



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1989/SR.51/Add.1
31 July 1989

ENGLISH:
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE SECOND PART* OF THE 51st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 6 March 1989, at 3 p.m.

Chairman: Mr. BOSSUYT (Belgium)

later: Mrs. ILIC (Yugoslavia)

CONTENTS

Consideration of draft resolutions and decisions on agenda items 5, 8, 9, 10, 12, 18, 19 and 22 (continued)

Question of human rights in Chile (continued)

Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus (continued)

* The summary record of the first part of the meeting appears as document E/CN.4/1989/SR.51.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS ON AGENDA ITEMS 5, 8, 9, 10, 12, 18, 19 AND 22 (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 10) (continued) (E/CN.4/1989/L.28, L.29, L.32, L.53, L.54 and L.55)

Draft resolution E/CN.4/1989/L.28: Question of Western Sahara

1. Mr. ALFONSO MARTINEZ (Cuba) introduced draft resolution E/CN.4/1989/L.28 on behalf of its sponsors. After pointing out that the question of Western Sahara had long exercised the international community, and especially the African and non-aligned countries, he commented briefly on the contents of the draft. Paragraph 2 of the text stated that "the question of Western Sahara is a question of decolonization which remains to be completed on the basis of the exercise by the people of Western Sahara of their inalienable right to self-determination and independence". A negotiated solution was requested in conformity with resolution AHG/Res.104 (XIX) of the Assembly of Heads of State and Government of the Organization of African Unity and General Assembly resolution 40/50. The sponsors also welcomed the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Polisario Front to the joint proposals of the United Nations and the Organization of African Unity with a view to the holding of a referendum and the results of the meeting which had taken place in Marrakesh on 4 January 1989 between King Hassan II and a high-ranking delegation of the Polisario Front (paras. 6 and 7). In addition, the Commission decided to consider the question at its forty-sixth session, under the same agenda item, as a matter of high priority. He hoped that draft resolution E/CN.4/1989/L.28 would receive wide support.
2. Mrs. RAADI (Secretariat) said that Swaziland and Togo had become sponsors of the draft resolution.
3. The CHAIRMAN invited the members of the Commission to take a decision on draft resolution E/CN.4/1989/L.28.
4. Mr. BRANCO (Sao Tome and Principe) said that his country had always supported the efforts of the United Nations and Organization of African Unity to obtain a peaceful settlement in Western Sahara, in the interest of all the parties, and that it had participated in the adoption of Organization of African Unity resolution AHG/Res.104 (XIX). However, his delegation would not be able to participate in the vote on draft resolution E/CN.4/1989/L.28, because, unfortunately there had been no consensus and because it had some difficulties with the wording of paragraph 4.
5. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.28.
6. Cuba, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Botswana, Brazil, Bulgaria, Colombia, Cuba, Cyprus, Ethiopia, German Democratic Republic, India, Mexico, Nigeria, Panama, Peru, Philippines, Rwanda, Spain, Swaziland, Sweden, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: None.

Abstaining: Bangladesh, Belgium, Canada, China, France, Gambia, Germany, Federal Republic of, Iraq, Italy, Japan, Pakistan, Portugal, Senegal, Somalia, Sri Lanka, United Kingdom of Great Britain and Northern Ireland, United States of America.

7. Draft resolution E/CN.4/1989/L.28 was adopted by 24 votes to none, with 17 abstentions.

Draft resolution E/CN.4/1989/L.29: Situation in occupied Palestine

8. Mr. MAHMUD (Bangladesh), introducing the draft resolution on behalf of its sponsors, said that the text took into account both previous Commission decisions on the subject, especially those taken in 1988, and recent developments concerning Palestine - in particular the decisions taken on 15 November 1988 by the Palestine National Council, which most of the international community had welcomed as initiatives favourable to peace.

9. The draft re-affirmed the inalienable right of the Palestinian people to self-determination and requested the convening of an international peace conference on the Middle East, to be attended by the permanent members of the Security Council and the parties to the Arab-Israeli conflict, including the Palestine Liberation Organization. After briefly commenting on other provisions in the text, he pointed out that the Secretary-General would be requested to make available to the Commission, prior to its forty-sixth session, all information pertaining to the implementation of the resolution. Finally, he said that sponsors hoped the draft would be adopted by consensus.

10. Mr. PACE (Secretary of the Commission) said that Afghanistan, Egypt, Nicaragua, Syrian Arab Republic, Tunisia, Democratic Yemen and Zimbabwe had also become sponsors of draft resolution E/CN.4/1989/L.29.

11. At the request of the representative of the United States of America, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.29.

12. Argentina, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, German Democratic Republic, India, Iraq, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Rwanda, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: United States of America.

Abstaining: Belgium, Canada, France, Germany, Federal Republic of, Italy, Japan, Panama, Portugal, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland.

13. Draft resolution E/CN.4/1989/L.29 was adopted by 31 votes to 1, with 11 abstentions.

14. Mr. STEEL (United Kingdom) said that his delegation's abstention did not reflect any change of position by the Government of the United Kingdom. That Government had not recognized the State of Palestine proclaimed on 15 November 1988, and it did not believe that any party should pre-judge the outcome of the negotiations between the parties to the conflict in the Middle East. Its views on an international conference on peace in the Middle East also remained unchanged.

15. Mr. GROLIG (Federal Republic of Germany) said that certain improvements in the text just adopted, as compared with the corresponding resolution at the previous session, had enabled his delegation to abstain. That, however, did not imply any recognition of the State of Palestine. On the other hand, the Federal Republic of Germany was fully in favour of continuing the dialogue begun at the General Assembly meeting held in Geneva in December 1988.

16. Mr. BREGER (United States of America) pointed out that his country had long demonstrated its concern for the Palestinian cause by providing major support to UNRWA, and had unhesitatingly condemned the human rights violations being committed in the occupied territories. It had begun a dialogue with the Palestine Liberation Organization, on condition that the PLO renounced terrorism, and it intended to continue that dialogue. However, he regretted the artificial language used in resolution E/CN.4/1989/L.29. The text was not conducive to progress towards peace. In particular, it was unbalanced, since it did not call upon the Palestinians to shoulder their own responsibilities. Neither did it mention Security Council resolutions 242 (1967) and 338 (1973). All in all, the resolution was not a constructive one, and was not likely to inspire confidence.

Draft resolution E/CN.4/1989/L.32: Situation in Kampuchea

17. Mr. INGLES (Philippines), introducing the draft resolution on behalf of the sponsors, noted that the improved international climate, marked by the withdrawal of Soviet troops from Afghanistan, gave ground for hope that the conflict in Kampuchea might be drawing to a close. Viet Nam had announced its intention of withdrawing its troops by September 1989 in the event of a negotiated settlement or by the end of 1990 if no settlement was reached. The peace process was therefore under way. It was necessary to remain vigilant, however, for the fighting continued inside Kampuchea, and the policy of Vietnamization was continuing. The draft, an initiative by the ASEAN countries, for the Kampuchean problem affected their region directly, was therefore aimed at securing the conditions necessary for achieving the sovereignty and independence of the Kampuchean people, in peace and dignity.

18. Mrs. RAADI (Secretariat) said that Morocco and the Netherlands had become sponsors.

19. Mr. NGO DINH KHA (Observer for Viet Nam) noted that the problem in Kampuchea was to prevent the return of Pol Pot's genocidal régime and the triggering off of a civil war by the Khmer Rouge. The presence of Vietnamese troops in Kampuchea did not prevent the Kampuchean people from exercising their right to self-determination. It had no other goal than to guarantee the Kampuchean people the exercise of their human rights, including the primordial right to live, without being threatened with genocide. In any event, Viet Nam had already withdrawn three quarters of its troops, and had made a sovereign declaration that the remainder would be withdrawn by September 1989 in the framework of a political solution in Kampuchea. He recalled that Vietnamese troops had already come to the aid of the Kampuchean people on three occasions and had withdrawn on each occasion after completing their task.

20. Viet Nam and other friendly countries had proposed to the ASEAN countries that all confrontations in international forums, in particular the Commission, should stop and that the parties directly or indirectly concerned should be encouraged to reach a peaceful solution. Unfortunately, the ASEAN countries' new draft resolution (E/CN.4/1989/L.32) was nothing but a rehash of the previous resolution; it reflected neither the current world trend towards dialogue and détente nor the spirit of co-operation among the countries of south-east Asia that had been seen at the informal meetings at Jakarta. Neither did it meet the international community's deep concern to avoid at all costs a return to a genocidal régime and civil war in Kampuchea. Viet Nam and other fraternal and friendly countries were therefore unable to accept the draft resolution. Rather, his delegation hoped to see a new approach that reflected the actual situation in Kampuchea emerge in the Commission.

21. Mr. NGO HAC TEAM (Observer for Democratic Kampuchea) expressed the gratitude of the Coalition Government of Democratic Kampuchea, headed by Prince Norodom Sihanouk, to the sponsors of draft resolution E/CN.4/1989/L.32 and to the ASEAN countries. He was confident that, like the corresponding resolutions of the previous nine years, the draft would be supported by the majority of the delegations in the Commission.

22. The Coalition Government of Democratic Kampuchea had recently proposed at Jakarta Prince Norodom Sihanouk's 5-Point Peace Plan, which had been published as a document of the Commission under the symbol E/CN.4/1989/70. The Peace Plan provided for the withdrawal of all Vietnamese forces from Kampuchea within a definite timetable and under effective international control, followed by national reconciliation through the formation of a provisional quadripartite Government headed by Prince Norodom Sihanouk. Two international control mechanisms were proposed: a United Nations international control mechanism, with the task of supervising the withdrawal of the Vietnamese forces, the disarming of the armed forces of the four Cambodian parties in excess of the 10,000 man-limit for each party, the phased reduction of military aid, free elections and the non-introduction of foreign armed forces, arms and war material; after the withdrawal a United Nations international peace-keeping force with the task of helping to protect human rights, preventing any one Cambodian party from misusing its forces to the detriment of another, preventing the Khmer Rouge from monopolizing power, preventing a civil war and any acts of foreign aggression.

23. Unfortunately, in the second informal meeting at Jakarta, Viet Nam had maintained its intransigence. As in the past, it had tried to present itself as an outsider, although it had more than 100,000 soldiers and approximately one million settlers in Kampuchea. Furthermore, Viet Nam had not agreed to effective international control of the withdrawal of its troops, and it ruled out the presence of United Nations forces - no doubt for fear that it would be discovered that the so-called troop withdrawals were in fact rotations. Viet Nam had again stated at Jakarta that if the Cambodian factions resolved their problems it would withdraw its troops in September 1989, although it knew perfectly well that such a condition would not be fulfilled, since it was manipulating the régime it had installed in Phnom Penh in the opposite direction. It should also be added that Viet Nam refused to dismantle the "People's Republic of Kampuchea" to make way for the State of Democratic Kampuchea, despite de jure recognition of the latter by the United Nations. In view of Viet Nam's position, the Coalition Government of Democratic Kampuchea had no choice but to continue its struggle and to request the international community to step up its pressure until Viet Nam complied with United Nations resolutions and Cambodia recovered its full independence.

24. Mr. INGLES (Philippines) drew attention to some drafting changes in draft resolution E/CN.4/1989/L.32, which he had just introduced. First of all, the words "The Commission on Human Rights" should be added at the beginning. Next, in the sixth preambular paragraph, the word "and" in the fourth line should be replaced by "pending reconvening". In the French language version of paragraph 4, the text should read "'d'un passé récent" instead of "du passé récent".

25. At the request of the representative of the Ukrainian Soviet Socialist Republic, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.32.

26. Somalia, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Belgium, Botswana, Brazil, Canada, China, Colombia, Cyprus, France, Gambia, Germany, Federal Republic of, Italy, Japan, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Rwanda, Sao Tome and Principe, Senegal, Somalia, Spain, Sri Lanka, Swaziland, Sweden, Togo, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia.

Against: Bulgaria, Cuba, Ethiopia, German Democratic Republic, India, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Iraq.

27. Draft resolution E/CN.4/1989/L.32 was adopted by 35 votes to 7, with 1 abstention.

Draft resolution E/CN.4/1989/L.53: "Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination"

28. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights), drawing attention to the administrative and programme budget implications of draft resolution E/CN.4/1989/L.53 (E/CN.4/1989/L.79), said that the relevant costs to be financed under section 23 of the regular budget (Human Rights) were estimated at \$71,900 for 1989 and \$18,000 for 1990. Should the services of an interpreter be required during the Special Rapporteur's field missions, the corresponding costs were estimated at \$5,000 for each mission, to be financed under section 29 b (Conference Services Division, Geneva).

29. Mr. OMENE (Nigeria), introducing draft resolution E/CN.4/1989/L.53, explained that its approach was similar to those in the resolutions adopted by the Commission at its forty-fourth session and the General Assembly at its forty-third session, but contained a number of new elements. The third preambular paragraph referred to the increasing menace that the activities of mercenaries represented, in particular for African and Central American States. Paragraph 7 expressed appreciation to the Governments of Angola and Nicaragua for the co-operation which they had extended to the Special Rapporteur. In paragraph 13, the Special Rapporteur was requested to seek the point of view of those Governments in whose territories, according to the information communicated to him, mercenaries might have been recruited or trained.

30. The Special Rapporteur's report (E/CN.4/1989/14) and the statements of a number of delegations during the debate confirmed the fact that, if mercenarism was to be eliminated, concerted action was required at the national and international levels. The sponsors had therefore included the Special Rapporteur's recommendation that the work of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries should be supported. He hoped that draft resolution E/CN.4/1989/L.53 would have even broader support than the draft adopted the previous year on the same question.

31. Mrs. RAADI (Secretariat) said that Afghanistan, Bulgaria, Cuba, India, Somalia and Zimbabwe had also become sponsors of draft resolution E/CN.4/1989/L.53.

32. At the request of the representative of Bulgaria, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.53.

33. Botswana, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, German Democratic Republic, India, Iraq, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Rwanda, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: Belgium, Canada, France, Germany, Federal Republic of, Italy, Japan, Portugal, Spain, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Sweden.

34. Draft resolution E/CN.4/1989/L.53 was adopted by 32 votes to 10, with 1 abstention.

Draft resolution E/CN.4/1989/L.54; Situation in southern Africa

35. Mr. GOSHU (Ethiopia), introducing the draft resolution, on behalf of its sponsors, said that the scope of the text was identical to that of the resolution adopted by the Commission on the subject the previous year. The fifth and sixth preambular paragraphs had been added to take account of new developments, while those paragraphs which were outdated had been deleted. The thirteenth, fourteenth, fifteenth and sixteenth preambular paragraphs and paragraph 11 had also been inserted to take account of the changing situation in Namibia and to emphasize the right to self-determination of the people of South Africa. He trusted that the resolution would receive the Commission's unanimous support.

36. Mrs. RAADI (Secretariat) said that Afghanistan and Nicaragua had become sponsors.

37. The CHAIRMAN said that the representative of the Federal Republic of Germany had requested a separate vote on paragraph 10.

38. Paragraph 10 of draft resolution E/CN.4/1989/L.54 was adopted by 31 votes to 8, with 4 abstentions.

39. At the request of the representative of Ethiopia, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.54 as a whole.

40. Cuba, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Bangladesh, Botswana, Brazil, Bulgaria, China, Colombia, Cuba, Cyprus, Ethiopia, Gambia, German Democratic Republic, India, Iraq, Mexico, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Rwanda, Sao Tome and Principe, Senegal, Somalia, Sri Lanka, Swaziland, Sweden, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Venezuela, Yugoslavia.

Against: United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Belgium, Canada, France, Germany, Federal Republic of, Italy, Japan, Portugal, Spain.

41. Draft resolution E/CN.4/1989/L.54 was adopted by 33 votes to 2, with 8 abstentions.

Draft resolution E/CN.4/1989/L.55: Situation in Afghanistan

42. The CHAIRMAN noted that he himself had submitted the draft resolution. If there were no objections, he would take it that the Commission wished to adopt it without a discussion or vote.

43. It was so decided.

44. The CHAIRMAN invited the delegations that wished to do so to explain their vote on the draft resolutions on agenda item 9.

45. Mrs. SUNDH (Sweden) said that her Government considered that the people of Western Sahara should be able to express freely its wishes as to the future of that territory. Her Government supported the efforts of the Secretary-General of the United Nations, in co-operation with the Chairman of the OAU, to find a just and lasting solution to the conflict. The acceptance in principle of the peace proposals constituted significant progress. Sweden had voted in favour of resolution E/CN.4/1989/L.28 because the text mentioned the principles which should provide guidance towards a settlement and the above-mentioned negotiating efforts.

46. Sweden supported the right of the Palestinian people to establish their own State and had welcomed both the declaration of independence and the political communiqué proclaimed by the Palestine National Council in November 1988. In particular, it had noted the PLO's recognition of Israel's right to exist in peace within safe and recognized borders as well as the principle of a two-State solution. It had also welcomed the acceptance by the PLO of Security Council resolutions 242 (1967) and 338 (1973). It regretted that those important elements had not been adequately reflected in resolution E/CN.4/1989/L.29; that defect, together with the wording of certain operative and preambular paragraphs had contributed to its decision to abstain on that text in spite of its support for the general thrust of the resolution.

47. Her delegation had voted in favour of resolution E/CN.4/1989/L.32, on the situation in Kampuchea, although it did not stand behind all parts of the resolution. It would have preferred a clearer reference to the need to prevent the recurrence of the universally-condemned policies and practices of the Pol Pot régime. It would also have preferred a more balanced account of the practices and actions of all parties to the conflict with regard to human rights and the refugee situation.

48. Finally, her delegation had had reservations of a legal and political nature on certain paragraphs in draft resolution E/CN.4/1989/L.54, but since the text was in line with long-standing Swedish policy, it had therefore been able to support the resolution.

49. Mr. CASTRIOTO DE AZAMBUJA (Brazil) said that all the situations dealt with in the resolutions just adopted on agenda item 9 involved serious human rights violations, and more especially the right to self-determination. However, some of the expressions employed in the texts were not appropriate, and were not conducive to finding solutions; his delegation would have preferred more balanced formulations.

50. Mr. HYNES (Canada) said that his delegation had been compelled to abstain in the vote on paragraph 10 of resolution E/CN.4/1989/L.54 because in its opinion the mandatory and comprehensive sanctions against South Africa requested in that paragraph were a matter for the Security Council. On the substance, the Canadian position was one of commitment to sustaining and increasing pressure on South Africa with a view to dismantling apartheid, through selective sanctions such as those adopted by the Commonwealth, which Canada fully applied. In the light of those views, his delegation found it necessary to abstain in the vote on resolution E/CN.4/1989/L.54.

51. Mr. JOHNSON (United States of America) said that his delegation had voted in favour of resolution E/CN.4/1989/L.32 since it believed that the international community must insist that Viet Nam withdraw all its forces from Cambodia. However, it would have preferred a clearer statement in the text of the international community's opposition to any return to power of Pol Pot and the Khmer Rouge.

52. His delegation deeply regretted the fact that resolution E/CN.4/1989/L.53, on the use of mercenaries, did not take into account the recognized legal definition of "mercenary" contained in article 47 of Additional Protocol I to the 1949 Geneva Conventions. Furthermore, the resolution adopted prejudged the results of the work of the Sixth Committee of the General Assembly on the question. His delegation had therefore been obliged to vote against the text. It also believed, in view of the financial implications indicated in document E/CN.4/1989/L.79, that the resources it would be necessary to mobilize would be better spent on other human rights activities.

53. Resolution E/CN.4/1989/L.54, on the situation in southern Africa, contained some interesting changes with respect to the resolutions adopted in previous years. However, his delegation had not been able to support the resolution because of several continuing difficulties, and primarily the demand for comprehensive and mandatory sanctions in paragraph 10.

54. Mr. COSTA LOBO (Portugal) said that his delegation had not been able to vote in favour of paragraph 10 of draft resolution E/CN.4/1989/L.54, concerning comprehensive and mandatory sanctions against South Africa. However, that paragraph also contained a provision concerning the acts of aggression committed by South Africa, which Portugal would have been able to support if a separate vote had been taken.

55. Mr. GROLIG (Federal Republic of Germany) said that his delegation was gratified to see that resolution E/CN.4/1989/L.54 no longer contained a reference to the "armed struggle" in southern Africa. It had been able to abstain on the resolution as a whole, but had had to vote against paragraph 10 because its Government, for reasons of principle, had always been sceptical about the use of economic sanctions for political purposes. It did not wish to resort to methods that could affect the entire population of southern Africa and jeopardize the fate of the entire region.

56. Mr. LEGWAILA (Botswana) said that his delegation had abstained on paragraph 10 of draft resolution E/CN.4/1989/L.54 because his country would not be in a position to implement it.

57. Mr. SECKA (Gambia), referring to draft resolution E/CN.4/1989/L.28, stressed the fact that his Government had always joined in the efforts to find a solution to the question of Western Sahara, in the OAU and the United Nations as well as in other forums. However, his delegation found the text of the resolution inappropriate at a time when significant progress had been made in negotiations conducted by the United Nations and the OAU.

58. The CHAIRMAN said that the Commission had concluded its consideration of the draft resolutions on agenda item 9.

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agenda item 10) (continued) (E/CN.4/1989/L.30, L.33, L.39, L.41, L.43, L.44, L.46, L.47, L.49, L.50, L.51 and L.52)

Draft decision E/CN.4/1989/L.30: Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

59. Mr. CERDA (Argentina) introduced draft decision E/CN.4/1989/L.30, which in his opinion was self-explanatory. In view of the importance of the draft optional protocol to the Convention against Torture, submitted by Costa Rica (E/CN.4/429), the main aim was to ensure that the question was retained, its consideration would be postponed until the forty-seventh session. The sponsors considered the system of visits by a committee of experts to places of detention, envisaged in the draft optional protocol, very useful, as they did the experience of European countries in that regard. He hoped that draft decision E/CN.4/1989/L.30 would be adopted by consensus.

60. Mrs. RAADI (Secretariat) said that Austria, Switzerland and Uruguay had become sponsors.

61. Draft decision E/CN.4/1989/L.30 was adopted without a vote.

Draft resolution E/CN.4/1989/L.33: Human rights in the administration of justice

62. Mr. RAVEN (United Kingdom), introducing draft resolution E/CN.4/1989/L.33 on behalf of the sponsors, explained that the text followed up initiatives taken at previous sessions of the Commission and the General Assembly. The sponsors had noted the large number of instruments in that field. Several international bodies were working to ensure their promotion and implementation, and various Secretariat services were also working towards that end. However, there were relatively few practical measures being taken at the national level. The sponsors were in favour of strengthening the co-ordination and co-operation between those international bodies and the competent Secretariat services. In their view, more importance should be given to human rights questions in the administration of justice both under the programme of advisory services and the information programme. They stressed the desirability of

including models of texts that might be used by national administrations in the context of the assistance furnished under the programme of advisory services. He hoped that there would be a consensus on the draft as there had been on the previous resolutions adopted on the question by the Commission and the General Assembly.

63. Mrs. RAADI (Secretariat) stated that Belgium, Luxembourg, Peru and the Philippines had become sponsors.

64. Draft resolution E/CN.4/1989/L.33 was adopted without a vote.

Draft resolution E/CN.4/1989/L.39: Elaboration of a Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty

65. Mr. WENTZEL (Federal Republic of Germany), introducing the draft resolution on behalf of its sponsors, to which Finland, Luxembourg, Sao Tomé and Principe and Uruguay should be added, noted first of all a number of amendments: in the second preambular paragraph, the words "with satisfaction" should be deleted; after the third preambular paragraph, a new paragraph should be added to read: "Taking into account the views of Governments expressed in favour and against the abolition of the death penalty"; finally, paragraph 5 should be amended to read: "Recommends that the General Assembly consider taking suitable action on a second optional protocol on the abolition of the death penalty."

66. It should be pointed out that the draft second optional protocol did not pass any moral judgement on countries not considering the abolition of the death penalty or put any pressure on them to accede to it.

67. The preamble referred to Sub-Commission resolution 1988/22, by which the Sub-Commission had decided without a vote to transmit the comparative analysis and the draft second optional protocol, prepared by the Special Rapporteur, to the Commission, and stressed that only States parties to the International Covenant might become parties to the second optional protocol. In paragraph 1, the Commission expressed its deep appreciation to the Special Rapporteur; in paragraph 2, it transmitted to the General Assembly the comparative analysis and the draft second optional protocol, as well as the Sub-Commission's comments; in paragraph 3 it requested the Secretary-General to bring the comparative analysis to the attention of all Governments for their comments. In short, the proposed draft was the result of intensive consultations with a large number of delegations from all regional groups, and the sponsors had done their best to take into account the suggestions made during the consultations. They therefore hoped that the draft could be adopted without a vote.

68. Draft resolution E/CN.4/1989/L.39 was adopted without a vote.

Draft resolution E/CN.4/1989/L.41: Hostage-taking

69. Mrs. AVELINE (France), introducing the draft resolution on behalf of the sponsors, noted that the number of hostage-takings was apparently not increasing; however, there were still too many victims of such acts, and the

international community must bring pressure to bear for the immediate release of persons detained or kidnapped. The text of the draft departed very little from that of the previous year, and she was confident it would be adopted by consensus.

70. Mrs. RAADI (Secretariat) stated that Colombia and Luxembourg had become sponsors of the draft resolution.

71. Draft resolution E/CN.4/1989/L.41 was adopted without a vote.

Draft resolution E/CN.4/1989/L.43: Question of enforced or involuntary disappearances

72. Mrs. AVELINE (France), introducing the draft resolution on behalf of its sponsors, explained that its purpose was, on the one hand, to draw the international community's attention once more to the unacceptable persistence of the phenomenon of disappearances and, on the other hand, to pay a well-deserved tribute to the Working Group on Enforced or Involuntary Disappearances, which had performed outstanding investigatory work, the findings of which were contained in documents E/CN.4/1989/18 and E/CN.4/1989/18/Add.1; the latter document concerned the results of the Working Group's visit to Colombia. In comparison with the previous year, the operative part had been strengthened by two new paragraphs (6 and 7), and paragraph 11 had been expanded; that paragraph thanked the Governments, still too few in number, which had invited the Working Group and asked them to give all necessary attention to its recommendations. She hoped the draft would be adopted by consensus.

73. Draft resolution E/CN.4/1989/L.43 was adopted without a vote.

Draft resolution E/CN.4/1989/L.44: Staff members of the United Nations and the specialized agencies in detention

74. Mr. CABRAL (Portugal), introducing the draft resolution on behalf of the sponsors, noted that in his report on the detention of staff members of the United Nations and their families (E/CN.4/1989/19), the Secretary-General had indicated that the situation had deteriorated during the period under consideration, since there had been 168 new cases of arrest or kidnapping of staff members in 16 countries. The Sub-Commission had already dealt with that question at its previous session, and through resolution 1988/9 it had entrusted one of its members, Mrs. Bautista, with the task of undertaking an examination of the situation. At a time when the United Nations was taking on broader peace-keeping responsibilities, it must more than ever ensure that the human rights of its staff members were protected. The draft resolution effectively took account of developments in the situation since the previous year and of the Sub-Commission decision.

75. Commenting briefly on the text, he drew attention to paragraph 3 in which Member States were urged to allow medical teams to investigate cases in which the health of staff members and experts and their families who were being detained was reported to have suffered, and to paragraph 4 which urged Member States to provide adequate and prompt information concerning the arrest or detention of United Nations staff members and their families. He hoped the draft resolution would be adopted without a vote.

76. Mrs. RAADI (Secretariat) noted that the United States of America, France and Luxembourg should be added to the list of sponsors.

77. Draft resolution E/CN.4/1989/L.44 was adopted without a vote.

Draft resolution E/CN.4/1989/L.46: Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

78. Mr. RONQUIST (Sweden), introducing the draft resolution on behalf of the sponsors, noted first of all a correction in the fourth preambular paragraph: the second line should read "General Assembly resolution 43/132 of 8 December 1988,". He recalled that the Convention against Torture had entered into force in 1987 and that so far 46 States had ratified it. The first report of the Committee against Torture had been circulated under the symbol A/43/46.

79. Commenting briefly on the draft, he pointed out that the sponsors stressed the importance of strict adherence by States parties to the obligations under the Convention and the need for the Committee against Torture to develop an effective reporting system. The resolution also requested all States to become parties to the Convention and invited those that had ratified it to consider the possibility of making the declaration provided for in articles 21 and 22. He hoped the draft could be adopted without a vote.

80. Mrs. RAADI (Secretariat) noted that Afghanistan, the Byelorussian Soviet Socialist Republic, Cameroon, Peru, the Philippines, Togo and the United States of America had become sponsors.

81. Draft resolution E/CN.4/1989/L.46 was adopted without a vote.

Draft resolution E/CN.4/1989/L.47: United Nations Voluntary Fund for Victims of Torture

82. Mr. RONQUIST (Sweden), introducing the draft resolution on behalf of the sponsors, recalled that the Voluntary Fund for Victims of Torture had been set up in 1981 by General Assembly resolution 36/151, and that it was administered by the Secretary-General with the help of a Board of Trustees. Its activities were described in document A/43/779. The purpose of the draft resolution was to express its appreciation to the Board of Trustees for the work it had carried out and to those Governments, organizations and individuals that had already contributed to the Fund. It appealed to all those in a position to do so to respond favourably to requests for contributions. The Secretary-General was requested to make use of all existing possibilities to assist the Board of Trustees, inter alia, through the dissemination of information material designed to make the Fund and its humanitarian work better known. He said that Gambia had become a sponsor and expressed the hope that the text could be adopted without a vote.

83. Mrs. RAADI (Secretariat) stated that Luxembourg, Peru and the United States of America had become sponsors.

84. Draft resolution E/CN.4/1989/L.47 was adopted without a vote.

Draft resolution E/CN.4/1989/L.49: Political prisoners

85. Following a discussion in which Mr. STEEL (United Kingdom), Mr. LEGWAILA (Botswana), Mr. MAYIRA (Rwanda) and Mrs. MUKHERJI (India) took part, the CHAIRMAN suggested that draft resolution, concerning which there had been requests for amendments, should be considered when the revised text was issued in document E/CN.4/1989/L.49/Rev.1.

86. It was so decided.

Draft resolution E/CN.4/1989/L.50: Right to freedom of expression and opinion

87. Mr. HOLMES (Canada), introducing the draft resolution on behalf of the sponsors, reminded the Commission that it had requested the Sub-Commission to study the question and that the Sub-Commission had adopted decision 1988/110, noted in paragraph 3, in which it requested one of its members, Mr. Türk, to prepare a working paper. In paragraph 4, the Commission decided to review the matter at its forty-sixth session on the basis, inter alia, of the working paper and any decisions adopted by the Sub-Commission in that regard. He hoped that the draft, whose purpose was identical to that of a resolution adopted the previous year, would be adopted without a vote.

88. Mrs. RAADI (Secretariat) noted that Luxembourg had become a sponsor.

89. Draft resolution E/CN.4/1989/L.50 was adopted without a vote.

Draft resolution E/CN.4/1989/L.51: Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

90. Mr. RIETJENS (Belgium), introducing the draft resolution on behalf of the sponsors, recalled that in 1988 the Commission had requested the Sub-Commission to finalize the draft declaration prepared by the Special Rapporteur, Mr. Singhvi. Since the Sub-Commission had simply transmitted the text without any comments or recommendations, the sponsors, who had been anxious to avoid any duplication of the Commission's work with that of other bodies more involved in the subject, such as the Committee on Crime Prevention and Control and the United Nations Congress on the Prevention of Crime and the Treatment of Offenders, suggested in paragraph 3 that Mr. Singhvi's draft declaration and study should be transmitted to those bodies. They welcomed the close co-operation established between the Centre for Human Rights and the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the United Nations Office at Vienna and requested the Secretary-General to make appropriate arrangements to further improve such co-operation (para. 4). In paragraph 7 the Sub-Commission was requested to consider effective means to monitor the implementation of the Basic Principles on the independence of the judiciary and the protection of practising lawyers. He hoped that the Commission would show its appreciation of Mr. Singhvi's extensive and praiseworthy work by adopting the draft resolution without a vote.

91. Draft resolution E/CN.4/1989/L.51 was adopted without a vote.

Draft resolution E/CN.4/1989/L.52: Torture and other cruel, inhuman or degrading treatment or punishment: report of the Special Rapporteur

92. Mr. RIETJENS (Belgium) introduced the draft resolution on behalf of the sponsors, who now included the United States of America and Finland. The text followed the broad lines of a resolution adopted the previous year and added a few ideas taken from the report of the Special Rapporteur on torture (E/CN.4/1989/15).

93. The task at hand was to increase the international community's efforts to prevent torture, which, according to the Special Rapporteur, was a continuing phenomenon. The sponsors drew attention to the Special Rapporteur's recommendations and conclusions, in particular in paragraphs 5, 7 and 8. They believed that those recommendations were in keeping with the instruments already adopted by the General Assembly that were mentioned in the preamble, especially the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. To bring paragraph 8 more into line with principle 24 of the Body of Principles, the sponsors, at the request of some delegations, had amended it to read: "Underlines further the recommendation of the Special Rapporteur aiming at the organization of a proper medical inspection for arrested or detained persons, as promptly as possible after their admission to the place of detention."

94. The sponsors had also wished to note that with the recent entry into force of a regional convention, useful experience could be gained which might make it easier to determine whether such a system of periodic visits by independent experts to places of detention might be envisaged on a world-wide scale (para. 3). Finally, the sponsors had wished to encourage the Governments that might need to invite the Special Rapporteur to visit their country for consultations and exchanges of views and to thank the Governments that had already invited the Special Rapporteur, requesting them to give due consideration to his views. His delegation hoped that, like the corresponding resolution the previous year, the draft could be adopted without a vote.

95. Mr. STEEL (United Kingdom) said that his delegation wished to become a sponsor.

96. Draft resolution E/CN.4/1989/L.52 was adopted without a vote.

Draft decision 2 submitted to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Question of human rights and states of emergency

97. The CHAIRMAN drew attention to draft decision 2 submitted to the Commission by the Sub-Commission, which appeared on page 21 of the report on the work of its fortieth session (E/CN.4/1989/3).

98. Draft decision 2 submitted to the Commission by the Sub-Commission was adopted without a vote.

99. The CHAIRMAN invited delegations that wished to do so to explain their vote on the resolutions and decisions relating to agenda item 10.

100. Mr. FUJITA (Japan) explained that his delegation had joined in the consensus on resolution E/CN.4/1989/L.39 on the understanding that its provisions concerned countries that had abolished the death penalty or intended to do so, and that countries that wished to maintain it were not being asked to reconsider their position.

101. The CHAIRMAN indicated that the Commission had thus concluded its consideration of the resolutions and decisions relating to agenda item 10.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTIETH SESSION (agenda item 19) (continued)
(E/CN.4/1989/L.31, L.34, L.35, L.36, L.42, L.45, L.48; draft resolutions III, V, VI, VII, VIII and draft decisions 1, 4 and 5 submitted by the Sub-Commission)

Draft decision E/CN.4/1989/L.31: Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

102. Mr. TROTTIER (Canada) introduced the draft resolution on behalf of the sponsors. Commenting briefly on the text, he said it thanked the Working Group on Indigenous Populations and its Chairman-Rapporteur, Mrs. Daes, for their work and requested the Secretary-General to accord to Mrs. Daes the resources needed to continue the elaboration of a draft declaration on the rights of indigenous populations. There were two changes in the text of the draft: in the eighth preambular paragraph, after the word "seminar", the following words should be inserted "held pursuant to Economic and Social Council resolution 1988/35, dated 27 May 1988, entitled 'Study of the problem'", after which the word "on" should be replaced by "of" and quotation marks added after the word "populations"; in paragraph 8, after the word "seminar", there should be added a phrase reading "held pursuant to Economic and Social Council resolution 1988/35" and the words "on the effects of racism and racial discrimination" should be deleted. He hoped the draft could be adopted by consensus.

103. Mrs. RAADI (Secretariat) said that Afghanistan, China, Cyprus, Peru and Zaire had become sponsors.

104. Mrs. FERRIOL (Cuba) said that her delegation would also like to become a sponsor.

105. Draft resolution E/CN.4/1989/L.31 was adopted without a vote.

Draft resolution E/CN.4/1989/L.34: Report of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

106. Mr. STRUYE DE SWIELANDE (Belgium), introducing the draft resolution on behalf of the sponsors, said that the text followed on from resolution 1988/42, adopted by consensus at the previous session. Its purpose was to express support for the activities of the Working Group on Contemporary Forms of Slavery, whose report had been submitted to the Sub-Commission in

document E/CN.4/Sub.2/1988/32, and to make its work more effective and systematic with the support of the States parties and the Centre for Human Rights. He hoped the draft could be adopted by consensus.

107. Draft resolution E/CN.4/1989/L.34 was adopted without a vote.

Draft resolution E/CN.4/1989/L.35: Work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

108. Mr. HILGER (Federal Republic of Germany) introduced the draft on behalf of the sponsors. Everyone was aware of the importance of the guidelines which the Commission gave to the Sub-Commission for its work; the draft resolution repeated the relevant principles in that respect, including the need for the Sub-Commission to give priority to those topics on which standards were being prepared, to concentrate its attention on those specific human rights issues on which it could make a distinctive contribution and to seek the widest possible measure of agreement on its resolutions. He hoped the text could be adopted by consensus.

109. Mrs. RAADI (Secretariat) said that Luxembourg and Zaire wished to become sponsors.

110. Draft resolution E/CN.4/1989/L.35 was adopted without a vote.

Draft resolution E/CN.4/1989/L.36: Status of special rapporteurs

111. Mr. HILGER (Federal Republic of Germany), introducing the draft resolution on behalf of the sponsors, recalled that at its two previous sessions the Sub-Commission had studied the case of Mr. Mazilu, the Sub-Commission expert entrusted with the task of preparing a report on human rights and youth. In resolution 1988/37, the Sub-Commission had expressed the opinion that Mr. Mazilu, in his continuing capacity of Special Rapporteur, enjoyed the privileges and immunities necessary for the performance of his duties, as provided for in article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, to which Romania was a party. In the draft under consideration, it was noted that the Romanian Government did not concur in the applicability of those provisions; consequently, the Commission recommended that the Economic and Social Council should request, pursuant to Article 96 (2) of the Charter of the United Nations and General Assembly resolution 89 (I) of 11 December 1946, an advisory opinion from the International Court of Justice on that question. He hoped the draft resolution could be adopted without a vote.

112. Mrs. RAADI (Secretariat) said that Luxembourg had become a sponsor.

113. At the request of the representative of the German Democratic Republic, a vote was taken by roll-call on draft resolution E/CN.4/1989/L.36.

114. Japan, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Belgium, Brazil, Canada, Colombia, Cyprus, France, Gambia, Germany, Federal Republic of, India, Italy, Japan, Mexico, Nigeria, Panama, Peru, Philippines, Portugal, Sao Tome and Principe, Senegal, Spain, Swaziland, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

Against: Bulgaria, Cuba, German Democratic Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Bangladesh, Botswana, China, Ethiopia, Iraq, Morocco, Pakistan, Rwanda, Somalia, Sri Lanka, Togo, Yugoslavia.

115. Draft resolution E/CN.4/1989/L.36 was adopted by 26 votes to 5, with 12 abstentions.

Draft resolution E/CN.4/1989/L.42: Administrative detention without charge or trial

116. Mr. GOMPERTZ (France), introducing the draft resolution on behalf of the sponsors, recalled that the Sub-Commission had been studying the question of administrative detention for several years. It had entrusted Mr. Joinet, Special Rapporteur, with the task of analysing the information provided by Governments, specialized agencies, governmental organizations and non-governmental organizations. It had been announced that Mr. Joinet's report would be submitted the following year; that was why the Commission would request the Sub-Commission to consider the report at its forty-first session and to make any proposals it deemed necessary on the question to the Commission. He hoped the text could be adopted by consensus.

117. Mrs. RAADI (Secretariat) said that Luxembourg had become a sponsor.

118. Draft resolution E/CN.4/1989/L.42 was adopted without a vote.

Draft resolution E/CN.4/1989/L.45: The right of everyone to leave any country, including his own, and to return to his country

119. Mr. STRUYE DE SWIELANDE (Belgium), introducing the draft resolution on behalf of the sponsors, explained that it was a transitional text. The Commission would take note of the fact that the Sub-Commission was to consider at its forty-first session the report on the right of everyone to leave any country, including his own, and to return to his country (E/CN.4/Sub.2/1989/35 and Add.1 and Add.1/Corr.1).

120. Mrs. RAADI (Secretariat) said that Spain, Ireland and Peru had become sponsors.

121. Draft resolution E/CN.4/1989/L.45 was adopted without a vote.

Draft resolution E/CN.4/1989/L.48: Principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder

122. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) said that the administrative and programme budget implications of draft resolution E/CN.4/1989/L.48, which should be submitted in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, had not yet been distributed; they would appear in document E/CN.4/1989/L.92. For the time being, he wished to inform the Commission of the financial implications of the recommendation made in paragraph 10, according to which an open-ended working group of the Commission would meet for two weeks prior to the forty-sixth session to examine the draft body of principles and guarantees of the rights of persons detained on grounds of mental ill-health or suffering from mental disorder submitted by the Sub-Commission, with a view to submitting it to the Commission at its forty-sixth session. The cost of attendance for the members of the Commission in the work of the open-ended working group would be covered under the normal provision for attendance at the Commission; conference servicing costs to be financed under section 29 B of the regular budget were estimated at \$224,300 for 1990.

123. Mrs. MUKHERJI (India) recalled that a few days earlier, it had not been possible to adopt draft resolution E/CN.4/1989/L.26 because its financial implications had not been submitted 24 hours in advance; although she would not stand in the way of the adoption of draft resolution E/CN.4/1989/L.48, she would like all draft resolutions to be treated in the same way.

124. Mr. STEEL (United Kingdom) thanked the delegation of India for its understanding and introduced draft resolution E/CN.4/1989/L.48 on behalf of the sponsors. The sponsors had felt that, in order to consider the draft body of principles and guarantees of the rights of persons detained on grounds of mental ill-health or suffering from mental disorder submitted by the Sub-Commission, the Commission should establish an open-ended working group to examine the text prior to its forty-sixth session, with the participation of Governments, specialized agencies and governmental and non-governmental organizations, especially organizations representing the disabled. He hoped that the draft could be adopted by consensus.

125. Mrs. RAADI (Secretariat) said that Peru and Zaire had become sponsors.

126. Draft resolution E/CN.4/1989/L.48 was adopted without a vote.

Draft resolution III submitted to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Study on treaties, agreements and other constructive agreements between States and indigenous populations

127. The CHAIRMAN drew attention to draft resolution III which appeared on page 14 of the Sub-Commission's report (E/CN.4/1989/3).

128. Mr. JOHNSON (United States of America) said he would like to make a comment, which was at the same time an explanation of vote, on the financial implications of the draft resolution, appearing on page 144 of the Sub-Commission's report. It was envisaged that a consultant at the P-4 level would be engaged for 12 months, at a cost of \$104,000, to assist in the drafting of the study requested. His delegation wished to stress, as it had already done in the Sub-Commission, that the members of the Sub-Commission should be capable of drafting the reports entrusted to them by themselves, failing which they should ask to be relieved of their functions.

129. The estimate of \$104,000 was too high; instead, the Special Rapporteur should simply make do with temporary assistance from the Centre for Human Rights, or at the most the help of a consultant at the P-1 or P-2 level. An estimate of half that amount, proposed in connection with draft resolutions E/CN.4/1989/L.22, L.25 and L.26 - which would soon be considered for adoption - was tied to the condition that savings would have to be effected to make that funding possible. It was therefore totally paradoxical that an estimate that was twice as high, and what was more in response to a request not emanating from Governments, should be untied. The United States therefore intended to follow very closely the study in question and the expenses it would involve. For the time being, it would not participate in the adoption of draft resolution III.

130. Draft resolution III submitted by the Sub-Commission was adopted without a vote.

Draft resolution V submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Movement and dumping of toxic and dangerous products and wastes

131. The CHAIRMAN drew attention to draft resolution V contained on page 16 of the Sub-Commission's report (E/CN.4/1989/3).

132. Mr. OMENE (Nigeria) proposed the following amendment to paragraph 3: at the end of the paragraph the semicolon should be replaced by a comma and the following phrase added: "and to maintain its leading role within the United Nations system for dealing with this serious problem;". He hoped the draft resolution, as amended, could be adopted without a vote, as it had been in the Sub-Commission.

133. Draft resolution V submitted by the Sub-Commission, as orally amended, was adopted without a vote.

Draft resolution VI submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care

134. The CHAIRMAN drew attention to draft resolution VI, which appeared on page 17 of the Sub-Commission's report (E/CN.4/1989/3).

135. Mr. STEEL (United Kingdom) noted that the draft resolution had been superseded by draft resolution E/CN.4/1989/L.48 and for that reason should not be adopted.

136. Draft resolution VI submitted by the Sub-Commission was not adopted.

Draft resolution VII submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Guidelines on the use of computerized personal files

137. The CHAIRMAN drew attention to draft resolution VII contained on page 17 of the Sub-Commission's report (E/CN.4/1989/3).

138. Mr. JOHNSON (United States of America) proposed the following amendments to the text, which should enable it to be adopted without a vote: paragraphs 2 and 3 should be replaced by paragraphs 2 and 3 below, and two new paragraphs 4 and 5 should be added:

"2. Decides to transmit to the General Assembly', through the Economic and Social Council, the final report of the Special Rapporteur;

3. Requests the Secretary-General to bring the final report of the Special Rapporteur to the attention of all Governments and to invite the Governments to communicate their comments to him before 1 September 1989;

4. Requests the Secretary-General to submit to the General Assembly for consideration at its forty-fourth session the aforementioned text and a report containing the views expressed thereon by Governments;

5. Recommends that the General Assembly consider, as a matter of priority, the adoption and publication of the 'Guidelines on the use of computerized personal files'".

139. He noted that the formulations he was proposing were those of draft resolution E/CN.4/1989/L.39, on which a similar situation had arisen.

140. Mr. GOMPERTZ (France) said that his delegation was especially interested in draft resolution VII since it concerned a study by Mr. Joinet, a French expert. The proposal made by the representative of the United States had given rise to extensive consultations, and it was certainly acceptable, on the one hand because it would not hold up consideration of the Guidelines by the General Assembly, and on the other hand because it would give Governments an opportunity to express their views. His delegation also hoped that draft resolution VII, as amended, could be adopted by consensus.

141. Draft resolution VII submitted by the Sub-Commission, as orally amended, was adopted without a vote.

Draft resolution VIII submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Slavery and slavery-like practices

142. The CHAIRMAN drew attention to draft resolution VIII appearing on page 18 of the Sub-Commission's report (E/CN.4/1989/3).

143. Mr. RIETJENS (Belgium) pointed out that the draft duplicated resolution E/CN.4/1989/L.34, which had already been adopted; for that reason it should not be adopted.

144. Draft resolution VIII submitted by the Sub-Commission was not adopted.

Draft decisions 1, 4 and 5 submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities: Human rights and disability; Traditional practices; The status of the individual and contemporary international law

145. The CHAIRMAN drew attention to draft decisions 1, 4 and 5 contained on pages 21 and 22 of the Sub-Commission's report (E/CN.4/1989/3).

146. Draft decisions 1, 4 and 5 submitted by the Sub-Commission were adopted without a vote.

147. The CHAIRMAN invited delegations that wished to do so to explain their vote on the draft resolutions and decisions relating to agenda item 19.

148. Mr. FUJITA (Japan) indicated that, although it had joined in the consensus on draft resolution VII submitted by the Sub-Commission, his delegation believed that ways of protecting personal information varied from country to country, in the light of social and cultural contexts; for that reason, the use of computerized files should be subject to domestic regulations.

149. Mr. MAXIM (Observer for Romania), speaking on resolution E/CN.4/1989/L.48, deeply regretted the fact that the resolution substituted an artificial problem for a real one. The real problem was that of establishing a report on human rights and youth. He gave an assurance that Romania was prepared to continue contributing to that task. However, resolution E/CN.4/1989/L.48 distorted for political ends the situation created by the state of health of Mr. Mazilu, the Romanian expert entrusted with the study. Mr. Mazilu was seriously ill, and medical certificates submitted in that connection had not been contested. The Romanian authorities were unwilling to disregard medical advice.

150. Furthermore, in the memorandum they had submitted on the subject, the Romanian authorities had stressed that in their view the problem of privileges and immunities under the 1946 Convention did not arise, since a United Nations expert enjoyed such privileges only while on official mission, and not at all times and in any country he might visit for reasons unconnected with that mission. The resolution also did not take into account the reservation made by Romania in respect of the Convention, namely that a request addressed to

the International Court of Justice was admissible only with the agreement of the State concerned. His delegation therefore hoped that efforts would be focused more on the real objective, which was the establishment of the report on human rights and youth.

151. The CHAIRMAN indicated that the Commission had concluded its consideration of draft resolutions and decisions relating to agenda item 19.

IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF (agenda item 22) (continued) (E/CN.4/1989/L.57)

Draft resolution E/CN.4/1989/L.57: Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

152. Mr. HOLMES (Canada), introducing the draft resolution on behalf of the sponsors, said that the text repeated the provisions of resolution 1988/55, adopted the previous year by consensus. In particular, paragraph 9 contained requests addressed to the Sub-Commission. Following extensive consultations, the sponsors had decided to make the following amendment to paragraph 10: The semicolon at the end of the current text should be replaced by a comma, and the following words should be added, "with a view to assisting the Commission in considering further ways and means of strengthening international action to promote and protect the right to freedom of thought, conscience, religion and belief, including the question of the desirability of any further standard-setting activity in this area in the light of General Assembly resolution 41/120 of 4 December 1986;". Given the consultations that had taken place on the subject, he trusted that the draft resolution as amended would be adopted without a vote.

153. Mrs. RAADI (Secretariat) said that Peru had become a sponsor.

154. Draft resolution E/CN.4/1989/L.57, as orally amended, was adopted without a vote.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT (agenda item 8) (continued) (E/CN.4/1989/L.22, L.25/Rev.1, L.26, L.38 and L.40)

Draft resolution E/CN.4/1989/L.26: Problems related to the right to enjoy an adequate standard of living; the right to development

155. Mrs. ILIC (Yugoslavia) said she had already introduced the draft resolution, whose financial implications were contained in document E/CN.4/1989/L.40. The sponsors had made an amendment at the request of the delegation of the United States of America: in paragraph 5, after the words "in 1989", the words "within existing resources," should be added.

156. Mrs. RAADI (Secretariat) said that Afghanistan, Bulgaria, Peru, the Philippines, Syrian Arab Republic, the Ukrainian Soviet Socialist Republic, Romania and Zaire had become sponsors.

157. Mr. JOHNSON (United States of America) noted that at the two previous sessions, the resolution on the right to development had been adopted without a vote. His delegation had made known its position at that time and saw no point in recalling it. It would not participate in the adoption of draft resolution E/CN.4/1989/L.26.

158. Draft resolution E/CN.4/1989/L.26, as orally amended, was adopted without a vote.

Draft resolution E/CN.4/1989/L.22: Reporting obligations of States parties to international instruments on human rights and effective functioning of bodies established pursuant to such instruments; ways and means of improving the reporting system under the United Nations human rights instruments

159. Mr. MEZZALAMA (Italy) introduced draft resolution E/CN.4/1989/L.22, whose financial implications were contained in document E/CN.4/1989/38, on behalf of its sponsors. He noted that the submission of a large number of human rights reports placed a heavy burden on States and the Centre for Human Rights. At the last meeting of persons chairing the human rights treaty bodies, in October, ways of tackling the problem had been sought. It had been felt that one such approach would be computerization, and the appointment of a task force had accordingly been recommended. Draft resolution E/CN.4/1989/L.22 was in keeping with that request; the planned task force would comprise a small number of experts. He hoped the text would be adopted by consensus.

160. Mrs. RADDI (Secretariat) said that Australia, Canada, Japan, Mexico, Peru, Philippines, Portugal and the United Kingdom had become sponsors.

161. Draft resolution E/CN.4/1989/L.22 was adopted without a vote.

Draft resolution E/CN.4/1989/L.25/Rev.1: Effective functioning of bodies established pursuant to United Nations human rights instruments

162. Mr. TROTTIER (Canada) introduced the draft resolution, whose financial implications were contained in document E/CN.4/1989/L.37, on behalf of its sponsors. He pointed out the changes made in the text as compared with the previous text (E/CN.4/1989/L.25). In reference to General Assembly resolution 43/115 on the same question, he noted that paragraph 3 acknowledged the recommendations of the meeting of persons chairing the human rights treaty bodies, held at Geneva in October 1988, and noted that the General Assembly could consider alleviating the financial difficulties of those bodies by granting them advances out of the United Nations regular budget. In paragraph 4 it was emphasized that any temporary financial assistance should be provided without prejudice to States parties' financial obligations. In paragraph 5, the Secretary-General was requested to entrust an expert with the task of preparing a study on possible long-term approaches to enhancing the operation of those bodies. He stressed that the draft resolution was

aimed at alleviating the heavy constraints that prevented the bodies established under the international human rights instruments from performing their important tasks in satisfactory conditions.

163. Draft resolution E/CN.4/1989/L.25/Rev.1 was adopted without a vote.

164. The CHAIRMAN invited delegations that wished to do so to explain their vote on the draft resolutions relating to agenda items 8 and 18.

165. Mr. KAMINAGA (Japan), referring to resolution E/CN.4/1989/L.25/Rev.1, welcomed the efforts of the Canadian delegation, which had elaborated the text to make the present mechanism for implementing human rights standards more effective. His delegation had joined in the consensus on the text, but wished to point out certain problems in paragraph 3, which referred to the temporary allocation of funds to the bodies established under international human rights instruments out of the United Nations regular budget which would be reimbursed from the contributions received within the same budget year. That method seemed to go beyond the mandate of the Commission on Human Rights: the measures to be taken in order to resolve the financial difficulties in question should be considered first by the States parties prior to their transmission to the Economic and Social Council and the General Assembly. Second, it would be better to await the results of efforts by the Secretary-General, pursuant to General Assembly resolution 43/115, to strengthen collection procedures. Third, it was difficult to agree that States which were not parties to certain instruments should be obliged to share the financial burden of the bodies concerned by means of temporary allocations out of the United Nations regular budget. Fourth, the method would put an increased burden on the United Nations, which had experienced serious financial constraints in the last two years. Therefore, although the resolution adopted was a useful one, States would have to make further efforts to alleviate the financial constraints under which the United Nations laboured.

166. Concerning resolution E/CN.4/1989/L.26, he said that although his delegation had joined in the consensus, it had not changed its position on the question of right to development. Obviously it understood that development was a concern for all countries but it believed that the right to development could not be compared to human rights, which were the rights of individuals but not of States, and which further were already defined in the Universal Declaration and the Covenants. An attempt to enlarge the concept of human rights in that way might weaken respect for those rights. In addition, some paragraphs mentioned new programmes as part of the activities of the Working Group on the Right to Development: the Member States should first study the purpose, necessity, urgency, priority and financial implications of those programmes and the Commission should then discuss them.

167. Mr. STEEL (United Kingdom) said that his delegation, which had carefully studied the financial implications of resolution E/CN.4/1989/L.26, was grateful to the sponsors for having agreed to amend paragraph 5. In those conditions it had been able to join in the consensus; however, it remained concerned with regard to the global consultations also mentioned in the text and with regard to the evaluation mechanism provided for in paragraph 10, the need for which seemed doubtful.

168. Paragraph 3 of resolution E/CN.4/1989/L.25 had raised some problems for his delegation, which welcomed the amendments made. However, it would like to stress that the United Kingdom, which had ratified the Convention against Torture, had duly paid its contribution, calculated according to the official United Nations scale; it believed that the other countries that had ratified the Convention should do the same, and feared that other types of financing might replace that provided for in the text of the human rights instruments themselves.

169. Mr. GROLIG (Federal Republic of Germany) said that, although his delegation had joined in the consensus on resolution E/CN.4/1989/L.26, that did not mean its Government had changed its mind about the Declaration on the Right to Development contained in General Assembly resolution 41/128, which the Federal Republic of Germany had not been able to support.

170. The CHAIRMAN noted that the Commission had concluded its consideration of the draft resolutions relating to agenda items 8 and 18.

171. Mrs. ILIC (Yugoslavia) took the Chair.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1989/7 and 72; E/CN.4/1989/NGO/9, 20, 29, 45, 58 and 60; A/43/624 and Corr.1)

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1989/23-27, 58, 64 and 71; E/CN.4/1989/NGO/1, 5-7, 10, 31, 47, 54, 57, 61 and 62; A/43/624 and Corr.1, 630, 705, 736, 742 and 743), INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued) (E/CN.4/1989/28)

172. Mr. KAMAL (Pakistan) thanked the Special Rapporteur on Afghanistan, Mr. Ermacora, for his efforts to ascertain the specific facts in his report (E/CN.4/1989/24). He emphasized that it was the denial of the Afghan people's right to self-determination that lay at the heart of the human rights situation in Afghanistan. The Special Rapporteur had confirmed that the withdrawal of foreign forces had not been followed by an improvement in the situation and that the refugees had not returned. The Special Rapporteur had pointed out that the refugees had said that their return would depend on three conditions: the complete withdrawal of foreign troops - which had now taken place - the replacement of the present Government by an Islamic Government and the clearing of the mine fields. The Special Rapporteur had expressed the opinion that the state of emergency in force since 19 February 1989 was a new source of human rights violations.

173. Pakistan, for its part, had been informed that the number of persons incarcerated in Pol-i-Charkhi prison had increased, and that cases of torture and ill-treatment occurring in such places persisted despite the Afghan authorities' assurances. Under the present circumstances, the improvements claimed by the Kabul authorities were generally no more than propaganda.

174. As pointed out by the Special Rapporteur in paragraphs 60 and 74 of his report, the genuine exercise of the right to self-determination presupposed the voluntary return of all the refugees, as foreseen in the General Agreements of April 1988, and the establishment of a Government freely chosen by the Afghan people. In paragraph 66 the Special Rapporteur stated that there were still some 5.5 million refugees outside the country. As pointed out in paragraphs 26 and 27 of the report, the spokesmen for the refugees were of the opinion that the policy of "national reconciliation" had had no effect. Only a very insignificant number of refugees had returned, and according to paragraph 15 even that trickle had been halted as a result of the insecurity prevailing in many of the provinces and the presence of mines. In fact, as the Special Rapporteur revealed in paragraph 20, the number of refugees in Pakistan was even increasing.

175. In contrast to the Kabul authorities, the Mujahideen, guided by humanitarian considerations, had allowed 10,000 tons of wheat supplied as part of the United Nations humanitarian assistance to pass through to Jalalabad and Kabul. They had also avoided direct assaults on cities, in order to spare civilian lives.

176. That was why his delegation had been astonished to hear the representative of the Kabul régime speak down to the Commission on that régime's respect for human rights. His delegation found it ironic that the representatives of a condemned régime were addressing the Commission, rather than the representatives of their brave compatriots fighting for their freedom. His delegation had not wished to exercise its right of reply to the statement made by the representative of the Kabul régime in order not to confer respectability on his allegations. It wished, however, to say at that time that the reports by the United Nations good offices mission in Afghanistan and Pakistan submitted under the Geneva Agreements showed that none of the allegations of foreign interference were substantiable.

177. On the contrary, Pakistan had welcomed the withdrawal of foreign troops in compliance with the Geneva Agreements. The United Nations and its Members could take pride in the fact that, as a result of their consistent and principled stand, the Afghan people would soon be able freely to exercise their right to self-determination. The Government of Pakistan therefore hoped that a comprehensive political settlement would be reached in the near future and that the Afghan refugees would soon be able to return from Iran and Pakistan in safety and in honour.

178. On another matter, his delegation believed that a solution to the question of Cyprus could be achieved only through talks between the Greek and Turkish communities on the basis of the Secretary-General's draft Framework Agreement. Finally, he expressed the hope that the efforts of the Organization of the Islamic Conference and the bilateral arrangements between Turkey and Bulgaria would result in a satisfactory solution of the question of the Muslims of Turkish origin in Bulgaria.

179. Mr. ANDREYCHUK (Canada) said that for a number of years his country had emphasized the phenomenon of mass exoduses and the need to build up an early-warning capacity in that area to provide a rapid, effective response.

The potential value of such a capacity had been illustrated the previous summer during a visit in Burundi. However, the unit set up was comparatively small and, as Mr. Jonah had said in the Commission, it needed to be strengthened.

180. Canada also valued the mechanisms established by the Commission in the previous decade, and in particular the country rapporteurs and special rapporteurs on thematic issues. The consideration of the situations in Chile, El Salvador and Afghanistan, in particular, had highlighted the value of those mechanisms. Only one country, Iran, refused to co-operate in that area. On the other hand, the decision to place the situation in Guatemala under the advisory services agenda item remained controversial in the light of the deterioration of that situation. Canada looked forward to working closely with other members of the Commission to ensure that the quality of advice given to the Government of Guatemala could contribute to an improvement in the human rights situation there.

181. The issue of co-operation by Governments with the Commission was critical. The offer of the Government of Cuba the previous year had been very positive. In another area, the Chinese authorities had eventually allowed Canadian officials and others access to the capital of Tibet, Lhasa. He hoped that the Government of China would take all necessary steps to clarify the situation.

182. His delegation also welcomed the accession of Turkey to the International Convention against Torture. Another key area was assistance by the Commission to States emerging from difficult situations. Haiti had been one of the first such situations drawn to the Commission's attention. In both Haiti and Paraguay the time seemed ripe to investigate means whereby positive trends could be reinforced. The international community's concern with regard to Burma also warranted an initiative. The Philippines continued to present the international community with an opportunity to support efforts to make respect for human rights an integral part of rebuilding a democratic society.

183. However, political change did not necessarily bring with it a more favourable climate for human rights. The experiences of the last few years had been mixed. Afghanistan might well be a test case: the international community must ensure that transitional arrangements were not accompanied by a further deterioration in the human rights situation.

184. The system of special rapporteurs had yielded positive results in some countries, but other countries had shied away from co-operation with the Centre for Human Rights because of the implications of that procedure. His delegation considered that one way of clarifying the situation would be to establish an agenda item on country situations, with an objective, non-pejorative title, which would avoid, on the one hand, separate items as in the case of Chile and Cuba, and on the other hand, the placing of country situations under inappropriate items such as the advisory services programme.

185. In certain situations, human rights became a matter of bilateral dispute: recent examples had been the Turkish minority in Bulgaria and the Hungarian, German and other minorities in Romania. Discussions on that type

of problem had become rather bogged down. One remedy might be to enlist the good offices of the Secretary-General to assist the process of bilateral dialogue.

186. Although the conflict between Iran and Iraq had ended, the Baha'i minority in Iran continued to be persecuted, and repression against the Kurdish minority in Iraq had increased, with the use of chemical weapons against certain villages. Both situations called for new initiatives on the part of the Secretary-General or the Bureau of the Commission. In the Horn of Africa the deterioration of the situation was a challenge to the conscience of the international community.

187. In many situations, those subjected to the greatest recriminations were often individuals and groups working in support of human rights. Recent trials in Czechoslovakia contradicted the commitments made by that country in the concluding document of the Vienna Conference on Security and Co-operation in Europe. In Chile, the Vicariat of Solidarity had recently been challenged by a court ruling which had serious implications for its integrity as a defender of human rights, and in Honduras a number of human rights leaders had their lives threatened by anonymous death squads. The good offices functions of the Secretary-General would be especially useful in resolving those cases.

188. The Commission must be vigilant in its insistence on adherence to international standards. It must not be content with pro forma appearances of co-operation. In that connection, the results of the discussion on Albania in the Economic and Social Council the previous year had been disappointing. Fortunately, a more favourable context was being created by recent developments in international relations, and especially the active role of the United Nations in resolving a range of regional conflicts. Such developments gave a glimpse of a better future in which human rights would command a central place.

189. Mr. TANIGUCHI (Japan) stated first of all that closing off discussions on resolutions concerning the situations in certain countries by means of no-action motions should not be allowed. One of the most important tasks of the Commission was to discuss objectively human rights questions in any part of the world and any country without discrimination. Abuse of the no-action motion might have the effect of paralysing the Commission.

190. Second, his delegation wished to stress that non-selectivity was a fundamental rule. In that regard it shared the view expressed by the Prime Minister of France, Mr. Rocard, who had pointed out that the Commission's indignation was often selective. For example, the Commission took up minor cases of human rights violations in politically less influential countries and avoided large-scale and serious cases of human rights violations in influential countries.

191. Third, his delegation believed that the Economic and Social Council resolution 1503 (XLVIII) procedure was very important and should be protected. However, it was concerned that the functions of the Sub-Commission were tending to become politicized, with a subsequent risk of duplication of

functions and even paralysis. In several cases, it seemed that members of the Sub-Commission were not behaving as independent experts but as representatives of their Governments.

192. Fourth, the recent tendency towards linking human rights with all kinds of economic and social rights might lead to an excessive expansion in the Commission's activities and cause it to become another Second Committee or Third Committee of the General Assembly. Such a development might dilute the consideration of priority human rights issues.

193. Turning to the situation in certain countries, he noted significant progress towards democracy in Chile following the recent referendum. The establishment by the Government of Chile of the Advisory Commission on Human Rights within the Ministry of the Interior, the lifting of the state of emergency, the measures enabling Chileans abroad to return and expansion of the right of assembly were positive steps. It should also be noted that the Chilean Government had continued to co-operate with the Special Rapporteur, although the latter's report indicated some continuing human rights violations.

194. With regard to Cyprus, the Commission should refrain from any new initiatives while awaiting the results of the efforts being made by the Secretary-General.

195. With regard to Afghanistan, Mr. Ermacora had reported that in spite of the withdrawal of the Soviet forces, armed conflicts were continuing. He had also pointed out that human rights violations continued in areas controlled by the Government and opposition movements. It was therefore indispensable for both the Afghan authorities and the opposition movements to respect the Special Rapporteur's recommendations. The Special Rapporteur also found no improvement in the situation of refugees; some 5.5 million of them remained outside the country. Measures should be taken rapidly to enable the refugees to return voluntarily to their homeland, in co-ordination with UNHCR.

196. The Special Representative for Iran, Mr. Galindo Pohl, reported numerous allegations of grave violations of human rights, in particular a wave of executions from July to December 1988. The Government of the Islamic Republic of Iran had indicated its willingness to co-operate by providing any information relevant to those allegations, but a state of full co-operation had not yet been achieved. He hoped that the Special Representative would be authorized to visit Iran as soon as possible, in accordance with the statement made by the Permanent Representative of the Islamic Republic of Iran to the United Nations to the General Assembly the previous year.

197. According to the Special Representative for El Salvador, Mr. Pastor Ridruejo, that country's Government was committed to a policy of respect for human rights and had taken a series of measures to that end, despite the persistence of the internal conflict. However, the Special Representative indicated that despite the Government's policy, serious violations continued: summary executions, abductions, politically motivated disappearances, etc. The Special Representative also remarked that FMLN's continuing systematic attacks on the economic infrastructure seriously

undermined the future enjoyment by Salvadorian citizens of important economic, social and cultural rights. On the other hand, it was encouraging that the Government and FMLN had indicated their intention of establishing a dialogue following the Special Representative's recommendation.

198. He reiterated that all the parties concerned in Central America should maintain the momentum for peace achieved as a result of the Esquipulas II Agreement in 1987 and the recent meeting of Central American Presidents.

199. Regarding the future work of the Commission, his delegation wished to repeat that the Commission was not the place to pronounce sentences but rather to promote human rights through frank and friendly exchanges of views based on factual information. For that purpose, all countries should co-operate with the Commission. In addition the Commission should fully utilize the functions of special rapporteurs and special representatives in order to obtain objective information. Finally, it should adopt a more realistic and practical approach in assessing the human rights situation in each country, taking into account historical, economic and social circumstances and exploring possible ways in which the international community could assist.

200. Mrs. FERRIOL (Cuba) deplored the fact that human rights violations in Chile continued after 15 years of repression by the Pinochet Government. Since the assassination of President Allende on 11 September 1973, barbarity had reigned in Chile; assassinations and torture were everyday practices. The various reports established by the United Nations showed that the régime's henchmen acted with complete impunity and that the secret police even operated abroad, as the assassinations of General Prats in Buenos Aires and Orlando Letelier in Washington had proved. The reports by the Special Rapporteur, Mr. Volio Jiménez, and written and oral statements by various non-governmental organizations indicated that the régime in Chile continued to violate human rights on a widespread basis. Many cases of assassination had still not been cleared up, including those of a number of opponents of the régime, in the context of the "Operación Albania", and the ill-treatment of detainees and torture continued. The Special Rapporteur also stated that five more members of the opposition had disappeared in September 1987. The fundamental rights and freedoms guaranteed by the international instruments were denied by certain articles of the Constitution in force in Chile, as previous Special Rapporteurs, Mr. Dieye and Mr. Lallah had stressed.

201. On 5 October 1988 the Chilean people had said no to dictatorship and repression; it had also said no to the pillaging of the country by foreign companies. Since then, however, 570 more persons had been arrested for political reasons, many of whom had been tortured, and 74 persons had been wounded, 5 of them by shooting. The Government-controlled courts had continued to pronounce outrageous sentences, to disregard the remedy of amparo and reject applications for investigations by the victims' lawyers. The Special Rapporteur's report (E/CN.4/1989/7) showed that the judiciary was dependent on the junta. The situation of political prisoners had not improved: they were constantly transferred so that their families would not be able to visit them, and they were imprisoned together with ordinary detainees, in contravention of the agreement concluded between the Ministry of Justice and the Working Group that had visited Chile in 1978.

202. Her delegation was also concerned by the policy of ethnocide against indigenous populations. It supported the recommendation made by the Special Rapporteur in paragraph 75 of the report, to the effect that legislation on indigenous populations should be revised so that those populations would not lose their ancestral lands and their cultures. Finally, she requested that the question of human rights in Chile should continue to form a separate item on the Commission's agenda, in order to support the Chilean people in their struggle for democracy, freedom and dignity.

203. The CHAIRMAN invited the delegations that wished to do so to exercise their right of reply in connection with agenda items 5 and 12.

204. Mr. KERKINOS (Observer for Greece) deeply regretted the fact that the observer for Turkey had repeated numerous well-known but false allegations in connection with agenda item 12 (a). He would not reply to the representatives in detail, because the relevant facts and figures were already sufficiently well known, and because the representative of Cyprus had already dealt with them. He preferred to express the hope that the question of human rights in Cyprus would be resolved in a climate of confidence and that the resolutions of the European Commission on Human Rights, the United Nations General Assembly and Commission on Human Rights would be implemented.

205. Mr. STRASSERA (Argentina), replying to a non-governmental organization which had made a statement concerning his country on 1 March, referred it to the relevant statement made by his delegation on 17 February.

206. Mr. WALDROP (United States of America), replying to remarks by the observer for Nicaragua, stressed that in his country crimes were committed by individuals who were then brought to trial, with the opportunity to defend themselves, whereas in Nicaragua it was government officials who carried out the crimes. For the observer's information, he recalled that in 1953 the General Assembly had decided that Puerto Rico had carried out a legitimate act of self-determination; that act had frequently been reaffirmed since that time in free, periodic and genuine elections. Further, the Commission was not the appropriate forum to discuss the status of Puerto Rico, which was an integral part of the United States because of the free decision of the Puerto Rican people. The remaining slanders of the observer for Nicaragua were unworthy of comment.

207. In reply to the representative of Cuba, he noted that the statement by Mr. Vernon Walters had not been limited to criticism of socialist countries. Many other countries had been criticized, and some socialist countries had received favourable comments as a result of recent positive changes. In reply to the allegations of the representative of Cuba concerning minorities in the United States, he noted that one tenth of Cuba's population had fled to the United States to join one of those supposedly oppressed minorities. Cuban prisoners had even carried out a riot to remain in the United States rather than return to Cuba as free men. Finally, since the representative of Cuba had referred to the events of 1960-1961, he would like to remind him that since then, Cuba had launched several expeditions into other countries (Bolivia, Dominican Republic, Nicaragua, Venezuela, etc.) against democratically-elected Governments.

208. Mr. ALFONSO MARTINEZ (Cuba) regretted the fact that the Austrian delegation had spoken of Cuba in connection with agenda item 12. Everyone knew that following a mission to Cuba, at the invitation of the Cuban Government, the mission report had been considered under agenda item 11 bis. Further, the representative of Austria had several times and erroneously mentioned the existence of a "working group". A working group was a body that met on a permanent basis: it was a mission that had gone to Cuba.

209. It was also regrettable that the Canadian delegation had referred to Cuba in connection with agenda item 12 and that it had compared Cuba with Chile and pointed out that the two countries were treated under separate agenda items. Obviously, the Commission did not consider the situation in the two countries at all in the same way, and such a comparison was odious.

210. It was not very clear what the representative of the United States meant when he had spoken of interferences by Cuba in the affairs of other countries in the region, especially Panama, Dominican Republic and Venezuela. It was on the contrary the United States that interfered into affairs in those countries, sometimes even intervening militarily. Cuba now had normal and even excellent relations with the countries in its region. Concerning the migrations between Cuba and the United States, to which that country's delegation had referred, he referred him to the agreement concluded on that subject between the two countries in 1984. The situation that the representative of the United States had criticized in fact derived from the bilateral agreement to which his country had been a party.

211. Mr. KARL (Austria), referring to what the representative of Cuba had just said concerning his own delegation's remarks on agenda item 12, pointed out that item 12 dealt with violations of human rights and fundamental freedoms wherever they occurred. It was therefore appropriate for his delegation to speak of Cuba in connection with item 12; to spare the Commission's time, it had not spoken on agenda item 11 bis, which dealt specifically with Cuba. He noted that many delegations had mentioned under item 12 human rights situations in various countries that were also dealt with under other items, especially in South Africa and the territories occupied by Israel. His delegation therefore rejected the criticism by Cuba, which seemed to it to be likely to restrict the freedom of expression of delegations to the Commission.

The meeting rose at 12.05 a.m.