



**Economic and Social  
Council**

Distr.  
GENERAL

E/CN.4/Sub.2/2004/SR.18/Add.1  
12 August 2004

Original: ENGLISH

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COMMISSION ON HUMAN RIGHTS  
SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS  
Fifty-sixth session  
SUMMARY RECORD OF THE SECOND PART (PUBLIC)\* OF THE 18th MEETING

Held at the Palais des Nations, Geneva,  
on Monday, 9 August 2004, at 4.50 p.m.

Chairperson: Mr. SORABJEE

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COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT  
OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS  
RESOLUTION 8 (XXIII) (continued)

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\* The summary record of the first part (closed) of the meeting appears as document E/CN.4/Sub.2/2004/SR.18.

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The public part of the meeting was called to order at 4.50 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, 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 2) (continued) (E/CN.4/Sub.2/2004/L.2 and L.12)

Draft resolution on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/Sub.2/2004/L.2)

1. Mr. DECAUX introduced the draft resolution on behalf of its sponsors.
2. The draft resolution was adopted unanimously.

Draft decision on beheadings of civilians (E/CN.4/Sub.2/2004/L.12) (continued)

3. Ms. HAMPSON, introducing the draft decision on behalf of its sponsors, proposed that the document should be retitled “Arbitrary, summary or extrajudicial executions” and that the statement to be adopted by the Sub-Commission should be revised to read:

“The Sub-Commission on the Promotion and Protection of Human Rights recalls that the arbitrary, summary or extrajudicial execution of a human being is unlawful in all circumstances.”

4. The CHAIRPERSON announced that Mr. Alfonso Martínez, Ms. Chung, Mr. Guissé, Ms. O'Connor, Ms. Rakotoarisoa and Mr. Tuñón Veilles wished to become sponsors of the draft decision.
5. The draft resolution, as revised, was adopted unanimously.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (continued)  
(E/CN.4/Sub.2/2004/L.14, L.15, L.17-L.22, L.24, L.25, L.31 and L.51)

Draft resolution on housing and property restitution (E/CN.4/Sub.2/2004/L.14)

6. Mr. DECAUX introduced the draft resolution on behalf of its sponsors and commended Mr. Pinheiro for his contribution to the draft text.
7. The CHAIRPERSON announced that Mr. Bengoa, Mr. Bíró, Mr. Chen, Ms. Koufa, Ms. Motoc, Mr. Salama and Mr. Tuñón Veilles wished to become sponsors of the draft resolution.
8. The draft resolution was adopted unanimously.

Draft resolution on the duration of the Social Forum (E/CN.4/Sub.2/2004/L.15) (continued)

9. Mr. SATTAR, introducing the draft resolution on behalf of its sponsors, said that the Sub-Commission would like the Commission on Human Rights to consider the possibility of extending the duration of the Social Forum.
10. Ms. WARZAZI proposed that the operative paragraph of the draft resolution should be reformulated to read:

*“Recommends that consideration be given to the possibility of extending the annual session of the Social Forum”.*
11. Mr. YOKOTA said that he endorsed Ms. Warzazi’s proposal. However, for reasons of clarity, he would like to insert the words “by the Commission on Human Rights” after the word “given”.
12. Mr. BENGUA endorsed the proposals made by Ms. Warzazi and Mr. Yokota. However, he suggested that the word “session” should be replaced by the words “intersessional meeting”. He would like to add his name to the list of sponsors.
13. Ms. WADIBIA-ANYANWU said that she, too, would like to join the sponsors.
14. The draft resolution, as amended, was adopted unanimously.

Draft resolution on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights (E/CN.4/Sub.2/2004/L.17)

15. Mr. GUISSÉ introduced the draft resolution on behalf of its sponsors.
16. The CHAIRPERSON announced that Mr. Alfonso Martínez, Mr. Alfredsson, Mr. Bíró, Mr. Decaux and Mr. Kartashkin wished to become sponsors of the draft resolution.
17. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights), outlining the financial implications of the draft resolution, said that the estimated cost of the activities foreseen would amount to \$8,400 under Section 24 of the United Nations programme budget. In addition, a provision of \$31,200 would be required to provide staff assistance for the Special Rapporteur. As no provision had been made for such activities under the programme budget for the biennium 2004-2005, they would need to be funded from the regular budget.
18. The draft resolution was adopted unanimously.

Draft resolution on the study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights (E/CN.4/Sub.2/2004/L.18)

19. Mr. BÍRÓ, introducing the draft resolution on behalf of its sponsors, said he hoped all members would agree that Mr. Bossuyt was the expert best qualified to undertake a study on the basis of the working paper submitted by Mr. Decaux on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights (E/CN.4/Sub.2/2004/24).

20. Ms. WARZAZI expressed her gratitude to Mr. Decaux for his excellent working paper and welcomed the fact that Mr. Bossuyt would be appointed to continue the work that Mr. Decaux had commenced. She hoped that Mr. Bossuyt would take into account her strong reservations with regard to paragraph 22 of Mr. Decaux's working paper in which he made reference to the decision by the Committee on Economic, Social and Cultural Rights to include sexual orientation in its interpretation of article 2, paragraph 2, of the relevant International Covenant. She had been involved in the drafting of both International Covenants on Human Rights in the 1960s and could confirm that the issue of sexual orientation had not been raised at that time. She was thankful that a decision had been made to exclude reference to that issue in the Vienna Declaration and Programme of Action. She would like the draft resolution to contain a preambular paragraph indicating that the Sub-Commission had taken note of the comments made by experts during the consideration of the text. A similar paragraph should also be inserted after operative paragraph 2. If the sponsors did not agree with her proposal, she would regretfully be obliged to call for a vote on the draft resolution.
21. Mr. DECAUX pointed out that the last operative paragraph, which contained a text recommended to the Commission on Human Rights for adoption, clearly stated that the decision of the Sub-Commission to appoint Mr. Bossuyt as Special Rapporteur had been based on the working paper by Mr. Decaux and on the comments received and the discussions held at the fifty-sixth session of the Sub-Commission. He had no objection to using a similar formulation in other parts of the draft text.
22. Ms. RAKOTOARISOA said that she wished to add her name to the list of sponsors of the draft resolution but shared Ms. Warzazi's concerns with regard to paragraph 22 of the working paper submitted by Mr. Decaux.
23. Mr. ALFONSO MARTÍNEZ noted with satisfaction that the Sub-Commission had resumed its former practice of requesting special rapporteurs to submit three reports to the Sub-Commission over a period of three years. Such a practice gave the special rapporteurs sufficient time to develop their ideas.
24. Ms. WADIBIA-ANYANWU said she shared Ms. Warzazi's reservations with regard to paragraph 22 of the working paper submitted by Mr. Decaux and endorsed the proposal to insert two additional paragraphs reflecting those reservations.
25. Mr. SATTAR said that, recently, during a brief conversation with Mr. Decaux, he had underscored the concerns expressed by Ms. Warzazi and other members of the Sub-Commission. He hoped that Mr. Bossuyt would take account of the views expressed by the various experts when undertaking his study.
26. Mr. BENGGOA said that, although he did not object to the proposed amendments, he would like the draft text to state very clearly that the views of all members of the Sub-Commission had been taken into consideration. International law had developed over the past 50 years and certain issues that had not been relevant in the past warranted consideration.
27. Mr. SALAMA said he shared the reservations expressed by Ms. Warzazi and various other members.

28. Ms. O'CONNOR said that she agreed in part with Mr. Bengoa. Indeed, the human rights situation had become far more complex over the past 50 years and now encompassed a much broader range of issues. However, she had some reservations about using the Convention on the Elimination of All Forms of Discrimination against Women as a basis for broadening the interpretation of the concept of gender to encompass sexual orientation. If the question of sexual orientation were to be addressed, that should be done in its own context and on its own merits. On that basis, she unhesitatingly supported the reservations expressed by Ms. Warzazi and other members.

29. Ms. HAMPSON agreed with Mr. Bengoa.

30. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights), outlining the financial implications of the draft resolution, said that the estimated cost of the activities foreseen would amount to \$35,300, comprising \$4,100 for travel costs and \$31,200 for staff assistance for the Special Rapporteur. As no provision had been made for such activities under the programme budget for the biennium 2004-2005, they would need to be funded from the regular budget.

31. Mr. ALFONSO MARTÍNEZ asked whether those costs corresponded to the duration of the Special Rapporteur's appointment.

32. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that the costs he had mentioned corresponded to one year only.

33. The draft resolution, as amended, was adopted by consensus.

Draft resolution on the promotion of the realization of the right to drinking water and sanitation (E/CN.4/Sub.2/2004/L.20)

34. Mr. GUISSÉ introduced the draft resolution on behalf of its sponsors.

35. The CHAIRPERSON announced that Ms. Hampson, Ms. Motoc, Mr. Sattar and Mr. Tuñón Veilles wished to become sponsors of the draft resolution.

36. The draft resolution was adopted unanimously.

Draft resolution on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty (E/CN.4/Sub.2/2004/L.21)

37. Mr. BENGOA, introducing the draft resolution on behalf of its sponsors, said that the draft text had been the subject of much high-level discussion.

38. Mr. ALFONSO MARTÍNEZ said he welcomed the fact that, in paragraph 18, the treaty bodies and other United Nations human rights mechanisms were invited to examine situations of poverty as well as situations of extreme poverty. After a decade of examining the implementation of existing human rights norms and standards in the context of extreme poverty, the Sub-Commission should give closer consideration to the question of poverty in general.

39. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights), outlining the financial implications of the draft resolution, said that the estimated cost of the activities foreseen would amount to \$32,000. As no provision had been made for those activities under the programme budget for the biennium 2004-2005, they would need to be funded from the regular budget.

40. Mr. BENGOA said that paragraph 16 should have no financial implications, given that the five people attending the Social Forum were funded from the budget of the Social Forum.

41. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that, to the best of his knowledge, the Social Forum had no budget and therefore any costs incurred in connection with it were additional and were not included in the 2004-2005 programme budget.

42. Mr. SATTAR observed that the General Assembly had provided additional funding for the 2004 Social Forum, allowing for the participation of 10 members of the Sub-Commission. As only seven or eight members had actually been able to attend, he would be interested in knowing whether the money that had been saved could be used in the future.

43. Ms. MOTOC said that the funding provided for the Social Forum should cover the expenses of members of the Sub-Commission, given that they were all members of the Forum.

44. The CHAIRPERSON announced that Mr. Bíró, Mr. Chen, Ms. Chung, Mr. Dos Santos Alves, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Sattar, Mr. Tuñón Veilles, Ms. Wadibia-Anyanwu and Ms. Warzazi wished to become sponsors of the draft resolution.

45. The draft resolution was adopted unanimously.

Draft resolution on the Social Forum (E/CN.4/Sub.2/2004/L.22)

46. Mr. BENGOA introduced the draft resolution on behalf of its sponsors.

47. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that the financial implications of the activities foreseen under the draft resolution for 2005 totalled \$166,700, comprising \$22,200 under section 24 of the programme budget and \$144,500 under section 2. Since no provision had been made for the proposed activities in the programme budget for the biennium 2004-2005, they would need to be funded from the regular budget.

48. The CHAIRPERSON announced that Mr. Decaux, Mr. Dos Santos, Ms. Hampson, Mr. Kartashkin, Ms. Koufa and Ms. Rakotoarisoa had become sponsors of the draft resolution.

49. The draft resolution was adopted unanimously.

Draft decision on the right to development (E/CN.4/Sub.2/2004/L.24)

50. Mr. ALFONSO MARTÍNEZ, introducing the draft decision on behalf of its sponsors, said that Ms. O'Connor should be replaced by Mr. Pinheiro in the list of sponsors. The phrase "without further delay" should be added in the fourth line of the text proposed to the Commission for adoption, after the words "fifty-seventh session".

51. The CHAIRPERSON announced that Mr. Bíró, Mr. Chen, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. Rakotoarisoa, Mr. Sattar, Ms. Warzazi and Mr. Yokota had become sponsors of the draft decision.

52. The draft decision, as revised, was adopted unanimously.

Draft decision on the right to food and progress in developing international voluntary guidelines for its implementation (E/CN.4/Sub.2/2004/L.25)

53. Mr. BENGGOA introduced the draft decision.

54. The CHAIRPERSON announced that Mr. Bengoa and Mr. Alfredsson had been joined as sponsors of the draft decision by Mr. Alfonso Martínez, Mr. Bíró, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota.

55. The draft decision was adopted unanimously.

Draft decision on the effects of debt on human rights (E/CN.4/Sub.2/2004/L.31)

56. The CHAIRPERSON announced that Mr. Alfonso Martínez, Mr. Chen, Mr. Cherif, Ms. Koufa, Mr. Salama and Mr. Sattar had become sponsors of the draft decision.

57. The draft decision was adopted unanimously.

Draft decision on the right to drinking water supply and sanitation (E/CN.4/Sub.2/2004/L.51)

58. Mr. GUISSÉ introduced the draft decision on behalf of its sponsors.

59. The CHAIRPERSON announced that Mr. Alfredsson, Mr. Dos Santos, Ms. Hampson and Mr. Sattar had become sponsors of the draft decision.

60. The draft decision was adopted unanimously.

#### PREVENTION OF DISCRIMINATION:

- (a) RACISM, RACIAL DISCRIMINATION AND XENOPHOBIA
- (b) PREVENTION OF DISCRIMINATION AND PROTECTION OF INDIGENOUS PEOPLES
- (c) PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES  
(agenda item 5) (continued)

Draft resolution on the final report on the study "Indigenous peoples' permanent sovereignty over natural resources" (E/CN.4/Sub.2/2004/L.3)

61. Ms. KOUFA introduced the draft resolution on behalf of its sponsors.



62. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that because the draft resolution had been submitted late, the Conference Services Division had been unable to cost its part of the financial implications. However, he could inform the Sub-Commission of the financial implications under the human rights component of the programme budget, which totalled \$81,300: \$2,300 for the former Special Rapporteur to report in person to the Commission; \$57,000 for the participation of 12 representatives of indigenous communities in the expert seminar; and \$22,000 to cover publication costs.

63. The draft resolution was adopted unanimously.

Draft decision on the impact of intolerance on the enjoyment and respect for human rights (E/CN.4/Sub.2/2004/L.4)

64. The CHAIRPERSON announced that Mr. Alfonso Martínez, Ms. Koufa, Ms. Motoc and Mr. Sattar had become sponsors of the draft decision.

65. The draft decision was adopted unanimously.

Draft decision on the legal implications of disappearance of States and other territories for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous peoples (E/CN.4/Sub.2/2004/L.5)

66. Ms. WARZAZI suggested that the word “expanded” before “working paper” should be deleted from the draft text in paragraph 3.

67. Mr. ALFONSO MARTÍNEZ said that all members of the Sub-Commission should study the draft decision, for the topic did not always receive the attention that it deserved. He wished to become a sponsor of the draft decision.

68. The CHAIRPERSON announced that Ms. Koufa, Ms. O’Connor, Mr. Tuñón Veilles and Ms. Wadibia-Anyanwu had become sponsors of the draft decision.

69. The draft decision, as revised, was adopted unanimously.

Draft decision on protection of indigenous peoples in time of conflict (E/CN.4/Sub.2/2004/L.6)

70. Ms. HAMPSON introduced the draft resolution on behalf of its sponsors.

71. The CHAIRPERSON announced that Ms. Koufa, Mr. Guissé and Ms. Motoc had become sponsors of the draft resolution.

72. The draft decision was adopted unanimously.

Draft resolution on discrimination against leprosy victims and their families (E/CN.4/Sub.2/2004/L.9)

73. The CHAIRPERSON announced that Mr. Alfonso Martínez had become a sponsor of the draft resolution.

74. The draft resolution was adopted unanimously.

Draft resolution on the rights of minorities (E/CN.4/Sub.2/2004/L.23)

75. Mr. BENGUA introduced the draft resolution on behalf of its sponsors.

76. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that the financial implications of the activities foreseen totalled \$210,500 for the human rights component, plus an unknown amount to be costed by the Conference Services Division. A detailed costing would be submitted to the Commission when it took up the matter.

77. Mr. CHEN said that he had doubts about paragraph 16 of the draft resolution but he would not oppose a consensus of the Sub-Commission.

78. The CHAIRPERSON announced that Ms. Chung, Mr. Guissé, Ms. Hampson, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa and Mr. Tuñón Veilles had become sponsors of the draft resolution.

79. The draft resolution was adopted by consensus.

Draft resolution on the International Decade of the World's Indigenous People (E/CN.4/Sub.2/2004/L.32)

Draft resolution on the Working Group on Indigenous Populations (E/CN.4/Sub.2/2004/L.50)

80. Mr. COMBA (Office of the United Nations High Commissioner for Human Rights) said that the two draft resolutions called for a number of meetings to be held in various parts of the world. Additional information would be needed for the costing of the financial implications. He suggested that he should meet privately with Mr. Alfonso Martínez in order to discuss the question. In any event, a detailed costing would have to be submitted to the Commission.

81. Mr. ALFONSO MARTÍNEZ agreed that additional information was needed and said he would be happy to meet with Mr. Comba to discuss the matter.

82. The CHAIRPERSON announced that Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. O'Connor, Mr. Tuñón Veilles and Ms. Warzazi had become sponsors of the draft resolutions.

83. The draft resolutions were adopted unanimously.

The meeting rose at 6.10 p.m.