Indigenous Populations. They reflected the work of the Working Group, as well as the views of the indigenous populations themselves and the comments made by Governments.

78. In draft resolution E/CN.4/Sub.2/1989/L.47/Rev.1, she proposed that the following words should be added at the end of paragraph 3: "if both tribes consent". If that amendment was adopted, the sponsors of draft resolution E/CN.4/Sub.2/1989/L.40, which also related to the relocation of Hopi and Navajo families, could consider withdrawing it.

79. She would be grateful to the Sub-Commission if it would adopt all those draft resolutions without a vote, as it had already done in the past in such cases.

80. The CHAIRMAN said that draft resolution E/CN.4/Sub.2/1989/L.40 had, in fact, already been withdrawn. The financial implications of draft resolutions E/CN.4/Sub.2/1989/L.43, E/CN.4/Sub.2/1989/L.44 and E/CN.4/Sub.2/1989/L.49 were contained in documents E/CN.4/Sub.2/1989/L.59, E/CN.4/Sub.2/1989/L.77 and E/CN.4/Sub.2/1989/L.65, respectively.

81. If he heard no objection, he would take it that the Sub-Commission decided to adopt all the draft resolutions relating to agenda item 13 without a vote.

82. It was so decided.

Consideration of draft resolutions relating to agenda item 14

Draft resolution E/CN.4/Sub.2/1989/L.60

83. The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Commission decided to adopt draft resolution E/CN.4/Sub.2/1989/L.60 without a vote.

84. It was so decided.

Draft resolution E/CN.4/Sub.2/1989/L.62

85. Mr. EIDE said that, following consultations, the sponsors had decided to make a number of changes in draft resolution E/CN.4/Sub.2/1989/L.62. The first was to delete the title ("Militarization of children"), since the draft resolution also related to other questions. The text of the second preambular paragraph would be replaced by the following: "Taking note of the debate that took place in the Working Group on Contemporary Forms of Slavery and at the forty-first session of the Sub-Commission regarding articles 21 and 38 of the draft Convention,". The fifth preambular paragraph was also to be deleted because it was superfluous.

86. The text of operative paragraph 2 was to be replaced by the following: "Expresses concern that the present formulation of article 21 of the draft Convention is open to differing interpretations and should be subjected to a technical revision to preclude that adoption should be used as a source of profit of any kind in favour of any party". The text of operative paragraph 3 was to be replaced by the following: "Recognizes that, in connection with article 38, no effort should be spared to prevent the militarization of children".

87. Mrs. DAES said that the draft resolution was of great importance for the protection of children. She fully supported the amendments proposed by Mr. Eide and hoped that the other members of the Sub-Commission would do the same. She requested that her name should be added to the list of sponsors.

88. Mr. TREAT said that he also supported the amendments proposed by Mr. Eide. Since the Commission on Human Rights had decided, in March 1989, to adopt the draft Convention on the Rights of the Child, he suggested that that should be indicated in the draft resolution by replacing the text of the first preambular paragraph by the following text: "Welcoming the adoption of the draft Convention on the Rights of the Child by the forty-sixth session of the Commission on Human Rights and hoping that it will be adopted at the forty-fourth session of the General Assembly,". He also proposed that the Sub-Commission should adopt the draft resolution by consensus.

89. Mrs. KSENTINI said that the amendments were the result of very lengthy consultations which had been held not only by the members of the Working Group, but also with various non-governmental organizations, to arrive at a text which could be adopted by consensus. She therefore urged the other members of the Sub-Commission not to reopen the debate on that question and not to propose other amendments.

90. Mr. SADI said that he would none the less like to propose that operative paragraph 1 should be amended to read: "... encourage, solicit and ...". In some countries, children were in fact solicited to join the army.

91. Mr. EIDE said that Mr. Sadi's suggestion was entirely acceptable. However, the amendment proposed by Mr. Treat might lead to confusion because the draft Convention had not yet been considered by the General Assembly and would become a final text only when the Assembly had adopted it. He would therefore prefer it if Mr. Treat would withdraw his amendment.

92. Mr. TREAT said that he was simply using the wording used by the Commission on Human Rights itself, which had stated that it was adopting the draft Convention and transmitting it to the General Assembly. He would, however, not press his amendment because it was not acceptable to the sponsors of the draft resolution.

93. The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Commission adopted draft resolution E/CN.4/Sub.2/1989/L.62, as amended, without a vote.

94. It was so decided.

Draft resolution E/CN.4/Sub.2/1989/L.63

95. Mr. LAGHMARI, noting that the draft resolution dealt with the problem of the sale of children, asked whether the sponsors had also taken account of the case of persons who bought children.

96. Mrs. KSENTINI said that, in referring to the sale of children, the sponsors intended that the buying of children should be automatically understood.

97. Mrs. MBONU, noting that paragraphs 1 and 2 referred to the appointment of a special rapporteur, asked what task would be entrusted to him.

98. Mrs. KSENTINI said that the Working Group had received a very large amount of information on that question and had therefore thought it would be useful to recommend that the Chairman of the Commission should appoint a special rapporteur to consider that information and report on it to the Commission.

99. Mr. SADI said that operative paragraph 2 specified that the special rapporteur to be appointed should be a person "of international reputation". Since the question of the sale of children was a difficult one, however, the special rapporteur should, rather than being "of international reputation", have detailed knowledge of the question and already have worked in that field. He therefore proposed that the words "who should also be well versed in the field" should be added after the words "of international reputation".

100. Mr. DIACONU said he did not think that too many instructions should be given to the Commission. He even proposed that the words "of international reputation" should be deleted.

101. Mrs. KSENTINI said that the wording used in the draft resolution was the same as that usually found in Commission on Human Rights resolutions. It was obvious, moreover, that the rapporteur to be appointed should be particularly well informed about the question under consideration.

102. Mr. DESPOUY said that, even though paragraph 2 might seem redundant, it did not really give rise to any substantive problems and the Sub-Commission should not waste any more time on that point.

103. Mr. EIDE said that the easiest solution would be to retain the text as submitted. He proposed that it should be adopted by consensus.

104. Draft resolution E/CN.4/Sub.2/1989/L.63 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.64

105. Mr. EIDE said that draft resolution E/CN.4/Sub.2/1989/L.64, which might well be the most important result of the Sub-Commission's work, recommended the launching of a programme of action, the draft of which had already been prepared. It was not attached to the draft resolution, but was contained in the report of the Working Group (E/CN.4/Sub.2/1989/39). The draft resolution was the outcome of lengthy discussions and he hoped that the Sub-Commission would decide to support it.

106. Mrs. PALLEY expressed the hope that the Governments of all countries where there was information of the kind referred to in the draft resolution would take measures without delay to put an end to it. By way of example, she read out some articles concerning child prostitution and child pornography which had appeared in the United Kingdom press.

107. Draft resolution E/CN.4/Sub.2/1989/L.64 was adopted without a vote.

The meeting was suspended at 5.55 p.m. and resumed at 6.40 p.m.

Consideration of draft resolutions relating to agenda item 15

Draft resolution E/CN.4/Sub.2/1989/L.53

108. Mr. CISSE (Secretary of the Sub-Commission) said that the secretariat had received two amendments from Mr. Diaconu requesting, first, that the following new preambular paragraph should be added after the second preambular paragraph: "Recalling its resolution 1988/36 of 1 September 1988"; and, secondly, that the sixth preambular paragraph should be amended to read: "... for the development of minorities and the peaceful and constructive solution of problems involving these minorities within the States in which they live".

109. Mrs. PALLEY said that she could accept those amendments on behalf of the sponsors of the draft resolution.

110. Mr. DIACONU said that operative paragraph 2 referred to the guidelines and principles contained in the working paper. He asked whether the questionnaire annexed to the report by Mrs. Palley had been taken into account as well and whether it would also be sent to Governments. He noted that the sponsors were proposing that that question should be a separate agenda item, but he was not sure whether that was a good idea, in view of what had happened in 1988.

111. Mrs. PALLEY said that Mr. Khalifa, who was one of the sponsors of the draft resolution, had said that he did not want the questionnaire to be mentioned. The guidelines and principles to be taken into account were contained in the body of the report and it would be for Mr. Eide to decide how to proceed.

112. With regard to Mr. Diaconu's second question, she said that, in her view, the problem of minorities was so important that it must be considered under a separate item. Many non-governmental organizations had also said that it would be regrettable if the report on that problem could not be discussed in greater detail. When document E/CN.4/Sub.2/1989/L.1 containing the draft provisional agenda for the forty-second session of the Sub-Commission was considered, moreover, she would propose that that item should come at the beginning of the agenda.

113. Mr. ALFONSO MARTINEZ said he agreed with Mr. Diaconu that it would be preferable not to make that question a separate item. He was also surprised that Mr. van Boven was one of the sponsors, since he had said that he was concerned about the large number of draft resolutions.

114. Mr. van BOVEN said he understood that Mr. Alfonso Martínez expected him to be logical, but there were cases where exceptions had to be made. He recalled that the protection of minorities was part of the Sub-Commission's title and that it was therefore appropriate that that question should be dealt with under a separate item.

115. Mrs. DAES said that, in her opinion, that question should be dealt with under a separate agenda item not only for the reason given by Mr. van Boven, but also because new problems concerning minorities throughout the world were constantly being brought before the Sub-Commission, and it should therefore pay particular attention to those problems in 1990.

116. Mr. LAGHMARI supported the proposal that that question should be considered under a separate agenda item.

117. Mr. ALFONSO MARTINEZ said that, although he understood the concern of Mr. van Boven and Mrs. Daes, he still thought that it would be preferable for the Sub-Commission to consider the question of minorities as it had done so far and proposed that it should continue to do so.

118. Mrs. PALLEY requested Mr. Alfonso Martínez not to press his proposal. She also noted that, if the decision taken in 1989 did not produce the desired results, the Sub-Commission would always be able to change it later.

119. Mr. ALFONSO MARTINEZ said he could agree that that question should be considered under a separate agenda item, but officially proposed that that item should be discussed every two years.

120. Mr. van BOVEN insisted that the question should be studied each year and under a separate agenda item.

121. Mr. TÜRK requested Mr. Alfonso Martínez not to press his proposal because, at the current stage, it would be preferable simply to decide whether or not that question should be a separate item.

122. Mr. ALFONSO MARTINEZ withdrew his proposal, on the understanding that the decision taken at the present session would, if necessary, be changed in 1990.

123. Draft resolution E/CN.4/Sub.2/1989/L.53, as amended, was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1989/L.57

124. Mr. van BOVEN proposed that the Sub-Commission should take a decision on draft resolution E/CN.4/Sub.2/1989/L.58 before voting on draft resolution E/CN.4/Sub.2/1989/L.57.

125. Mr. DIACONU said that he objected to Mr. van Boven's proposal. He requested that the draft resolutions should be voted on in the right order.

126. Mr. DESPOUY said that, although he understood and agreed with the reasons which had led Mr. van Boven to make his proposal, he would not take part in the vote on the proposal because he considered that draft resolution E/CN.4/Sub.2/1989/L.57 must be declared inadmissible. It contained wording that was insulting and inappropriate and the Sub-Commission should quite simply reject it.

127. Mr. ALFONSO MARTINEZ said that, although he recognized Mr. van Boven's right to request that draft resolution E/CN.4/Sub.2/1989/L.58 should be voted on first, he objected to that proposal because, if draft resolution E/CN.4/Sub.2/1989/L.58 was voted on before draft resolution E/CN.4/Sub.2/1989/L.57 and adopted, it was likely that a member of the Sub-Commission, Mr. van Boven himself perhaps, would then invoke rule 65, paragraph 2, of the rules of procedure to request that a vote should not be taken on draft resolution E/CN.4/Sub.2/1989/L.57. In order to prevent such a

thing from happening, he would vote against Mr. van Boven's proposal and then against any possible proposal that no decision should be taken on draft resolution E/CN.4/Sub.2/1989/L.57.

128. Mr. SADI requested that the Sub-Commission should proceed to vote without further delay.

129. Mr. DIACONU said that he was surprised by what Mr. Despouy had said. His opinion was that, unlike the document which had been submitted by Mr. Mazilu and which was the one that should be regarded as inadmissible, the text of draft resolution E/CN.4/Sub.2/1989/L.57 was not insulting in any way. He also did not think that the rules of procedure contained any provisions under which a draft resolution could be declared inadmissible.

130. Mr. van BOVEN requested that his proposal should be put to a vote.

131. Mr. van Boven's proposal to vote first on draft resolution E/CN.4/Sub.2/1989/L.58 was adopted by 8 votes to 5, with 5 abstentions.

The summary record of the remainder of the first part (public) of the meeting appears as document E/CN.4/Sub.2/1989/SR.40/Add.1; the summary record of the second part (closed) as document E/CN.4/Sub.2/1989/SR.40/Add.2; and the summary record of the third part (public) as document E/CN.4/Sub.2/1989/SR.40/Add.3.
