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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-first session

SUMMARY RECORD OF THE SECOND PART */ OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 31 August 1989, at 7 p.m.

Chairman: Mr. YIMER (Ethiopia)

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*/ The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1989/SR.37.

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CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS (continued)

Consideration of draft resolutions relating to agenda item 6 (continued)
(E/CN.4/Sub.2/1989/L.37, L.38/Rev.1)

Draft resolution E/CN.4/Sub.2/1989/L.37

1. Mr. DESPOUY proposed that the third preambular paragraph should be deleted and that operative paragraph 2 should be amended to read: "Expresses its satisfaction that the Government of El Salvador has invited the Working Group on Enforced or Involuntary Disappearances to visit El Salvador this year". The reason for the amendment was that the Government of El Salvador had invited the Working Group after the draft resolution had been prepared. The Working Group had accepted the invitation.
2. Mrs. WARZAZI said she had requested that resolutions on countries which co-operated with the Commission on Human Rights should not be voted on in the Sub-Commission. She could not accept the draft resolution because it was unbalanced. In view of the situation in El Salvador, it was inconceivable that the draft resolution should refer only to the terrorist activities of the police and the armed forces and not to the massacres and attacks on public places carried out by the rebels.
3. Under rule 65, paragraph 2, of the rules of procedure, she proposed that no decision should be taken on the draft resolution.
4. Mr. CAREY seconded the proposal by Mrs. Warzazi. He had been struck by the contrast between the tone of the draft resolution under consideration and the one on Guatemala and thought that both sides, and not just the Government, should be reprimanded for terrorist activities.
5. Mr. VARELA QUIROS said that he had been unable to join the list of sponsors of the draft resolution because he considered that if an appeal were made to the Government to halt human rights violations, the same appeal should be made to the guerrillas. He proposed that the penultimate preambular paragraph should be deleted and that the following words should be added at the end of the last preambular paragraph: "and urging that every effort should be made with a view to a dialogue between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional".
6. If there was any opposition to a consensus on the draft resolution as amended, he would be obliged to abstain in the vote to or vote against the draft resolution.
7. Mr. van BOVEN said that, if the text of the draft resolution seemed unbalanced, that was because the situation in El Salvador was unbalanced. He was opposed to the proposal by Mrs. Warzazi.
8. Mr. JOINET said that he could support the amendment proposed by Mr. Varela Quirós, since it was important that the parties should be urged to establish a dialogue.
9. Mr. ALFONSO MARTINEZ opposed Mrs. Warzazi's proposal that no decision should be taken on the draft resolution and reserved the right to submit his amendments formally in order to make the text more balanced.

10. Mr. ILKAHANAF said it was regrettable that draft resolutions were not circulated well enough in advance or to all members of the Sub-Commission. It was difficult to condemn Latin American Governments for the situations in which they found themselves, especially as information on violations of human rights in that part of the world was confusing. He agreed that the draft resolution was not balanced and proposed that it should either be revised or rejected.

11. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on Mrs. Warzazi's proposal that no decision should be taken on draft resolution E/CN.4/Sub.2/1989/L.37.

12. The proposal was rejected by 13 votes to 9, with 2 abstentions.

13. Mrs. WARZAZI said that she objected to what appeared to be an attempt to push the draft resolution through by consensus and would request that it should be put to a vote unless the fifth preambular paragraph was changed. The Sub-Commission must not forget that the population of El Salvador was being subjected to human rights violations and terrorism from both sides, not only by death squads composed of police and armed forces personnel. She therefore proposed that the words "and by the rebels of the Frente Farabundo Martí para la Liberación Nacional" should be added at the end of the fifth preambular paragraph.

14. Mr. van BOVEN said that, over the years, he had studied the reports which had been submitted by the Special Representative, Mr. Pastor Ridruejo, and which showed that the activities of the death squads were not matched by those of the guerrillas, whose main targets included electric power installations, but not people to the same extent as the Government forces.

15. The CHAIRMAN said that the Sub-Commission had accepted the amendments by Mr. Despouy and Mr. Varela Quirós.

16. Mr. ALFONSO MARTINEZ proposed that the following words should be added at the end of operative paragraph 5: "that those responsible for the murder of Monsignor Romero, Bishop of San Salvador, are brought to trial and that ...".

17. Mr. GONZALES (Observer for El Salvador) said that, in the statement he had made in the general debate on agenda item 6, he had tried to describe the climate of violence in El Salvador. Draft resolution E/CN.4/Sub.2/1989/L.37 referred only to human rights violations by the Government of El Salvador and not to those committed by both sides; it would not help to improve the human rights situation in El Salvador and was useful only as propaganda for the forces of subversion. His Government had been co-operating with human rights bodies for a long time and had agreed to visits and interviews by Special Rapporteurs and it therefore failed to see why the Sub-Commission could not understand the situation in the country. It would not accept the draft resolution even if the proposed amendments were included.

18. Mr. CAREY proposed that, in operative paragraphs 4 and 5, the words "the Government of El Salvador" should be followed by the words "and the Frente Farabundo Martí para la Liberación Nacional".

19. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on the amendments proposed by Mr. Carey and Mrs. Warzazi.

20. There were 10 votes in favour, 10 against and 2 abstentions.

21. The amendments were not adopted.

22. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on the amendment proposed by Mr. Alfonso Martínez.

23. The amendment was adopted by 12 votes to 7, with 4 abstentions.

24. Mr. DESPOUY, explaining his position on the draft resolution, said that he had been requested to find a formula for a consensus and had tried to strike a balance among the various drafts which had been circulated and which had expressed very harsh views concerning the situation in El Salvador.

25. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on draft resolution E/CN.4/Sub.2/1989/L.37, as amended.

26. Draft resolution E/CN.4/Sub.2/1989/L.37, as amended, was adopted by 12 votes to 7, with 5 abstentions.

Draft resolution E/CN.4/Sub.2/1989/L.38/Rev.1.

27. Mr. VARELA QUIROS proposed that the last preambular paragraph of the original draft resolution E/CN.4/Sub.2/1989/L.38 should be added as the last preambular paragraph of the draft resolution under consideration.

28. Mr. EIDE proposed that the following new penultimate preambular paragraph should be added: "Having learned with great concern of a list containing names and particulars of 2,023 political prisoners allegedly executed since July 1988".

29. Mr. MOTTAGHI-NEJAD (Observer for the Islamic Republic of Iran) said that any draft resolution submitted under agenda item 6 needed to be assessed on the basis of the motives of the sponsors and according to the criteria of relevance, fairness, objectivity, non-selectivity and balance.

30. The Sub-Commission's motives were questionable, since it was clear that the current attitude had been adopted since the establishment of the Islamic Republic of Iran. If the sponsors of the draft resolution would review the records of the Sub-Commission and the Commission on Human Rights, they would realize that their predecessors had never attempted to take any action against the systematic violations of human rights committed in Iran under the Shah. The sources of the allegations made in the draft resolution were mainly violent terrorist groups, which were often known to be such in the West.

31. As far as relevance was concerned, the draft resolution had no place in a Sub-Commission which was supposed to be concerned with the prevention of discrimination and the protection of minorities. The Commission on Human Rights was already dealing with the matter which was referred to in the draft resolution and which did not come within the Sub-Commission's mandate. The draft resolution was neither fair nor objective, since the Islamic Republic of Iran did guarantee the right of minorities to manifest their beliefs, and it

deviated totally from the attitude expressed in the most recent report of the Office of the United Nations High Commissioner for Refugees (A/AC.96/724 (Part V)).

32. The draft resolution was based on unreliable sources; it was irrelevant, outside the Sub-Commission's mandate and unbalanced. It could only damage the dialogue established with the representatives of UNHCR.

33. Mr. JOINET said that he generally agreed with the content of the draft resolution, but regretted that it did not take account of the important fact that a new Government had been constituted in the Islamic Republic of Iran. The draft resolution should be interpreted as helping the new Head of State find a means of implementing his Government's human rights policy.

34. Mr. van BOVEN pointed out that, in the Sub-Commission in 1975, he had denounced the practices of SAVAK, the Shah's secret police. He was now following the same consistent line.

35. Mrs. PALLEY said that she was concerned that the sponsors of the draft resolution had been accused of political motivation. It was a fact that the Islamic Republic of Iran had been faced with war and civil war which might have led to Government action that would not have occurred in more peaceful times. The Islamic Republic of Iran was, however, still bound by the international standards it had voluntarily accepted. Even in time of public emergency which had threatened the life of the Islamic Republic of Iran, the measures taken in that country had gone beyond the exigencies of the situation, but there never could be any derogation from the right to life; nor could there be cruel or degrading treatment, denial of the right to manifest religion or belief or discrimination against religious minorities, such as the Bahá'í community, which had been the particular target of persecution.

36. The attitude that any comments by a body such as the Sub-Commission constituted interference in the internal affairs of a State was a misconception of the Sub-Commission's role and function. She welcomed an earlier statement by the representative of the Islamic Republic of Iran in which he had said that his Government would co-operate fully with all United Nations bodies and took it to mean that his Government would co-operate with the Special Representative. If the reports of human rights violations and executions were untrue, the Government of the Islamic Republic of Iran would then be able to say so.

37. Mrs. KSENTINI said that she shared Mr. Joinet's concern that the draft resolution did not take account of new developments and, in particular, the change of Government in the Islamic Republic of Iran. Some overtures could have been made to encourage the new Government to establish fruitful co-operation.

38. Mr. VARELA QUIROS said that the fact that there had been a change of Government in the Islamic Republic of Iran was irrelevant, since it was the State, and not the Government, that was responsible for ensuring the protection of human rights. A change of Government did not mean that the Sub-Commission should no longer take an interest in human rights violations. If the Government of the Islamic Republic of Iran respected the human rights of its citizens and allowed the Special Representative to submit a report on

that country, he himself would be prepared to support a draft resolution on the Islamic Republic of Iran similar to other resolutions concerning countries which were co-operating with the Sub-Commission.

39. Mr. EIDE said that he would not press his amendment, since many members of the Sub-Commission had not seen the list in question, which related to a serious new wave of executions.

40. Mr. JOINET said that the draft resolution should have requested the Government of the Islamic Republic of Iran to do everything in its power to shed light on the true facts of human rights violations in that country.

41. Mr. CISSE (Secretary of the Sub-Commission) said that Mr. Varela Quirós had proposed that the following text should be added as the last preambular paragraph: "Further concerned at reports about the situation and detention of members of the Bahá'í in the Islamic Republic of Iran".

42. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on that amendment.

43. The amendment was adopted by 16 votes to 2, with 6 abstentions.

44. The CHAIRMAN invited the members of the Sub-Commission to vote by secret ballot on draft resolution E/CN.4/Sub.2/1989/SR.38/Add.1, as amended.

45. Draft resolution E/CN.4/Sub.2/1989/SR.38/Add.1, as amended, was adopted by 17 votes to 3, with 4 abstentions.

Consideration of draft resolutions relating to agenda item 3 (continued)
(E/CN.4/Sub.2/1989/L.7, L.72)

Draft resolution E/CN.4/Sub.2/1989/L.7 (continued)

46. Mr. RAMISHVILI proposed that, in the fourth line of operative paragraph 1, the words "and fundamental freedoms" should be added after the words "of human rights".

47. He also proposed that operative paragraph 2 should be amended to read: "Requests the Secretary-General to consider convening not later than 1991 an international meeting of experts on issues relating to international monitoring in the field of human rights and to inform the Sub-Commission at its forty-second session, under the agenda item "Review of further developments in fields with which the Sub-Commission has been concerned", of plans with regard to the organization of the meeting, in particular relating to participation and background documentation on the functioning of international monitoring mechanisms in the field of human rights". Operative paragraphs 3 and 4 would then be deleted.

48. Mr. NYAMEKYE (Deputy Director of the Centre for Human Rights), referring to the administrative and programme budget implications of draft resolution E/CN.4/Sub.2/1989/L.7, said that, on the basis of the assumption that the expert meeting would be held in Geneva in 1991 for five working days, the estimate for travel and subsistence would amount to \$US 50,000 for 1991, while conference servicing costs would amount to approximately \$US 113,000.

49. Mrs. KSENTINI said that she had not been consulted about the new wording of the draft resolution. The members of the Sub-Commission should have discussed international monitoring before considering the possibility of convening an international meeting. In her view, operative paragraph 4 dealt with a substantive issue and it should therefore not be deleted.

50. Mr. van BOVEN appealed to the members of the Sub-Commission to adopt the draft resolution, as amended, and to hold a further substantive discussion in 1990 when it had the plans for the meeting before it.

51. Mr. JOINET said that the information before the Sub-Commission was insufficient. Since the Commission on Human Rights had decided to convene a meeting of the main bodies involved in international monitoring mechanisms, it would be preferable to wait for the results of that meeting in order to ensure that it was appropriate to hold the meeting referred to in the draft resolution.

52. Mr. RAMISHVILI proposed that a vote should be taken on the draft resolution, as amended. His amendments had already been approved by all the sponsors of the draft resolution.

53. The CHAIRMAN invited the members of the Sub-Commission to vote on draft resolution E/CN.4/Sub.2/1989/L.7, as amended.

54. Draft resolution E/CN.4/Sub.2/1989/L.7, as amended, was adopted by 15 votes to 2, with 3 abstentions.

55. Mrs. KSENTINI, speaking in explanation of vote, said that, despite her interest in the issue, she had not taken part in the vote because she would have liked to have made a proposal, but had not been consulted.

Draft resolution E/CN.4/Sub.2/1989/L.72

56. Mr. RAMISHVILI proposed that the draft resolution should be withdrawn on the grounds that the Sub-Commission had agreed not to consider draft resolutions submitted by a single sponsor. He nevertheless requested that the draft resolution should be included in the report so that the Commission on Human Rights would be aware that it had been proposed.

57. It was so decided.

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

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

58. Mr. CISSE (Secretary of the Sub-Commission) said that Mr. Varela Quirós had proposed that the last preambular paragraph should be amended to read: "Welcoming resolution 1989/11 of the Commission on Human Rights".

59. Mr. SADI referring to operative paragraph 7, proposed that operative paragraph 1 of the draft resolution recommended to the Commission on Human Rights should be amended to read: "... to undertake a study of medically unwarranted discrimination against HIV-infected people or people with AIDS". The reason for that amendment was that discrimination could be medically warranted, as in the case of people with AIDS.

60. Mr. DIACONU said that, if that amendment was adopted, it would have to be introduced throughout the draft resolution wherever necessary.

61. Mrs. KSENTINI said that it would be better not to refer to "medically unwarranted discrimination", which might imply that "medically warranted discrimination" was permitted. The fact that other paragraphs referred to "problems of discrimination" meant that the Special Rapporteur would be able to draw a distinction between warranted and unwarranted discrimination. The issue should be left to the Special Rapporteur.

62. Mrs. WARZAZI, referring to operative paragraph 7, proposed that operative paragraph 2 of the draft resolution recommended to the Commission on Human Rights should be amended to read: "... a study of problems and causes of discrimination ...".

The meeting rose at 9.05 p.m.