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### COMMISSION ON HUMAN RIGHTS

#### SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

#### Fortieth session

#### SUMMARY RECORD OF THE 26th MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 25 August 1988, at 3 p.m.

Chairman: Mr. BHANDARE

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

#### ORGANIZATION OF WORK

1. Mrs. PALLEY said that certain Governments and non-governmental organizations prepared draft resolutions and attempted to gain support for them among the members of the Sub-Commission. She felt that, if such a trend continued, the independence and political impartiality of the Sub-Commission would be affected. It was surely the responsibility of members themselves to draw up draft resolutions and seek the support of their colleagues.
2. After a discussion in which Mr. YIMER, Mr. van BOVEN, Mrs. WARZAZI, Mr. CHERNICHENKO, Mr. DIACONU and Mr. ILKAHANAF took part, the CHAIRMAN summed up the views expressed, saying that although considerable advice and assistance might be obtained from Governments or non-governmental organizations, members must take the ultimate responsibility for any draft resolution to which they put their signature.

#### CONSIDERATION OF DRAFT RESOLUTIONS

Review of the work of the Sub-Commission (agenda item 3) (continued)  
(E/CN.4/Sub.2/1988/L.6 and L.9)

3. The CHAIRMAN invited the Sub-Commission to consider draft decision E/CN.4/Sub.2/1988/L.6.
4. Mrs. WARZAZI said that paragraph 2 of the draft decision provided for consideration of the agenda item entitled "Review of the work of the Sub-Commission" on a biennial basis after the forty-first session in 1989. She was one of the sponsors of the draft decision and, as she had understood it, the measure was to take effect immediately; in other words, the item would not be discussed at the forty-first session.
5. Mrs. DAES said that, after informal consultations, it had been decided that the item should be discussed at the forty-first session in 1989 and on a biennial basis thereafter.
6. Mr. AL-KHASAWNEH said that paragraph 1 of the draft decision referred to ways of implementing Commission on Human Rights resolution 8 (XXIII) without prejudice to the confidential procedure provided for in resolution 1503 (XLVIII) of the Economic and Social Council. However, there had been other developments since the adoption of resolution 8 (XXIII), such as the special rapporteur system and the establishment of new human rights bodies. He therefore suggested that the end of the first paragraph should be amended to read "without prejudice to the confidential procedure provided for in resolution 1503 (XLVIII) of the Economic and Social Council or to other pertinent developments since the adoption of Commission on Human Rights resolution 8 (XXIII)".
7. Mr. ILKAHANAF, supported by Mr. DIACONU and Mr. EIDE, said that it was not clear what was meant by "pertinent developments".
8. Mr. TURK suggested the wording "... or to relevant procedures instituted since the adoption of Commission on Human Rights resolution 8 (XXIII)".

9. Mr. ILKAHANAF, supported by Mr. van BOVEN, said that the agenda item "Review of the work of the Sub-Commission" was an important one and deserved to be considered every year. He therefore suggested that the word "biennial" in paragraph 2 should be replaced by "annual", to read "[the Sub-Commission] further decided to consider the item ... on an annual basis".
10. The CHAIRMAN said that, if there was no objection, he would take it that the Sub-Commission wished to adopt paragraph 1 of the draft decision, as orally amended by Mr. Al-Khasawneh.
11. Paragraph 1 was adopted.
12. The CHAIRMAN suggested that the Sub-Commission should vote on Mr. Ilkahanaf's proposal that the agenda item should be considered on an annual, rather than a biennial, basis.
13. The proposal was rejected by 15 votes to 8, with 1 abstention.
14. Draft decision E/CN.4/Sub.2/1988/L.6, as orally amended, was adopted by consensus.
15. The CHAIRMAN invited the Sub-Commission to consider draft resolution E/CN.4/Sub.2/1988/L.9.
16. Mr. CHERNICHENKO, introducing the draft resolution, said that it gave details of the activities of the Centre for Human Rights as a first step towards a precise definition of the Centre's role in the United Nations human rights machinery. The draft resolution noted some positive tendencies which deserved to be encouraged.
17. He wished to suggest a revision to the seventh preambular paragraph, to read "... the growing role of the United Nations ... in helping to solve humanitarian problems, which also facilitates the process of settling regional conflicts".
18. Mr. TREAT proposed replacing, in the fifth preambular paragraph, the words "all the world's" which he thought were not technically correct, by "a wide range of".
19. Mr. van BOVEN said that it was important that the Sub-Commission should discuss the co-ordinating role of the Centre for Human Rights. However, the text did not fully describe the activities of the Centre. It emphasized important issues such as expert assistance and the role of information, without mentioning some of its most important tasks, namely, providing substantial support for all procedures relating to compliance with international standards, handling communications and dealing with special situations. To enable the human rights organs to fulfil their functions, it was also important that the Centre should continue to carry out substantive research and analysis on human rights issues. Those important areas also required co-ordination. It was also necessary to co-ordinate United Nations work with the activities of other international and regional organizations. Although the draft resolution was not comprehensive, he would, however, vote in favour of it.

20. Mr. ALFONSO MARTINEZ proposed the deletion of the fifth preambular paragraph in order to achieve a consensus, as it would otherwise need substantial amendment.

21. Mrs. WARZAZI proposed a drafting amendment to the French text of the eleventh preambular paragraph to bring it into line with the English and Spanish texts. In preambular paragraph 7, she proposed the substitution of "Secretary-General" for "secretariat" in view of the active part he played in negotiations.

22. Mr. AL-KHASAWNEH supported the proposal to delete the fifth preambular paragraph, the wording of which he considered incorrect.

23. Mrs. KSENTINI said that she would agree to the deletion of the fifth preambular paragraph if it was impossible to agree on wording which mentioned the need for all schools of legal thought to be represented in the Centre. She supported the amendment proposed by Mrs. Warzazi to the seventh preambular paragraph.

24. Mr. DIACONU expressed agreement with the proposed amendments to the French text of the fifth and seventh paragraphs. The misgivings expressed by Mr. van Boven might be allayed by amending the title of the draft resolution to read: "Co-ordinating role of the Centre for Human Rights".

25. Mr. RIVAS POSADA expressed support for the deletion of the fifth preambular paragraph, which did not accurately describe the role of the Centre. He also agreed with the proposed new wording of the seventh preambular paragraph.

26. Mr. YOKOTA also supported the deletion of the fifth preambular paragraph because he considered it was not a question of noting it but rather a matter for further discussion in the Sub-Commission on the exact role of the Centre. The original text, for instance in paragraph 3, rightly left the scope of the Centre's co-ordinating role vague.

27. Mr. VARELA QUIROS said that, as one of the sponsors of the draft resolution, he could agree to the deletion of preambular paragraph 5. He could also agree to the amendment to preambular paragraph 7 and to the proposal concerning the title of the draft resolution. In the absence of Mrs. Bautista and Mr. Joinet, if Mr. Chernichenko agreed to the proposed amendments, he hoped that it would be possible to adopt the draft resolution as a whole by consensus.

28. The amendment proposed by Mr. Diaconu to the title of the draft resolution was adopted.

29. Mrs. WARZAZI said that she could agree to the deletion of the fifth preambular paragraph, the interests of a consensus, but would certainly prefer it to be maintained, amended along the lines suggested by Mrs. Ksentini.

30. Mr. CHERNICHENKO said that he too would prefer the text suggested by Mrs. Ksentini, but could agree to the deletion of the paragraph in order to achieve a consensus.

31. Mr. ALFONSO MARTINEZ, speaking on a point of order, pointed out that, since both the sponsors present agreed to the deletion of the paragraph, there was no point in discussing its wording.

32. Mr. CHERNICHENKO recalled that he had in fact expressed a preference for maintaining the paragraph, as amended, but had indicated his willingness to agree to its deletion in order to achieve a consensus.

33. The CHAIRMAN said that, in accordance with rule 64 of the rules of procedure, he would put the amendment furthest removed in substance from the original proposal, namely the deletion of the fifth preambular paragraph, to the vote.

34. The proposal to delete the fifth preambular paragraph was adopted by 14 votes to 5, with 2 abstentions.

35. The seventh preambular paragraph, as amended, was adopted.

36. The eleventh preambular paragraph, as amended, was adopted.

37. Mrs. WARZAZI pointed out that the amendment to the eleventh preambular paragraph should be made to the French text of the fourth preambular paragraph.

38. Draft resolution E/CN.4/Sub.2/1988/L.9, as amended, was adopted by consensus.

39. Mr. CHERNICHENKO said that a lengthy discussion might have been avoided if members had submitted their proposals to the other sponsors beforehand. The texts had been available well in advance of the meeting.

40. Mr. PELLET said that he supported Mr. van Boven's statement and had therefore joined in the consensus.

41. Mrs. DAES said that she had joined in the consensus because the resolution was an important one. She would, however, have liked it to contain a paragraph emphasizing the important role played by the Centre for Human Rights in the human rights field.

Elimination of racial discrimination: Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (agenda item 5 (b)) (continued) (E/CN.4/Sub.2/1988/L.5 and L.16)

42. Mrs. WARZAZI introduced the draft resolution, pointing out that the text was the same as that adopted in 1987; there were, however, many more sponsors. She hoped that the text would be adopted by consensus.

43. Mr. CAREY introduced an amendment contained in document E/CN.4/Sub.2/1988/L.16 proposing the addition of two operative paragraphs.

44. Mrs. WARZAZI said that the amendment would be acceptable if the words "Secretary-General" in the first line of each of the proposed paragraphs could be replaced by the words "Special Rapporteur".

45. Mr. CAREY accepted the amendment.

46. Mr. ALFONSO MARTINEZ said that he had not been able to consult Mr. Khalifa but he believed that all the other sponsors would accept the amendment. He would therefore, join a consensus.

47. Mr. YOKOTA pointed out that at the beginning of the fourth line of paragraph 3 (a) the word "Special" had been omitted.

48. Mr. KEILAU (Deputy-Chief, Research, Studies and Prevention of Discrimination Section) drew attention to the administrative and programme budget implications of the draft resolution as set forth in document E/CN.4/Sub.2/1988/L.13.

49. Draft resolution E/CN.4/Sub.2/1988/L.5, as amended, was adopted by consensus.

50. Mrs. WARZAZI thanked all the members of the Sub-Commission, and especially Mr. Carey. It was the first time in the Sub-Commission's history that the draft resolution on that issue had been adopted by consensus.

Elimination of racial discrimination (agenda item 5) (continued)  
(E/CN.4/Sub.2/1988/L.7, L.8/Rev.1 and L.11)

51. Mr. EIDE, introducing draft resolution E/CN.4/Sub.2/1988/L.7, said that it followed the main lines of previous resolutions adopted by the Sub-Commission on the same subject. There were a few changes which reflected new situations: they appeared in the fourth preambular paragraph, relating to the decision of the Pretoria régime to hold racially-constituted local government elections later in 1988; the fifth preambular paragraph, which expressed deep concern about the further curtailment of black trade union rights in the recently introduced Labour Relation Bill; and operative paragraphs 5 and 9 (a) which contained references to the "Sharpeville Six". Operative paragraph 9 (c), relating to the South African Government's decision to go ahead with local government elections organized along racial lines, was a new item.

52. Ms. MBONU said that she would like to add the following phrase at the end of the fifth preambular paragraph after "Parliament of South Africa": "and also the illegal squatting bill aimed at relocating blacks tabled before the racist Parliament of South Africa."

53. Mr. van BOVEN said that the text as it stood represented a stand of principle against the apartheid régime and also reflected recent developments.

54. Other recent events had not, however, been included and he therefore proposed that the sponsors should consider adding the following two paragraphs between the fifth and sixth preambular paragraphs:

"Noting with deep concern the ban imposed in 1988 by the Government of South Africa on all anti-apartheid groups including the United Democratic Front and the End-Conscription Campaign,

"Recalling General Assembly resolution 33/165 on the status of persons refusing service in military or police forces used to enforce apartheid,"

55. Consistent with those proposed additional preambular paragraphs, he proposed that the two following paragraphs should be inserted between operative paragraphs 2 and 3:

"Urges the Government of South Africa to lift promptly the ban on anti-apartheid organizations,

"Reaffirms the right of all persons to refuse service in military or police forces which are used to enforce apartheid."

56. Mr. EIDE said that Mr. van Boven's proposed amendments would strengthen the resolution and he was therefore prepared to accept them.

57. Mr. ALFONSO MARTINEZ supported Mr. van Boven's proposals. He suggested the following additions to the text: in operative paragraph 2 the phrase following the word "by" should read: "the South African army and security forces", while in operative paragraph 3, "acts of State terrorism" should be added before "aggression and destabilization", consistent with resolution 1985/36.

58. Mr. EIDE accepted Mr. Alfonso Martinez's proposals.

59. Mr. PELLET said that the French text of operative paragraph 9 (a) implied that the death sentences had already been carried out. He proposed that the following wording should therefore replace that text: "La condamnation à la peine capitale qui a été infligée récemment ...".

60. Mrs. PALLEY suggested that the following words should be added at the end of Ms. Mbonu's amendment: "and not reintroduce a similar measure".

61. Mrs. KSENTINI suggested that, in the French text of operative paragraph 3, the words "Etats de première ligne" should be replaced by "Etats de la ligne des fronts".

62. Mr. AL-KHASAWNEH said that he had no difficulty with the proposed amendments. Attempts were currently being made to define terrorism and the issue of State terrorism was one of the most contested aspects. He was not sure whether there was any difference between aggression and State terrorism.

63. Mr. ALFONSO MARTINEZ said that, from the technical point of view, the term "State terrorism" had not been defined. There was, however, a clear distinction between aggression and State terrorism. An act of aggression could be performed without terrorism. In practice, terrorism was defined as an act of terror aimed at producing indiscriminate terror in the civilian population.

64. Mr. TURK agreed with Mr. Al-Khasawneh that the addition of State terrorism would add no new substance to the draft resolution. Condemnation of acts of aggression was the strongest term that could be used. The concept of State terrorism was far from clear and had no precise meaning in international law. He preferred the original wording which was very clear and precise.

65. Mr. ALFONSO MARTINEZ considered that it would be preferable to include the concept of State terrorism. If, however, members found it difficult to accept the term because of the lack of a definition, he would be prepared to accept "acts of terrorism" instead of "State terrorism".

66. Mr. AL-KHASAWNEH considered that the use of the word "aggression" would cover the point. If the sentence was looked at as a whole, it was clear that it referred to acts against other Governments, namely, the front-line States. There was no suggestion of internal terrorism. If Mr. Alfonso Martínez insisted on his compromise formula, he would be obliged to abstain in the vote.

67. Mr. ILKAHANAF and Ms. MBONU supported Mr. Al-Khasawneh.

68. Mrs. WARZAZI said that the concept of terrorism was already embodied in operative paragraph 9 (b).

69. Mr. ALFONSO MARTINEZ said that the objective of his proposed amendment to operative paragraph 3 was to strengthen the appeal to the international community. In order to facilitate consensus, he would not press the issue, particularly bearing in mind Mrs. Warzazi's reference to operative paragraph 9 (b).

70. Mr. TREAT said that, if a separate vote was taken on individual paragraphs of the draft resolution, he would be obliged to vote against operative paragraphs 5, 6 and 7 and possibly operative paragraphs 10 and 11.

71. Draft resolution E/CN.4/Sub.2/1988/L.7, as amended, was adopted by consensus.

72. Mrs. FLORES, introducing draft resolution E/CN.4/Sub.2/L.8/Rev.1, said that it would be a contribution by the Sub-Commission to the process of the achievement of independence by Namibia. She hoped that it would be adopted by consensus.

73. Mr. SOBARZO said that the draft resolution would give the authorities of the Constituent Assembly of Namibia, once it was duly constituted, complete freedom to choose one or two experts for the provision of such human rights advisory services as those authorities might request. Human rights services were provided for in the fifth preambular paragraph.

74. Draft resolution E/CN.4/Sub.2/1988/L.8/Add.1 was adopted by consensus.

75. Mr. EIDE said that draft resolution E/CN.4/Sub.2/1988/L.11 had 19 sponsors, and there was therefore no need to make a formal introduction.

76. Draft resolution E/CN.4/Sub.2/1988/L.11 was adopted by consensus.

Elimination of racial discrimination: Measures to combat racism and racial discrimination and the role of the Sub-Commission (agenda item 5 (b))  
(continued) (E/CN.4/Sub.2/1988/L.10)

77. Mr. YIMER, introducing the draft resolution, said that it dealt with the general topic of racism and racial discrimination with particular reference to the study by the Special Rapporteur, Mr. Eide, on the achievements of, and obstacles encountered during, the First Decade of Action to Combat Racism and Racial Discrimination.



78. The third and fourth preambular paragraphs noted that the impact of the Second Decade and the combat against apartheid must be strengthened while operative paragraph 1 welcomed the declared intention of the Under-Secretary-General for Human Rights to implement efforts to that end.

79. Operative paragraph 2 endorsed decision I (XXXVI) of the Committee on the Elimination of Racial Discrimination, adopted on 9 August 1988, recommending that the General Assembly authorize the Secretary-General on a temporary basis to ensure the financing of the expenses of the members of the Committee on the Elimination of Racial Discrimination by the United Nations.

80. He hoped that the draft resolution would be adopted by consensus.

81. Mr. ALFONSO MARTINEZ drew attention to operative paragraph 5 which stipulated that each of the proposed seminars should deal with one category of vulnerable groups, such as indigenous populations, migrant workers, and aliens. That provision was one of the great merits of the draft resolution. Operative paragraph 7 represented a starting point for new efforts. In that connection, he appealed to the Special Rapporteur to try to complete the study even if he did not get many replies and thus implement paragraph 10 which called on the Special Rapporteur to present his final report to the Sub-Commission at its forty-first session.

82. Draft resolution E/CN.4/Sub.2/1988/L.10 was adopted by consensus.

Human rights and disability (agenda item 7) (continued)  
(E/CN.4/Sub.2/1988/L.14 and L.17)

83. Mr. SOBARZO said that the draft resolution constituted a request for the work of the Special Rapporteur, Mr. Despouy, to be continued so that a final report would be submitted to the Sub-Commission at its forty-second session. He invited the attention of the Sub-Commission to the administrative and programme budget implications of the draft resolution contained in document E/CN.4/Sub.2/1988/L.17.

84. Mr. CAREY said it was his understanding that Mr. Despouy had indicated that he did not wish to tackle the problem of AIDS as part of his final report. If that was the case, a new approach would be required. If the amendment to the draft resolution contained in document E/CN.4/Sub.2/1988/L.24, requesting Mr. Varela to make an analysis of the feasibility of a study on the issue of AIDS and human rights, was adopted, the Sub-Commission would save one year.

85. Mr. van BOVEN suggested that Mr. Carey's proposal should be considered separately under agenda item 11.

86. Mr. ALFONSO MARTINEZ said that, technically, document E/CN.4/Sub.2/1988/L.24 could not be considered an amendment to the draft resolution under consideration.

87. The CHAIRMAN announced that the amendment contained in document E/CN.4/Sub.2/1988/L.24 had been withdrawn and that the issue would be considered as a separate proposal under agenda item 11.

88. Draft resolution E/CN.4/Sub.2/1988/L.14, together with the administrative and programme budget implications set out in document E/CN.4/Sub.2/1988/L.17, was adopted by consensus.

DECISION ON THE SITUATION IN BURUNDI (continued)

89. The CHAIRMAN informed members of the Sub-Commission that, pursuant to the decision adopted the previous day, the Secretary-General had sent a message to the President of Burundi expressing concern and indicating the readiness of the United Nations to assist, particularly in respect of displaced persons. The Secretary-General had offered to send a representative to study the possibility of assistance with the President.

90. On behalf of the members of the Sub-Commission and himself, he expressed sincere gratitude to the Secretary-General and to the Under-Secretary-General for Human Rights.

The meeting rose at 6.15 p.m.