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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Thirty-sixth session

SUMMARY RECORD OF THE 23rd MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 31 August 1983, at 10 a.m.

Chairman:

Mrs. WARZAZI

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GE.83-17745

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS ON THE FOLLOWING AGENDA ITEMS:

SLAVERY AND SLAVERY-LIKE PRACTICES: (agenda item 13)

- (a) QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM (E/CN.4/Sub.2/1983/L.1)
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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) (E/CN.4/Sub.2/1983/L.4/Rev.1)

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5):

- (a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (E/CN.4/Sub.2/1983/L.7 and L.10)

Draft resolution E/CN.4/Sub.2/1983/L.1

1. Mr. WHITAKER, introducing the draft resolution, recalled that a similar resolution had been adopted by the Sub-Commission at its preceding session, but that, perhaps through an oversight, the Commission had not taken action on it. The situation continued to be serious and warranted the comprehensive study which it was proposed to entrust to two competent persons from the region of Africa. The Commission should be requested not to delay further in giving its authorization.
2. Mr. SOFINSKY said that there had been unanimity in the Sub-Commission on the resolution adopted on that subject the previous year and he hoped that it would be achieved once again. However, he would like to make two comments. First, it would be useful to ascertain whether the Commission had not adopted the resolution of the previous year simply because of an oversight, as Mr. Whitaker had inferred, or whether there had been other considerations. Second, he wondered whether the Sub-Commission should ask for studies to be carried out when its members were nearing the end of their term of office.
3. Mr. BOSSUYT did not consider it important to ascertain the reasons why the Commission had not adopted the previous year's resolution. In any event, the draft resolution under consideration was a reminder. Mr. Sofinsky's argument that it would be better not to request new studies before the membership of the Sub-Commission was renewed had dangerous implications since, if it was carried to its logical conclusion, it might even be no longer possible to adopt resolutions.
4. Mrs. ODIO BENITO said that the problem of female sexual mutilation was an extremely serious one and deserved the full attention of the Sub-Commission and of the Commission. She agreed with Mr. Bossuyt as to what the Sub-Commission was empowered to do when its members were approaching the end of their term of office.

5. Mr. CHOWDHURY said that the Working Group on Slavery had taken the view that the question of female sexual mutilation did not fall within its terms of reference. However, the Working Group had considered that the report requested last year should be prepared, as it might help to make the international community aware of the problem and induce it to take the necessary action to solve it. What was needed was to create a climate which would make it possible to put an end to that practice. He had attended the Commission's preceding session, but could not remember why the Sub-Commission's resolution had not been adopted.

6. Mrs. DAES hoped that the draft resolution under consideration could be adopted without a vote. The Sub-Commission should request the study referred to in operative paragraph 1, and appoint Mrs. Warzazi and Mr. Mudawi to carry it out. That study would make an important contribution to the cause of women.

7. Mr. WHITAKER considered that Mr. Sofinsky's comments raised the problem of contacts between the Sub-Commission and the Commission. The Sub-Commission should make its wishes clearer to the Commission, and the persons who were members of both bodies could do much to promote contacts to that end. The Commission might not have adopted the resolution that had been adopted unanimously the previous year by the Sub-Commission simply because it had had too much work or because its members, especially the men, were not sufficiently aware of the seriousness of the problem which affected tens of millions of women.

8. Mr. SOFINSKY considered that the draft resolution could be adopted without a vote.

9. Draft resolution E/CN.4/Sub.2/1983/L.1 was adopted without a vote.

Draft resolution E/CN.4/Sub.2/1983/L.3 and document E/CN.4/Sub.2/1983/L.11

10. The CHAIRMAN pointed out that document E/CN.4/Sub.2/1983/L.11 set forth the financial implications of draft resolution E/CN.4/Sub.2/1983/L.3.

11. Mr. WHITAKER, introducing the draft resolution, said that it highlighted another weakness in the way the Sub-Commission functioned. Mr. Bouhdiba's study on the exploitation of child labour, referred to in the draft resolution, had not been read widely and no action had been taken on it. The Sub-Commission should ensure that there was a follow-up on the studies it requested and that those studies helped to promote an awareness among the public. The seminar proposed in the draft resolution would be the most economical means of contributing to the solution of the problem of the exploitation of child labour. The problem had political connotations and was more complicated than that of slavery. Obviously, children were less well placed than persons of other categories who approached the Sub-Commission, which should, by way of compensation, do more for them. It might assign a separate agenda item to the question. The holding of a seminar was the very least that could be done.

12. Mr. SOFINSKY recalled that it had already been decided to hold a seminar on that question two years ago and he would like to know why it had not taken place.

13. Mr. MOMPOINT (Centre for Human Rights) said that it took a certain amount of time to organize a seminar and that the Commission and the Economic and Social Council had to take note of the matter and come to a decision.

14. Mr. SOFINSKY said that he would like to know why document E/CN.4/Sub.2/1983/L.11 had set the number of participants at 32 and how they would be designated.

15. Mr. MOMPPOINT (Centre for Human Rights) said that it was the usual practice to decide on the number of participants to attend a seminar. Participants were designated in accordance with the rules governing geographical distribution.

16. Draft resolution E/CN.4/Sub.2/1983/L.3 and document E/CN.4/Sub.2/1983/L.11 were adopted without a vote.

Draft resolution E/CN.4/Sub.2/1983/L.4/Rev.1

17. Mr. JOINET suggested that the request set forth in the draft resolution should be formulated differently in order to avert a procedural discussion. He recalled that at the preceding session the text of a decision by the Sub-Commission on a similar case had been transmitted to the Government of Malawi by the Chairman of the Commission. The same procedure might be followed in the case under consideration. Following consultations with the Observer for Uruguay, he proposed the following wording:

"The Sub-Commission decided to request the Secretary-General to forward without delay the following communication to the Chairman of the Commission on Human Rights for transmittal to the Uruguayan authorities:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities, seriously concerned by reports concerning the state of health of the distinguished mathematician, Professor José Louis Massera, respectfully requested the Uruguayan Government to exercise clemency on behalf of Professor Massera with a view to bringing to an end his detention, on humanitarian grounds."

18. Mr. CHOWDHURY said that although he had been one of the sponsors of the draft resolution under consideration, he could accept the wording proposed by Mr. Joinet, which would make it possible to approach the Uruguayan authorities expeditiously, whereas a resolution would have to be submitted first to the Commission, and then to the Economic and Social Council, and that might take a whole year. It was therefore preferable to cable the text proposed by Mr. Joinet.

19. Mr. MASUD, one of the sponsors of the draft resolution under consideration, agreed with Mr. Joinet's proposal, since that method would be more rapid and more effective. The case of Professor Massera had been brought to public attention by the Canadian Committee of Scientists and Scholars, the membership of which included Nobel Prize winners.

20. Mr. CAREY pointed out that little was known about the case of Professor Massera, and that it might be better not to request his release from prison, but simply that the Uruguayan authorities should envisage such a possibility.

21. Mr. JOINET said that he had had discussions with the Observer for Uruguay, who had not expressed any objections to his text. In fact, the case of Professor Massera was familiar to the Latin American members of the Sub-Commission, and campaigns on his behalf had been organized for several years.

22. Mr. MUBANGA CHIPOYA, one of the sponsors of draft resolution E/CN.4/Sub.2/1983/L.4/Rev.1 also endorsed the more effective method proposed by Mr. Joinet.
23. Mr. TOSEVSKI^V took the view that appeals to Governments by the Sub-Commission in respect of individual cases were not advisable. Appeals of that kind could be justified in many individual cases and therefore the Sub-Commission might be led to give preference to some cases at the expense of others.
24. Mr. BOSSUYT^V agreed with Mr. Tosevski that such a practice was not desirable for the future, since it would not be possible to apply it in all individual cases where it would be justified.
25. Mr. JOINET thought that moderation should be observed in all things, and that experience had shown that the Sub-Commission had shown moderation. The procedure suggested had already been used to intercede on behalf of a political leader in Korea, and in that case, it had produced positive results. It was true that the Commission on Human Rights had requested the Sub-Commission not to intervene directly, but it had not been forbidden from doing so through the Commission. The Sub-Commission was quite right to show, by means of specific cases, its desire to achieve results.
26. Mr. SOFINSKY said that he believed that all the members of the Sub-Commission hoped that Mr. Massera would be released. He was a well-known mathematician whose health was being endangered by his detention. Nevertheless, he feared that such an intervention by the Sub-Commission on behalf of an individual, whose case was not representative of a consistent pattern of gross violations of human rights, might set a dangerous precedent, since it was contrary to the rules and principles it was supposed to observe in its work. For those reasons, he agreed with Mr. Tosevski and Mr. Bossuyt.
27. Mr. FERRERO^V considered that the arguments put forward by Mr. Tosevski, Mr. Bossuyt and Mr. Sofinsky were reasonable, but in turn he wished to stress that the procedure proposed by Mr. Joinet had already been used on other occasions. Since it had proved effective, he could not see why it should not be once again.
28. Mr. JOINET said that he had given much thought to the matter and pointed out that the Commission on Human Rights had not raised any objections when the Sub-Commission had made use of that kind of procedure on other occasions. He saw no reason why an excessively rigid attitude should be adopted in the matter under consideration.
29. Mr. CAREY agreed with Mr. Sofinsky that the cases in which the Sub-Commission had intervened in the past were representative of a situation affecting a great many people in a particular country. The case of Professor Massera, an eminent figure who suffered from ill-health and whose release from prison was desired by all did not come within this category and it should not be dealt with under agenda item 6. If Mr. Joinet's proposal was put to the vote, he would abstain.
30. Mr. FOLI thought that initiatives of the kind proposed by Mr. Joinet might prove to be counter-productive. Furthermore, it was not for experts to intervene in matters considered by Governments to be essentially political. To be sure, it was difficult, if not impossible, for the members of the Sub-Commission to

separate human rights from their political context, but their terms of reference in that respect were clear. He did not approve of the practice of intervening in an individual case, although he recognized that the Sub-Commission had obtained positive results in a number of cases by using that method. He would therefore support the sending of the proposed telegram but he hoped that when the working methods of the Sub-Commission were reviewed, it would decide to refrain from using such methods.

31. Mr. RITTER, said, in connection with Mr. Carey's statement, that the case of Professor Massera was not an isolated one and, in fact, on the contrary formed part of a consistent pattern of gross violations of human rights. He pointed out that, on the previous day, the Sub-Commission had decided to forward a series of communications concerning Uruguay to the Commission on Human Rights and that it had adopted its decision because it had taken the view that those communications attested to a consistent pattern of gross violations of human rights in Uruguay. When reading the draft resolution, he had thought of requesting that the names of other personalities in prison in Uruguay should be added to it, but as they were political personalities, he had decided not to do so as he thought it would be preferable to refer only to the case of Professor Massera, a world-renowned scientist whose release had been called for on purely humanitarian grounds. If the Sub-Commission decided to discuss the principles on which it should base its decisions to adopt or to reject resolutions or decisions, he would take the floor again, as he had comments to make on other resolutions which, although they did not deal with individual cases, were concerned with matters which had not been considered by the Sub-Commission and which it should not discuss if it wished to abide by its agenda.

32. Mr. SOFINSKY was of the opinion that Mr. Joinet was exaggerating somewhat when he stated that the Commission on Human Rights had not objected to initiatives by the Sub-Commission that were along the same lines as his proposal. All that one could safely say was that during the session in question the Chairman of the Commission on Human Rights, who was responsible for taking a decision in that case, had not raised any objections. He, personally, had always objected to interventions of that kind, whether what was involved was sending a telegram to South Africa - and his position with regard to that country was well-known - or to South Korea, for which country he could not be suspected of having much sympathy. He had thus complied with the rules and principles which should guide the conduct of members of the Sub-Commission and he therefore endorsed the statements of Mr. Carey and Mr. Foli, although, unlike the latter, he thought that the Sub-Commission should not make an exception in the case of Professor Massera.

33. Mr. EIDE agreed with Mr. Ritter's remarks about the representativity of Professor Massera's case. Even though the human rights situation in Uruguay had improved recently, it was still far from being what it should be. Moreover, it would appear that the Uruguayan Government might agree to the Sub-Commission's request, which would really be a step forward. However, he thought that the Sub-Commission needed to review the very principle of that kind of intervention and that it should do so at its next session. In the meanwhile, he would endorse the proposal contained in draft resolution E/CN.4/Sub.2/1983/L.4/Rev.1.

34. Mr. JOINET endorsed Mr. Ritter's statement and stressed that his own proposal was purely humanitarian and that it also constituted a very good example of the systematic violations occurring in Uruguay. He recalled that the Human Rights Committee had taken a decision in the case of Professor Massera which was undoubtedly one of the firmest of all its decisions and should have resulted in his release, not for general humanitarian reasons but in recognition of the fact that, in his case, a violation of human rights had been committed under the Covenant. As for the question of principle raised by some members of the Sub-Commission, he thought that in future the Sub-Commission might decide that it would no longer forward that kind of message and make that decision a rule. However, jurists were aware that there were exceptions to every rule because of the problems involved. Those exceptions should be strictly limited to extremely serious cases and should be of a humanitarian nature. The case of Professor Massera met that definition, since the person concerned was an elderly man and everybody knew that he was in poor health.

35. Mr. FERRERO said that it would be preferable not to discuss the question whether or not the case disclosed the existence of a consistent pattern of violations and that it would be better not to raise that problem in the draft resolution. He supported Mr. Joinet's proposal, which was based on purely humanitarian grounds and which had not aroused any objection on the part of the Observer for Uruguay. Mr. Carey, however, had not only not objected to it but had even submitted an amendment. That amendment appeared to be acceptable and the Sub-Commission should therefore adopt the proposal, as amended.

36. Mr. CHOWDHURY said that so far as justice was concerned, exceptions had sometimes to be made and, in such cases, the competent authorities made it clear that they were acting contrary to the rule in the light of the specific facts and circumstances of the case under consideration. In the case of Professor Massera, the Sub-Commission was dealing with a world famous scholar, who was not a politician, but a scientist of advanced years and in poor health, whose release from prison was necessary for medical reasons. Uruguay was a member of the Commission on Human Rights and the authorities of that country would not perhaps reject the possibility of using their discretionary powers in view of Professor Massera's state of health and out of regard for the wishes expressed by the Sub-Commission and by the Chairman of the Commission on Human Rights. He considered that the draft resolution should be adopted by consensus in order not to lose any of its force. At the same time, the Secretariat should note that the Sub-Commission had stressed that that decision should be limited to the facts and circumstances of the case in question in order to make it clear that it did not wish to take individual cases into consideration.

37. Mr. JOINET hoped that the Sub-Commission would take action along the lines suggested by Mr. Chowdhury. He thought it should take its decision by consensus, making it clear that the decision referred to the case of Professor Massera only and that, as far as the substance was concerned, many members had urged that that type of procedure should be reviewed as a matter of priority at its next session.

38. Mr. SOFINSKY considered the situation to be somewhat sensitive, but thought that the Sub-Commission might adopt Mr. Joinet's proposal in view of the comments made by Mr. Chowdhury to the effect that the decision should not set a precedent.

39. The CHAIRMAN said that, if there was no objection, she would take it that the Sub-Commission wished to adopt, by consensus, Mr. Joinet's proposal, as amended by Mr. Carey, and also wished, in line with Mr. Chowdhury's suggestion, the summary record of the meeting to indicate that that case did not set a precedent.

40. It was so decided.

Draft resolution E/CN.4/Sub.2/1983/L.7

41. Mr. WHITAKER introduced the draft resolution on behalf of the sponsors and recalled that one of the recommendations of the recent Second World Conference to Combat Racism and Racial Discrimination had emphasized the importance of education not only of young people but also of adults in the struggle against racism. The draft resolution was along the lines of those recommendations and it should be possible to adopt it by consensus.

42. Mr. CHOWDHURY and Mr. ISMAIL said that they wished to become sponsors of the draft resolution.

43. The CHAIRMAN said that it would be more accurate to say "dans le respect de l'égalité de tous les êtres humains" than "dans l'égalité de tous les êtres humains" in the third preambular paragraph of the draft resolution under consideration.

44. Mr. JOINET suggested that the adjective "universal" in the fourth line of operative paragraph 3 should be deleted so as to take into account the varying concepts of the family unit.

45. The CHAIRMAN considered that the expression "unité de base" in the fifth line of operative paragraph 3 should be replaced by "communauté de base". The definition of the family varied according to custom and society.

46. Mr. MAHDI said that those amendments applied only to the French text, and that the English version would remain unchanged.

47. Mr. SOFINSKY suggested that the adjectives "national and ethnic" should be inserted in the eighth line of operative paragraph 3 after "large and small", but he would not insist on that amendment if there were any objections.

48. Mr. CAREY was of the opinion that the words proposed by Mr. Sofinsky did not extend the meaning of the text, but, in fact, restricted it, since they presupposed the exclusion of other types of existing groups. Consequently, he urged that the expression in question should not be changed.

49. Mr. RITTER noted that there was some inconsistency between the terms "race relations" in the second preambular paragraph and "unity of the human race" in operative paragraph 3. He suggested substituting the terms "relations between the various ethnic groups", for "race relations".

50. Mr. MASUD suggested that the words "the need of all groups, including national and ethnic groups" should be used in the eighth line of operative paragraph 3.

51. Mr. EIDE proposed the phrase "the need of all national, ethnic and other groups", which would thus enable indigenous populations to be taken into account.

52. Mr. BOSSUYT suggested, in order to solve the problem mentioned by Mr. Ritter, the adoption of the phrase "in the field of education to combat racism and racial discrimination" which already appeared in operative paragraph 1.

53. The CHAIRMAN said that two proposals had been submitted, one by Mr. Bossuyt and the other by Mr. Sofinsky. The latter's proposal had been amended by Mr. Nasud and referred to the eighth line of operative paragraph 3 which should read as follows: "the need of all groups, including national and ethnic groups".
54. Mr. CHOWDHURY observed that Mr. Eide had suggested the terms: "the need of all national ethnic and other groups", which meant that all groups were taken into consideration and, he in his view, entirely met Mr. Sofinsky's concern.
55. Mr. SOFINSKY said that he would not insist on his proposed amendment but would simply like to ensure that the groups in question were clearly identified in the draft resolution relating to agenda item 5. There was no doubt that they were national and ethnic groups, but the scope of the concept of group should be taken into account.
56. The CHAIRMAN said that the last clause of the second preambular paragraph would be worded as follows "... special mandate in the field of education to combat racism and racial discrimination". In operative paragraph 3, there would be a change, at least in the French text, where in the sixth line the term "unité" would be replaced by the term "communauté". Those were the only changes proposed, since Mr. Sofinsky had not pressed his amendment.
57. Mr. WHITAKER said that the impact of the Sub-Commission's resolutions in the world should not be overestimated. Some of the drafting changes were of little importance and it would be desirable in particular to reduce preambular paragraphs so as to concentrate on the most important problems.
58. The CHAIRMAN said that she had simply read out the proposals accepted by the members.
59. Draft resolution E/CN.4/Sub.2/1983/L.7, as amended, was adopted without a vote.
- Draft resolution E/CN.4/Sub.2/1983/L.10
60. Mr. KHALIFA introduced the draft resolution and said that the following clause should be added to operative paragraph 4: "Taking into account also the resolutions the General Assembly might adopt on the report of the World Conference and the first-stage implementation of the programme for the Second Decade.". In operative paragraph 4, "thirty-seventh session" should be changed to "thirty-eighth session".
61. He said that he was convinced that Mr. Eide would discharge his task with his usual integrity and objectivity. He hoped that the Sub-Commission would adopt the draft resolution by consensus.
62. Mr. TOSEVSKI said that he had no doubts as to Mr. Eide's competence, but wished to point out that he had already been entrusted with three other studies and was also Chairman of the Working Group on Indigenous Populations. Work should be shared out fairly among the members of the Sub-Commission. In the future, when the Sub-Commission wished to entrust a specific task to one of its members, it should consult all its members beforehand, so that as to harmonize all the views and positions.

63. Mr. SAKER agreed with Mr. Toševski. As for the study suggested, he wondered whether the Sub-Commission could really evaluate all the work of two conferences and whether that task came within its terms of reference. Consequently, he proposed that operative paragraph 4 should be re-examined.

64. Mr. MUBANGA-CHIPOYA said that he had not been convinced, in the light of precedents, of the usefulness of the Sub-Commission's proposed study. However, he noted with satisfaction that operative paragraph 5 indicated that the study should propose new or additional measures to combat racism and racial discrimination.

65. Mr. SOFINSKY considered that the draft resolution contained a great many rational, important and necessary features, and he was convinced that Mr. Eide possessed all the necessary skills and ability to carry out the proposed study, but he wished to point out that it was regrettable that the Sub-Commission had not consulted all its members before nominating him. He was inclined to endorse the draft resolution if operative paragraph 1 was amended so as to place greater stress on the Sub-Commission's satisfaction with the results of the Conference and the adoption of the Programme of Action.

66. Mr. RITTER agreed without reservation that Mr. Eide should be entrusted with that study, as he had amply demonstrated his skills and capacity not only in his report to the Sub-Commission on his statement at the World Conference, but also in his work on indigenous populations and conscientious objection to military service. As Mr. Toševski had said, it might perhaps have been better if the members of the Commission had been more widely consulted on that appointment. However, the outcome would have been the same at all events. It was simply to be hoped that Mr. Eide would be able to accept the task that might be entrusted to him.

67. Mr. CAREY said that, in conformity with the rules, the Secretariat should submit a statement on the financial implications of the draft resolution under consideration; since operative paragraph 6 requested the Secretary-General to give his assistance. Further, the draft as a whole should be formulated as a recommendation addressed to the Economic and Social Council through the Commission on Human Rights, and not as a resolution of the Sub-Commission itself.

68. If Mr. Sofinsky's amendment was adopted, he would like to know in what form it would be incorporated in the draft resolution, as everybody should be clear in his mind exactly what he was called upon to decide.

69. Mr. HADI endorsed Mr. Toševski's comments on prior consultations with regard to the appointment of a rapporteur. It had already happened that the Sub-Commission had entrusted a specific task to some of its members after so-called "consultations" which in fact had not taken place. For considerations of simple justice and the proper organization of its tasks, the Sub-Commission should define the method which it would follow in cases of the same kind.

70. Mr. EIDE said that the Commission had requested him to represent it at the World Conference because he had worked on the question of indigenous populations. When, at the 5th meeting, after he had reported on his mission, Mr. Khalifa had proposed that the progress made between the two World Conferences should be assessed, he had found the idea excellent, since he thought that the

time had come to take stock of the Decade for Action to Combat Racism and Racial Discrimination and to consider how the Sub-Commission could advance the cause of tolerance. He would in no way feel offended if the Commission should entrust the study to someone else, as what mattered was that it should be carried out.

71. Mr. JOINET endorsed the draft resolution as a whole. He particularly approved of the wording of operative paragraph 4, since it mentioned the shortcomings and obstacles encountered during the First Decade for Action to Combat Racism and Racial Discrimination. It was impossible not to have noticed the somewhat unenthusiastic approach adopted by a number of Western countries which had participated in the deliberations and the fearlessness of the Conference as a whole, when at that time a massacre was being perpetrated in a certain country.

72. The amendment submitted by Mr. Sofinsky raised difficulties, first insofar as, unless he was mistaken, the decisions adopted by the World Conference had not yet been published in final form and, second, because the Sub-Commission would be prejudging the Special Rapporteur's conclusions; whose task it was to analyse the over-all results achieved. It would, however, be appropriate to lay greater stress on the work of the World Conference itself in the draft resolution.

73. He did not think that further consultations were necessary with regard to the person to whom that task should be entrusted; Mr. Eide had represented the Sub-Commission at the World Conference and it was quite natural that he should be given the task of analysing the results of the Conference.

74. Mr. GOMENSORO said that, although he endorsed Mr. Joinet's comments, he agreed with Mr. Toševski that in future the members of the Sub-Commission should be consulted in a more systematic manner on the appointment of rapporteurs. The somewhat unenthusiastic approach of a number of Western countries at the World Conference, to which Mr. Joinet had drawn attention, should induce the Sub-Commission to appoint a national from Africa, Latin America or Asia to undertake the study requested.

75. Mr. SOFINSKY, setting forth the grounds on which he had based his amendment, said that in his opinion it was essential that the Sub-Commission should accept the results achieved at the Second World Conference. It did not have the authority to pass judgement in that matter, but should, instead, proceed from the assumption that the resolutions adopted at the two World Conferences to Combat Racism and Racial Discrimination constituted sound initiatives. Nevertheless, the Sub-Commission was entitled to assess their application and to review the manner in which the First Decade for Action to Combat Racism and Racial Discrimination had evolved and to study all that had promoted or hindered its activities.

76. A number of Western countries had not only displayed a somewhat unenthusiastic attitude during the World Conference but had obstructed the adoption of the major sections of the Programme of Action. In the report he had submitted at the 5th meeting, Mr. Eide had not explained that attitude nor had he said what he thought of the final resolutions. It was vital to ascertain his views in the matter, since, if he was not in agreement with the Declaration and the Programme of Action, it would be impossible to request him to evaluate the results.

77. Mrs. DAES recalled that before appointing Mr. Eide to represent the Sub-Commission at the World Conference, the Chairman of the thirty-fifth session of the Sub-Commission had asked every member for his views. In any case the choice had been a happy one since Mr. Eide had performed his task with the utmost efficiency.

78. Referring to draft resolution E/CN.4/Sub.2/1983/L.10, she fully endorsed the proposal to entrust Mr. Eide with a study on the results of the First Decade. She stressed that his task would not be an easy one.

79. From the technical point of view, the draft resolution should, as Mr. Carey had indicated, have been submitted in the form of a recommendation. As for operative paragraph 4, which seemed to have aroused some controversy, more thought might be given to the Special Rapporteur's terms of reference. In her opinion, they should be fairly wide in scope and the person appointed would set the limits of his task from his own experience.

80. Mr. KHALIFA said that he wished to reply to the various questions raised by the draft resolution he had sponsored. With regard to the consultations that should have taken place before the Special Rapporteur had been selected, on over a dozen occasions in the past rapporteurs had been appointed without real consultations. Further, his draft resolution was no more than a proposal which he was submitting to the Sub-Commission, and which could always discuss it. When he had put forward the idea of that study at the 5th meeting, no one had objected or questioned its potential usefulness. Nor had anybody suggested that the choice of Mr. Eide would create any problem. His knowledge and ability were self-evident. The task would be difficult and few people were likely to volunteer to do it in his place.

81. As Mr. Sofinsky had stated, it was not for the Sub-Commission to pass judgement on the resolutions adopted at the Second World Conference but, in default of such a verdict, it could always undertake research and analyse specific situations. Furthermore, the report requested would be submitted to the Sub-Commission which could discuss and evaluate it.

82. Mr. Sofinsky had suggested that the draft resolution should make it clear that the Sub-Commission had welcomed the organization of the Second World Conference and the adoption of the Declaration and Programme of Action at that Conference. That should not be difficult. However, some reference should be made to the work of the Sub-Commission's representative, since it was a traditional gesture of courtesy to thank rapporteurs. Furthermore, in that case, those thanks were fully justified.

83. From the technical point of view, there were some gaps and formal defects in the draft resolution. For instance, as Mr. Carey had pointed out, it should be drawn up as a recommendation to the Commission on Human Rights. But the real issue was whether the study requested was worth while undertaking. He had no doubts on that score. It was absolutely necessary to measure the progress made in the struggle against racism and racial discrimination and to know whether the world was going forward or backwards. The choice of rapporteur was of secondary importance.

84. Mr. Gomensoro had proposed appointing a member of the Sub-Commission who was not a national of a Western country. One might reply that, in order to ensure that the rapporteur was completely objective, it would be better to choose someone from a country which was not weighed down with the problems of racism and racial discrimination.

85. Mr. SOFINSKY said, in reply to Mr. Joinet, that the documents of the Second World Conference had been distributed in all languages towards the middle of August. The members of the Sub-Commission could peruse them at any time.

86. No one in the Sub-Commission questioned the competence of Mr. Eide, who had just as much right as anyone else to an opinion on the decisions adopted by the Second World Conference. However, the Sub-Commission should be informed of Mr. Eide's opinion, since if he was not in agreement with those decisions, he should not be assigned the task of undertaking the projected study.

The meeting rose at 1 p.m.