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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Thirty-fifth session

SUMMARY RECORD OF THE 33rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 September 1982, at 3 p.m.

Chairman: Mr. CHOWDHURY

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The meeting was called to order at 3.16 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 7) (continued) (E/CN.4/Sub.2/1982/L.5, L.7, L.8, L.9, L.11, L.12, L.13, L.14, L.15, L.17, L.18, L.19, L.21, L.24, L.26 and L.29)

Draft decision E/CN.4/Sub.2/1982/L.13

1. Mr. SOFINSKY said that, at first glance, the events of the Second World War and the trials of war criminals might seem to be of purely historical significance. Japan was rewriting its historical textbooks to present its aggression during the Second World War in a less harsh light. That country had addressed an official note to the Governments of China and of North and South Korea, claiming that such a step was a purely internal matter. As, however, other countries were involved, such a claim could not be sustained and the draft decision under discussion was therefore of topical significance. At the previous meeting, Mr. Whitaker had suggested that the phrase "the Governments concerned" in paragraph (a) of the operative part should be replaced by the words "Japan, China, the Union of Soviet Socialist Republics and the United States of America". Apart from the fact that that list omitted Korea and Viet Nam, it placed the aggressor State and the States whose citizens had been the victims of aggression on the same footing. As it was not the Sub-Commission's practice to mention particular countries, it would perhaps be enough to include a reference to the relevant summary records, as the sponsors had agreed at the previous meeting.

2. Mr. MASUD said that the draft decision was very short and had no preamble, the object of which was usually to provide an explanation of the operative part. The text as it stood was therefore unsatisfactory.

3. There was no link between the violation of human rights in 1982 and the events of 1939 to 1945. Under the ordinary law, action was barred after the passage of a specific period. To establish a link with incidents that had taken place during the Second World War could only engender hostility, and the draft decision would not enhance the Sub-Commission's prestige but merely have the effect of alienating the Japanese Government. Japan had become a great Power and was a democratic country; there was no need to revert to a situation for which its present Government was not responsible. It was true that Japanese textbooks were being revised and that some unfortunate events had been excluded, including the Bataan Death March, the cruel treatment of prisoners or Pearl Harbour, although details were given of the bombing of Hiroshima and Nagasaki. It was not, however, the Sub-Commission's function to seek information in order to clarify historical facts. Many other countries were rewriting their textbooks but that did not constitute grounds for international action. The draft decision should not be adopted in view of its lack of a preamble, its vague and general wording, and the adverse consequences it might produce.

4. Mr. AKRAM said that he questioned the purpose of the draft decision, which was ostensibly to seek "further information" regarding certain events that had taken place during the Second World War. The events in question had occurred 40 years previously and action against those responsible would now be time-barred. Adoption of the draft decision would set a precedent for considering atrocities much further back in time. It was not the Sub-Commission's task to rekindle past hatreds and prejudices but to dampen them. That purpose would best be served by more circumspect action. If further information was sought, the Commission on Human Rights could request the Secretary-General to bring to the attention of the Sub-Commission such literature as was available.

5. Mr. SAKER proposed that the draft decision should be amended by the addition of a phrase to the end of subparagraph (a) on the following lines: "concerning the events referred to and other gross violations perpetrated during the Second World War, especially in Viet Nam."

6. Mr. WHITAKER said that, in the special circumstances, a limited decision had seemed the best solution. The sponsors had agreed at the previous meeting that a reference should be included to the exact paragraphs of document E/CN.4/Sub.2/1982/SR.13 which concerned the atrocities in question. He had been advised that the appropriate procedure was for the Sub-Commission to ask the Commission on Human Rights to request the Secretary-General to seek information and he proposed that the draft decision should be amended in that sense.

7. The events in question were of concern because allegations had been made that the facts had been suppressed by two Governments in an act of collusion. The principal offenders had never been brought to trial and still occupied positions of responsibility. The draft decision did not se k to judge but to establish the truth with a view to determining where safeguards had failed and to prevent any repetition of such atrocities.

8. Mr. JOINET said that the allegations seemed rather to come within the purview of the international instruments on war crimes and crimes against humanity, including genocide. If the sponsors of the draft decision agreed, he would suggest that the special rapporteur appointed under the resolution which the Sub-Commission had adopted on genocide should be asked to take the allegations in question into account and deal with them in his report.

9. Mr. EIDE agreed that the Sub-Commission's purpose would be better served if the draft decision were withdrawn and the incidents in question were taken into account in the report on genocide.

10. Mr. SOFINSKY reminded the Sub-Commission that many countries did not recognize any statute of limitations with respect to crimes committed in occupied territories, and even the Federal Republic of Germany had increased the period of limitation by ten years. The draft decision might therefore have a point.

11. The CHAIRMAN invited the members of the Sub-Commission to vote on draft decision E/CN.4/Sub.2/1982/L.13, the amended text of which read as follows:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

"Decides, in view of allegations described in paragraphs 32-36 in document E/CN.4/Sub.2/1982/SR.13, heard by it concerning events during the Second World War, to request the Commission on Human Rights to request the Secretary-General:

(a) To seek further information from the Governments of Japan, the United States of America, the Union of Soviet Socialist Republics and China;

(b) To report to the Sub-Commission at its thirty-sixth session on the responses received".

12. Draft decision E/CN.4/Sub.2/1982/L.13 was rejected by 7 votes to 5, with 9 abstentions.

13. In reply to a question from Mr. CEAUSU, Mr. JOINET said that he accepted the results of the vote and would not press for further action.

14. After a procedural discussion in which Mr. AKRAM, Mr. FOLI, Mr. CAREY, Mr. WHITAKER, Mr. BOSSUYT, Mr. EIDE, Mr. MUDAWI, Mr. YIMER, Mr. SOFINSKY, and Mr. JOINET took part, the CHAIRMAN suggested that, since observers for States and non-governmental organizations had had the opportunity to give their views during the substantive discussion of each agenda item, they should not be permitted to take the floor during the consideration of draft resolutions and decisions.

15. It was so agreed.

16. Mr. AKRAM and Mr. SOFINSKY said that they wished to dissociate themselves from that agreement.

17. The CHAIRMAN said that a note from Japan concerning the draft decision had already been circulated and any other written statements which might be received from observers would also be circulated.

Draft resolution E/CN.4/Sub.2/1982/L.19

18. Mr. FERRERO introduced draft resolution E/CN.4/Sub.2/1982/L.19 and proposed that, should it be accepted, Mr. Mubango-Chipoya should be the member appointed to prepare the analysis in question.

19. Mr. SOFINSKY suggested that, in future, nominations for the post of Special Rapporteur or for any other appointment should be made only after the relevant draft resolution had been accepted in principle. There had been no discussion of the question dealt with in the draft resolution during the session and there was no time left to hold one. For that reason, he considered it should be rejected.

20. Mr. CEAUSU said that the world was no longer a place in which there were unexplored territories; all geographical areas were now under national sovereignty, so that the fact of leaving one country implied entry into another. Entry in many cases called for a visa, since every State had a sovereign right to determine who should enter its territory. Consequently, any analysis should take into account not only the right of everyone to leave any country but also the question of entry into another country. It was, for example, particularly difficult for those wishing to enter developed countries from developing countries. More generally, entry into another country was being affected by international conditions, and in particular by economic problems and unemployment. In addition to examining the right of everyone to leave any country, the proposed analysis should therefore also take into consideration the question of a corresponding obligation of States to admit persons to their territories. Before the Sub-Commission committed itself to carrying out such

an analysis, it might be useful to ask each Member State whether it was prepared to accept, without condition, the entry into its territory of everyone, regardless of race, nationality, sex, profession, means, age or political convictions, wishing to exercise the right established in the Universal Declaration of Human Rights to leave any country, including his own. On receipt of the replies, it would perhaps be possible to consider the matter from a new standpoint. The draft resolution was not acceptable in its current form and he asked the sponsors whether they would be prepared to reconsider its scope.

21. Mr. CAREY said that the comments by Mr. Ceausu showed the need for updating the 1963 study by Mr. Ingles. The right of everyone to leave any country naturally presupposed that he had somewhere to go and, if that aspect was included, the subject became much broader in scope. It would be recalled that there had been lengthy debate in the United Nations on the question of the right of asylum and that it had so far not been possible to reach any consensus on the matter. That was a very vast field in which much work had already been done and it would be for the person appointed to prepare the analysis to decide how far such material should be considered directly relevant.

22. Mr. JOINET, referring to article 12, paragraph 3, of the International Covenant on Civil and Political Rights, observed that the right of everyone to leave any country was not an absolute right and that it was subject to a number of restrictions. It might be useful for the proposed analysis to cover the extent and acceptable limits of such restrictions, taking into account existing provisions of different legal systems. He suggested that the first operative paragraph of the draft resolution should be amended to take that aspect into account.

23. Mr. AKRAM suggested that the first operative paragraph should be amended to include a reference not only to the right of everyone to leave any country but also to the corresponding right to enter other countries without discrimination or hindrance, and to include a reference to the right to employment and to the brain drain from developing countries.

24. Mr. BOSSUYT, referring to the amendment suggested by Mr. Akram, said that, to the best of his knowledge, at the current stage of international law, the right of everyone to enter a country other than his own did not exist and that such a proposal was therefore not acceptable. The reference to the brain drain, however, was very relevant and merited consideration during the preparation of the analysis.

25. Mr. EIDE said that the Sub-Commission should be as flexible as possible when considering such an important subject. The suggestion made by Mr. Akram not only took into account the existing situation of human rights but provided an opportunity to consider possible future developments in the human rights field. The draft resolution might be worded in such a way as to cover the aspect raised and he proposed that the sponsors of the draft resolution and the sponsors of amendments should meet to prepare a new text.

26. Mr. SOFINSKY said that the brain drain was an important factor; there was evidence that the benefit derived by some developed countries was much greater than the aid they provided to developing countries. The amendment suggested by Mr. Akram was therefore extremely useful.

27. Mr. FERRERO said that in view of the interesting amendments proposed by Mr. Joinet and Mr. Akram, he supported Mr. Eide's proposal that the sponsors of the draft resolution and the sponsors of amendments should meet to prepare a revised text.

28. The CHAIRMAN said that, in the absence of any objection, he took it that that proposal was acceptable.

29. It was so agreed.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 11) (continued) (E/CN.4/Sub.2/1982/16; E/CN.4/Sub.2/1982/17; E/CN.4/Sub.2/1982/NGO/1)

Report of the sessional Working Group on the Question of Persons Detained on the Grounds of Mental Ill-Health

30. Mrs. DAES, Chairman-Rapporteur, sessional Working Group on Mental Ill-Health, said that her own report on guidelines, principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder (E/CN.4/Sub.2/1982/16) would inevitably have to be considered in conjunction with the report (E/CN.4/Sub.2/1982/17) which the sessional Working Group had unanimously adopted on the same topic.

31. In view of the complexity of the subject and the fact that it raised difficult interrelated, social and medical problems, the Working Group had concluded that it could not elaborate a complete series of articles on the matter at the present session and it had therefore examined articles 1 to 8 of those contained in her report (E/CN.4/Sub.2/1982/L.16), which numbered 47 in all and took account, inter alia, of the problems regarding minors, criminal proceedings against persons suffering from ill-health, and the special problems of developing countries.

32. It was clear that more time would have to be allocated at the next session, for at least eight meetings would be needed to complete consideration of all of the articles and the amendments that Governments and members might submit. Lastly, a draft resolution was to be submitted, calling for revision of the whole report so as to take account of the comments made in the Sub-Commission and those to be made in the Commission on Human Rights at its forthcoming session.

33. Mr. MUDAWI said that the subject of the brilliant, comprehensive and well-balanced report by the Special Rapporteur was one of the most serious issues ever to come before the Sub-Commission. In many cases, mental disorder entailed drastic changes in the status of the person concerned. Legally, he or she forfeited the right to administer property, to enter into contracts and to take part in social and political activities. Physically, he or she was denied the right of free movement and was usually confined to an institution. Owing to the serious consequences of a declaration of mental illness, strict legislative provisions were essential in order to regulate the procedures involved and ensure that no person was judged mentally ill either by mistake or for any ulterior motive.

34. In her report, The Special Rapporteur stated that it was "generally thought undesirable to give a definition of mental illness in a legislative text" (E/CN.4/Sub.2/1982/16, para. 73) because the definition was constantly changing

in the light of medical progress, and she suggested that certain mental disorders, such as alcohol or drug dependence or sexual deviations, should be excluded from the scope of legislation on mental illness.

35. On the question of guarantees, the report stressed that no one should be declared mentally ill and detained except by a decision of a judicial or quasi-judicial body, on the basis of medical evidence and, if possible, with legal representation of the person concerned, where appropriate with State-supplied legal aid. The decision of the judicial body must also be subject to appeal. In his view, owing to the possible incapacity of the patient, the review of the decision should be automatic, in other words, the decision should always be referred to a higher judicial body, as a matter of course, without need of an application by the patient. In addition, the case of each patient should be reviewed periodically by the competent judicial body as a safeguard against any abuse. Clearly, the conditions in mental institutions should be made as humane as possible and the institutions themselves should be subject to periodic inspection not only by the medical, but also by the legal authorities.

36. The Special Rapporteur had vividly described the appalling conditions experienced by black mental patients in South Africa, conditions that were part and parcel of the gross violations of human rights in South Africa and a feature of the abominable system of apartheid. The situation which was constantly deteriorating called for special research which, as he understood it, was being done by other organizations. Indeed, the role of the international agencies in guaranteeing the rights of mental patients was essential. One example in that respect was afforded by the European Court of Human Rights, although it was disconcerting to note from the cases mentioned by the Special Rapporteur that one had been submitted to the Court in July 1974 and had continued for over 7 years without any decision being taken; in the meanwhile, the person concerned had died.

37. In conclusion, he hoped that the Special Rapporteur's guidelines would be developed and carried a step further.

38. Mr. BELTRAMINO said that the Special Rapporteur's outstanding report displayed a profound sense of justice in an extremely important topic. He welcomed the drafting of an appropriate body of rules and, in respect of protection of the human rights of the mentally ill, wished to stress the relevance of the 1969 Declaration on Social Progress and Development adopted by the General Assembly in resolution 2542 (XXIV), more particularly the provisions of the declaration on the "mentally disadvantaged" in article 11 (c) and on "mentally disabled persons" in article 19 (d).

39. Mr. CAREY said that the Special Rapporteur's very valuable report was useful to countries like his own, where not enough was known about the ways in which the relevant problems were solved in other countries. Among many other questions, it discussed the criminal liability of the mentally ill, an issue that was highly topical in the United States, for an individual who had attempted to assassinate the President had been found insane by the competent criminal court and, accordingly, could not be tried for his act. Naturally, the case had led to much discussion and soul-searching. Article 35 of the body of guidelines and principles thus covered a universal problem and one that called for very thorough study.

40. It was important to emphasize the role of non-governmental organizations in protecting and assisting mental patients. In New York, he had once had occasion to visit a mental institution and had been impressed to see a notice which, in addition to setting out the rights of the patients, indicated the telephone number of a local organization which provided the patients with help.

41. On the grave question of the criteria for involuntary admission of a person to a mental hospital, paragraph 1 (a) of article 16 adopted a three-fold approach, namely, that the patient was "dangerous to himself, or too dangerous to others or to the community". He had no comments to make regarding the first two criteria at the present stage, but felt that the concept of "dangerous to the community" needed to be further elucidated and more thoroughly explored.

42. Mr. MASUD said that, in the impressive study by the Special Rapporteur, article 18 specified that reasonable notice should be required by law for any judicial hearing of the case of the patient. However, consideration should also be given to notifying the relatives, and he also felt it essential that the condition of a patient should be reviewed at regular intervals, so as to ensure that a person would not be consigned to oblivion after committal to an institution. Again, in the appointment of a guardian to look after the patient under Court supervision, the guardian's role should be broad enough to enable him to protect the patient properly and prevent any harm being done to him.

43. In conclusion, he urged the Special Rapporteur to continue her valuable work.

44. Mr. SOFINSKY said that the Special Rapporteur's report was a model in that it covered both the theoretical and the practical aspects of a very important question. In his opinion, the Sub-Commission should focus on the elaboration of principles that could serve as guidelines throughout the world, for different systems were in operation in different parts of the world. In his own country, mental disorder was regarded as a disease like any other and hence a purely medical, rather than a legal or administrative, matter. Whenever two jurists met, it was usually to defend with equal conviction diametrically opposed views in the interests of their respective clients. Accordingly, greater attention should be given to those national systems which placed the emphasis on the medical aspect and he hoped that, in the future, the Working Group would take account of the medical side of the question, in addition to the legal aspects already highlighted in the proposed set of guidelines and principles. Indeed, perhaps the most important issue with respect to mental disorder was whether committal to an institution should be decided by a Court, in other words, a body of jurists, or whether it should remain purely a decision for medical specialists.

45. Mr. JOINET noted that, in her admirable report, the Special Rapporteur suggested the exclusion of "alcohol and drug dependence as well as sexual deviations" from the notion of mental illness (E/CN.4/Sub.2/1982/16, para. 73). In very lengthy and thorough discussions in WHO, the conclusion had been reached that homosexuality did not constitute a sexual deviation. Hence, it would be better to speak of "certain types of sexual behaviour", rather than "sexual deviations". Again, in article 2, paragraph 1,

of the guidelines the word "sex" should be altered to "sexuality", the purpose being to indicate that the rule of non-discrimination as to sex had to apply by reference not only to morphology but also to behaviour.

46. Mr. HADI pointed out that in keeping with the decisions and practices of the United Nations, the discussion should encompass the entire range of "human rights and scientific and technical developments" covered by the present item.

47. The right of States to use nuclear energy for peaceful purposes was recognized in, among other instruments, the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, set forth in General Assembly resolution 3384 (XXX). Paragraph 1 of the Declaration called for international co-operation "to ensure that the results of scientific and technical developments are used in the interests of strengthening international peace and security" and also "for the purpose of the economic and social development of peoples". Moreover, paragraph 5 required all States to co-operate "in the establishment, strengthening and development of the scientific and technological capacity of developing countries with a view to accelerating the realization of the social and economic rights of the peoples of those countries".

48. In June 1981, a nuclear plant in Baghdad used for research and other peaceful purposes, had been bombed by the Israeli air force, an act that constituted a flagrant violation of the right of States to scientific and technological progress for the purpose of promoting their development. That act of premeditated aggression, which the Sub-Commission should resolutely condemn, had violated the human rights of the Iraqi people and their right to economic and social progress.

49. Mr. EIDE said that he welcomed the Special Rapporteur's outstanding report on a vitally important field, one in which there could be no doubt as to the need for international concern. As an example of the grave problems involved, it was possible to cite the tragedy of persons who were detained as mentally ill simply because they were staunch critics of the society in which they lived; sometimes they were persons who could make creative contributions to social progress. He therefore looked forward with great expectations to the future work on the subject.

50. Mr. UNDERHILL (Observer for the International Association of Penal Law) congratulated the Special Rapporteur and the Working Group on the expeditious way in which they had produced outstanding reports. As to the interesting remarks regarding the respective roles of the legal and the medical professions in connection with the mentally ill, he wished to assure Mr. Sofinsky that the preparation of the document submitted by the Association to the Working Group had been entrusted to a panel on which lawyers and doctors were equally represented. Lastly, he wished to draw attention to a written statement (E/CN.4/Sub.2/1982/NGO/1, in which reference was made to three draft international instruments prepared by his Association for the purpose of suppressing or regulating human experimentation.

51. Ms. DOLGOPOL (Observer for the International Commission of Jurists) said that, in a very thorough study, the Special Rapporteur had admirably assimilated the enormous volume of documentation on the subject of mental illness. The ICJ would in due course be submitting written comments on the 47 articles appended to the report. It was true that more time should be allocated for the next session of

the Working Group, which could perhaps meet on a pre-sessional basis, since it was difficult for the members to cope with a work schedule that included meetings of the Group and also the Sub-Commission itself.

52. Mr. AKRAM said that one aspect of the item had not yet been discussed and some consideration should be given in future to the modern phenomenon of what might be termed "technological apartheid", namely, the problem of discrimination against the developing countries with regard to technological transfers, a practice which affected directly the human rights of the peoples of those countries.

53. Mr. SAKER said that, since the whole question of "human rights and scientific and technological developments" was under discussion, Mr. Hadi had spoken fully within the purview of the item when he had referred to the Israeli aggression that had destroyed a nuclear reactor built for peaceful purposes in Iraq with help from a French institution. Account should be taken in future work of other aspects of science and technology, and in particular that of transfer of technology, to which Mr. Akram had referred. Another question of great importance to many countries was that of the brain drain.

54. Mrs. DAES (Special Rapporteur) thanked all members and observers for their useful comments and contributions. In her report and in her statements she had endeavoured to abide by the terms of existing United Nations and WHO instruments. Mental ill-health was both a legal and a medical problem, something that was unequivocally recognized by WHO. In revising her report, she would continue to work on that basis and would take into consideration every pertinent suggestion made in the course of the discussion. The position was, of course, different with regard to suggestions which fell outside her mandate.

THE EFFECTS OF GROSS VIOLATIONS OF HUMAN RIGHTS ON INTERNATIONAL PEACE AND SECURITY (agenda item 8) (continued) (E/CN.4/Sub.2/1982/L.22)

Draft resolution E/CN.4/Sub.2/1982/L.22

55. Mr. AKRAM said that draft resolution E/CN.4/Sub.2/1982/L.22 embodied the notion of "humanitarian aggression", namely, that it would be legitimate in certain circumstances for a State to use force against another State because the latter was violating human rights. Adoption of such a resolution would set a dangerous precedent in international relations and he proposed that the discussion should be postponed until some proposed amendments he and Mr. Ceausu wished to make had been circulated.

56. Mrs. WARZAZI proposed that the comma after the word "violence" in the fourth line of paragraph 1 should be replaced by a full stop and that the remainder of the text should be deleted.

57. Mr. SOFINSKY said that, in his opinion, the draft resolution was abscure.

58. Mrs. WARZAZI, also speaking on behalf of Mr. WHITAKER, asked if the sponsors of the draft resolution would agree to defer the discussion until the thirty-sixth session.

59. Mr. EIDE and Mr. MUBANGA-CHIPOYA supported that suggestion.

60. Mr. CAREY said that, if the discussion was to be deferred, the draft resolution should appear on the provisional agenda for the thirty-sixth session as a matter that was pending.

61. The CHAIRMAN suggested that discussion of draft resolution E/CN.4/Sub.2/1982/L.22, together with the amendments to be submitted by Mr. Akram and Mr. Ceausu, should be postponed to the thirty-sixth session, and that account should be taken of Mr. Carey's request.

62. It was so agreed.

Draft resolution E/CN.4/Sub.2/1982/L.16

63. Mrs. DAES, introduced draft resolution E/CN.4/Sub.2/1982/L.16 on behalf of the sponsors and suggested that, since there had been no objections to the substance of the resolution during discussions in the Sub-Commission, it should be adopted by consensus.

64. Mr. SOFINSKY said that he had no objection to the draft resolution, except that some parts of it seemed rather meaningless - for example, the wording of the fourth preambular paragraph. In the case of paragraph 1, he also wondered whether it was appropriate to draw the matter to the attention of the Security Council. Similarly, he was under the impression that that idea embodied in paragraph 2 had been rejected.

65. Mrs. DAES explained that the draft resolution was based on the note by the Secretary-General (E/CN.4/Sub.2/1982/18), the relevant United Nations resolutions, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation amongst States in accordance with the Charter of the United Nations, and above all the Charter. For her own part, she would be prepared to delete the words "and request the Security Council to consider how such violations can be dealt with as effectively as possible" from paragraph 1, so as to meet Mr. Sofinsky's difficulty, although the procedure was perfectly normal.

66. Mr. SOFINSKY said that he would accept the draft resolution, even though it did not make much sense. The statement made in the fourth preambular paragraph was all too obvious. Admittedly, aggression and invasion did affect international peace, but military occupation sometimes served a purpose: no one had condemned the occupation of fascist States in the Second World War.

67. Mr. CAREY said that he had no objection to adoption of the draft resolution by consensus, but he had the same reservations as Mr. Sofinsky. In the event of a vote he would have asked for separate votes on the fourth preambular paragraph and on the second preambular paragraph of the draft resolution recommended for adoption by the Economic and Social Council.

68. Draft resolution E/CN.4/Sub.2/1982/L.16 was adopted by consensus.

QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT (agenda item 10) (continued) (E/CN.4/Sub.2/1982/L.35)

Draft resolution E/CN.4/Sub.2/1982/L.35

69. Mrs. DAES introduced draft resolution E/CN.4/Sub.2/1982/L.35 on behalf of the sponsors.

70. Draft resolution E/CN.4/Sub.2/1982/L.35 was adopted

Draft resolution E/CN.4/Sub.2/1982/L.36

71. Mr. EIDE introduced draft resolution E/CN.4/Sub.2/1982/L.36 on behalf of the sponsors.

72. Draft resolution E/CN.4/Sub.2/1982/L.36 was adopted

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 7) (continued) (E/CN.4/Sub.2/1982/L.26)

Draft resolution E/CN.4/Sub.2/1982/L.26

73. Mrs. DAES introduced draft resolution E/CN.4/Sub.2/1982/L.26 on behalf of the sponsors.

74. Mr. SOFINSKY said that the draft resolution was inconsistent with the Sub-Commission's terms of reference and should be rejected.

75. Mr. AKRAM proposed that, in the fourth line of paragraph 1 of the part relating to the Economic and Social Council, the phrase "following a decision by the Commission on Human Rights" should be inserted after "Sub-Commission", the words "with the agreement of the Government concerned" should be inserted after "visit" and the word "it" should be replaced by "the Commission"; the fifth line should read: "... allegations of a gross and consistent pattern ...".

76. Mr. CAREY said that, as far as he was concerned, those amendments were acceptable. The object of the draft resolution was to enable the Sub-Commission to appoint missions at any of its sessions - on the lines of the mission to Mauritania by Mr. Mudawi and Mr. Bossuyt, provided the financial implications were approved.

77. Mrs. WARZAZI and Mr. FERRERO supported the proposed amendments.

78. Draft resolution E/CN.4/Sub.2/1982/L.26, as amended, was adopted

QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM (agenda item 14) (continued) (E/CN.4/Sub.2/1982/L.34)

Draft resolution E/CN.4/Sub.2/1982/L.34

79. Mr. WHITAKER, introducing draft resolution E/CN.4/Sub.2/1982/L.34, said that it incorporated the recommendations of the Working Group on Slavery and those contained in his own report as Special Rapporteur on the topic. The Minority Rights Group should also be included in the list of non-governmental organizations in paragraph 19.

80. In response to a question by Mr. Saker at the previous meeting, he explained that the recommendations in the draft resolution differed somewhat from those in the original report, as a result of changes to take account of suggestions made during the discussions in the Sub-Commission. In that connection, an important step forward was the request in paragraph 18 for a study by Mr. Mudawi and Mrs. Warzazi on all aspects of the problem of female sexual mutilation.

81. Mr. SOFINSKY, referring to paragraph 6, asked what was meant by strengthening the Working Group on Slavery. He also had doubts about the proposal to change the name to the Working Group on Human Exploitation, since in communist ideology, capitalism signified exploitation of man by man. Again, in regard to the recommendation that the Working Group should hold meetings in areas of the world in which the problem with which it dealt were encountered, the draft resolution should be more explicit and use wording on the lines of: "the places where such prostitution and human exploitation exist.".

82. The CHAIRMAN suggested that paragraph 6 might be deleted.

83. Mr. WHITAKER said that, for his own part, he was prepared to take the risk of changing the name of the Working Group, since the purpose was to meet the point made by a number of members that the term "slavery" was not entirely appropriate to certain very important problems of gross human exploitation, such as debt bondage, child labour and exploitation of women. It was difficult to find a term that encompassed all the circumstances that the Sub-Commission wished to discuss and he had understood that the proposed new name was generally acceptable. He would agree to the paragraph being withdrawn if that was the general wish.

84. The matter of where the Working Group held its meetings was one of utility; if the Group wished to discuss problems in, for example, Namibia or Mauritania, it would be logical to meet in the best place for learning about local conditions. Admittedly, there would be financial implications, but the suggestion had been made in the interests of the efficient functioning of the Group.

85. Mrs. WARZAZI supported the suggestion that paragraph 6 should be deleted. As to paragraph 12, she asked who would in fact be working with the Commission on the Status of Women and pointed out that, for financial reasons, that body met only every other year. Lastly, in paragraph 15, the word "adoptions" should be placed immediately after "commercially-motivated".

86. Mr. WHITAKER, replying to Mrs. Warzazi's second point, said Mr. Sofinsky had argued persuasively that the first aim was to adopt the principle of conducting a study in conjunction with the Commission on the Status of Women. The question of who was to be involved would call for detailed consideration with members of that body. Perhaps the best course would be for the Commission on Human Rights to resolve the question. The wording of paragraph 15 was intended to indicate adoptions in which the primary motive was not the interest of the children concerned but exploitation of the situation.

87. Mr. MASUD said that he could accept Mr. Whitaker's explanations regarding the comments by Mrs. Warzazi, but he was opposed to the inclusion of the names of non-governmental organizations in paragraph 19, since the mention of only some organizations could be construed as discriminatory.

88. Mr. WHITAKER said that the wording had been chosen on the Secretariat's advice. The names had to be specified in order to limit the organizations to those which had submitted written evidence - presumably because of the financial implications. He would be satisfied if the names were replaced by a phrase to the effect that written statements given by non-governmental organizations should be transmitted.

89. The CHAIRMAN asked whether members agreed to delete paragraph 6 and to amend paragraph 19 on the lines indicated by Mr. Whitaker.

90. It was so agreed.

91. Mr. NYAMEKYE (Deputy-Director, Centre for Human Rights) informed the Sub-Commission that paragraph 18 would give rise to certain financial implications, the details of which would be worked out by the Commission on Human Rights when their precise nature became clear.

92. Draft resolution E/CN.4/Sub.2/1982/L.34, as amended, and subject to the financial implications, was adopted.

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1982/L.2 and L.38)

Draft resolution E/CN.4/Sub.2/1982/L.2

93. Mrs. WARZAZI introduced draft resolution E/CN.4/Sub.2/1982/L.2 and asked if Mr. Carey could explain his proposed amendment (document E/CN.4/Sub.2/1982/L.38), which was the only one that had been submitted.

94. Mr. CAREY explained that two amendments were involved. The first introduced the idea of a breakdown by major categories of assistance furnished to the colonial and racist regime in South Africa. The second arranged for enterprises providing such assistance to be notified in advance of their inclusion or retention in the list, so that they would have an opportunity to discuss or justify their action, possibly reconsidering it or even using their economic leverage for constructive purposes, such as pressure to secure equal pay for equal work, regardless of race.

95. Mr. AKRAM proposed that the phrase "and dissemination, including its publication as a United Nations sales document" should be inserted at the end of paragraph 3.

96. Mr. SOFINSKY said that if Mr. Carey's amendment was adopted, he would withdraw his sponsorship of the draft resolution. Any co-operation with the South African regime of apartheid constituted complicity in the activities of that regime. The 100 words of explanation or response referred to in the amendment would mean a vast increase in papers and would add to and complicate the work of the Secretariat and the Special Rapporteur. Moreover, the matter should be tackled through Governments, whereas the amendment put the onus on companies, which might prove irresponsible.

97. Mr. BOSSUYT said that the amendment strengthened the text and he would replace Mr. Sofinsky if the latter withdrew his sponsorship of the draft resolution.

98. Mr. JOINET said that he too would withdraw his sponsorship if the amendment was adopted.

99. The amendment in document E/CN.4/Sub.2/1982/L.38 was rejected by 9 votes to 3, with 6 abstentions.

100. The amendment proposed by Mr. Akram to paragraph 3 of the draft resolution was adopted.

101. Mr. NYAMEKYE (Deputy-Director, Centre for Human Rights), referring to paragraphs 1 and 2, informed the Sub-Commission that, since initial computer service estimates had already been included in the budget in the amount of $15,500 for 1982, on the basis of resolution 6 (XXXIV) of the Sub-Commission and Commission resolution 1982/12, the relevant costs for 1983 were estimated at $1,220 for travel (Cairo/Geneva/Cairo, economy class) by the Special Rapporteur for consultation with the Centre for Human Rights and subsistence for five working days, together with $6,800 for computer services. Paragraph 3, as amended, would probably give rise to financial expenditure, the details of which would not be known until the competent services had been consulted.

102. The CHAIRMAN asked whether the Sub-Commission agreed to adopt the draft resolution, as amended, by consensus.

103. Mr. CAREY said that he did not press for a vote, but would have abstained had there been one. He was disappointed that his effort to put some bite into the draft resolution had failed and that it was now ineffectual.

104. Draft resolution E/CN.4/Sub.2/1982/L.2, as amended, was adopted.

105. Mr. MUBANGA-CHIPOYA explained that the amendment proposed in document E/CN.4/Sub.2/1982/L.38 contained some useful ideas, for which he was grateful, but much of it was already incorporated in the draft resolution that had just been adopted. His objection to the amendment was that to allow enterprises 90 days and 100 words for explanations would make the work involved in preparing the report so difficult and cumbersome that there might in the end be no report at all.

REVIEW OF THE STATUS AND ACTIVITIES OF THE SUB-COMMISSION AND ITS RELATIONSHIP WITH THE COMMISSION ON HUMAN RIGHTS AND OTHER UNITED NATIONS BODIES (agenda item 3) (continued)

Draft resolutions E/CN.4/Sub.2/1982/L.1 and L.3

106. Mr. FOLI introduced draft resolution E/CN.4/Sub.2/1982/L.1 and expressed the hope that it would be adopted by consensus.

107. Mr. WHITAKER said that it would be advisable for the sponsors of draft resolutions E/CN.4/Sub.2/1982/L.1 and L.3 to engage in consultations in order to merge the texts and avoid the submission of two conflicting draft resolutions on the same subject.

108. The drafts raised the question of the relationship between the Sub-Commission and its parent bodies, and he strongly opposed the request in draft resolution E/CN.4/Sub.2/1982/L.1 that the Sub-Commission should break away from the Commission on Human Rights and affiliate itself to the Economic and Social Council.

Firstly, the request was illegal because, whether the Sub-Commission liked it or not, the Commission on Human Rights was its parent body, and the Commission alone could decide whether that relationship should continue or not. Secondly, the proposal was totally unrealistic and stood no chance of being accepted by the Commission. Indeed, it would merely aggravate the Commission, which was the last thing that the members of the Sub-Commission wanted. Lastly, the idea did not have the slightest merit in any case, because the Economic and Social Council was as political a body as the Commission on Human Rights. The Council had so many different issues before it that it had even less time to consider human rights issues than did the Commission. He therefore urged the sponsors to withdraw the part of draft resolution E/CN.4/Sub.2/1982/L.1 that embodied the proposal for a change in the Sub-Commission's relationship with the Commission. If they agreed to do so, it should then be possible to reach consensus on a combination of the constructive parts of the two draft resolutions.

109. Mr. BOSSUYT said that he wholeheartedly supported Mr. Whitaker in opposing the idea that the members of the Sub-Commission should be elected by the Economic and Social Council. Such a course would be even more political than election by the Commission on Human Rights. Under the proposed system the Council would inevitably elect countries, rather than persons, and the countries would then designate the members of the Sub-Commission. Furthermore, nationality would be even more important than it was with the present system of election. The delegates to the Commission on Human Rights knew the members of the Sub-Commission and were able to select suitable experts on human rights. The position was altogether different in the Economic and Social Council, where members of delegations were not familiar with the qualifications of experts on human rights.

110. Mr. FOLI said that the objections to draft resolution E/CN.4/Sub.2/1982/L.1 repeated some of the arguments raised earlier. The Sub-Commission was in a good position to make recommendations regarding improvements in its status and activities, for it knew how it operated and was aware of both the importance of its work and its own limitations. Accordingly, he saw no reason why the Sub-Commission should be debarred from making recommendations such as those contained in draft resolution E/CN.4/Sub.2/1982/L.1.

111. Mr. SOFINSKY said that the discussion on the role, status, functions and methods of work of the Sub-Commission had been useful for the purpose of defining future directions and the matters that called for further consideration. However, in the absence of consensus, adoption of a resolution by a majority vote would not be beneficial to human rights or the work of the Sub-Commission, which could fulfil the instructions of its parent body by submitting an initial report and indicating its intention to revert to the question at the next session. Meanwhile, the Commission might make fresh proposals.

112. Mr. EIDE said that he did not believe it would be possible to merge the two draft resolutions because they were based on completely different philosophies. Draft resolution E/CN.4/Sub.2/1982/L.3, largely retained the present system and simply proposed a few changes. First, the name of the Sub-Commission would be altered to "Committee of Experts on Human Rights". Second, the alternates would be elected simultaneously with the members and by the same procedure. Third, the term of office of the members and alternates would be four years.

113. The sponsors had decided that, in paragraph 4, the words "beginning in 1984" should be deleted, so that the Commission on Human Rights would decide when the new system was to be introduced. Again, paragraph 7, was now reworded to read: "Requests future special rapporteurs entrusted with the elaboration of studies and reports to comply with the rules in force in the United Nations concerning the control of documentation, unless the subject-matter requires more extensive treatment". The purpose of that compromise formulation was basically to comply with the United Nations rule of 32 printed pages for reports but allow for more lengthy presentation where justified.

114. Mr. BELTRAMINO suggested that the last part of paragraph 5 of draft resolution E/CN.4/Sub.2/1982/L.3 reading: "and that a member may be replaced by an alternate only when the alternate has been elected in this way" should be deleted. The purpose was to take account of exceptional cases and at the same time abide by the rules of procedure, without infringing the rights of the experts themselves.

115. Mr. JOINET said that the main difference of substance between the two draft resolutions was the issue of the body that was to elect members of the Sub-Commission. The best course might be to vote on the choice between election by the Economic and Social Council and election by the Commission on Human Rights, but he did not believe it would be reasonable to ask the Commission to renounce its right to elect the members of the Sub-Commission.

116. Mr. TOŠEVSKI said that it would be preferable not to make any specific proposal to the Commission on Human Rights at the present session and that consideration of the two draft resolutions should be deferred until 1983. He accordingly moved that no decision be taken on the two draft resolutions, a motion that had priority under rule 65 (2) of the rules of procedure.

117. Mr. BOSSUYT opposed the motion. In the normal course of events, the Commission on Human Rights would elect the members of the Sub-Commission in 1984, but if no recommendation were made now, the 1984 elections would have to be held under the existing system. Any delay would mean that a decision could take effect only in 1988.

118. Mr. EIDE said that it might be wise to reflect on the matter for a further year, but the Sub-Commission's decision should be clearly reflected in its report, which should also indicate that draft resolutions E/CN.4/Sub.2/1982/L.1 and L.3 were still pending. He hoped that the Sub-Commission would receive some useful feedback from the discussions at the next session in the Commission on Human Rights.

119. Mr. FERRERO said that he also supported the proposal to defer consideration of the draft resolutions until the next session. Further reflection would enable the Sub-Commission to submit to the Commission on Human Rights a resolution backed by a stronger majority. If a vote were to be taken now, the result would be the adoption of weak proposals that might do more harm than good to the Sub-Commission.

120. The proposal to defer consideration of draft resolutions E/CN.4/Sub.2/1982/L.1 and L.3 for one year was adopted by 13 votes to 2, with 1 abstention.

Draft resolution E/CN.4/Sub.2/1982/L.6

121. Mr. AKRAM, introducing draft resolution E/CN.4/Sub.2/1982/L.6, said that the sponsors' views on the subject-matter had been expressed during the discussions relating to agenda items 3 and 9.

122. Mr. BOSSUYT suggested that consideration of draft resolution E/CN.4/Sub.2/1982/L.6 should be deferred for a year. The reasons for doing so were even stronger than in the case of draft resolutions E/CN.4/Sub.2/1982/L.1 and L.3, in respect of which the Sub-Commission had just adopted such a decision.

123. Mr. WHITAKER said there was general agreement as to the importance of the procedures set forth in Economic and Social Council resolution 1503 (XLVIII), but everyone was aware of the increasing workload of the Working Group on Communications. Accordingly, under his proposed amendment (E/CN.4/Sub.2/1982/L.31), which sought to achieve greater efficiency in such an important field, paragraph 3 of the draft resolution would endorse the system of voting by secret ballot and members would thus be able to vote without fear or favour. Recent events had shown the embarrassment of voting against a country that happened to be a friendly neighbour. Secondly, the Working Group on Communications should be empowered to meet twice annually in future, so as to enable it to deal with its increasing workload. Lastly, the purpose of the new paragraph 6, which related to government employees and stated that they "would be placed in an impossible position if they were required to vote on questions involving their own countries" was to ensure that they would not be faced with problems of conscience.

124. It was surprising to see that paragraph 1 of draft resolution E/CN.4/Sub.2/1982/L.6, regarding the composition of the Working Group, disregarded the Sub-Commission's long-standing tradition of working in parties of 5 or 10 members to represent all the areas of the world. Moreover, the subject of confidentiality, on which many members had very strong views, illustrated the difficulties facing any member of the Group who happened to be a professional diplomat, for it was difficult to believe that a professional diplomat would fail to report to the head of his mission on the confidential proceedings on communications, including votes affecting his own country. The need to preserve the confidential nature of the proceedings was of course underlined by paragraph 5 of the draft resolution, but he felt that there was a clear choice to be made in the matter of whether professional diplomats should serve as members of the Sub-Commission.

125. Mr. EIDE said he agreed with Mr. Bossuyt on the desirability of deferring consideration of the draft resolution and the proposed amendment. Paragraph 1 of the draft resolution did not go to the heart of the problem and account must also be taken of the points raised in the amendment. He therefore proposed that consideration of both documents should be deferred until 1983 and discussed at that time under the item on the status and role of the Sub-Commission.

126. Mr. SOFINSKY supported the proposal.

127. Mr. AKRAM said that he had no objection to the proposal, but in connection with Mr. Whitaker's comments, he wished to stress that there was very good reason to depart from the long-standing tradition with regard to balanced composition of working groups. It was a matter for concern that, year after year, the countries singled out for action were developing countries from Africa, Asia and Latin America. Accordingly, if the present procedures were designed to pinpoint those developing countries, it was only fair that their representatives should be afforded a better opportunity to examine communications in the Working Group.

128. As to the subject of confidentiality, a number of highly distinguished members of the Sub-Commission had been professional diplomats, who should not be singled out from government employees in general. Indeed, over one half of the present members were government employees. He was not at all impressed by the remark that diplomats might report on confidential proceedings to their missions. The real problem lay elsewhere, namely in the grave problem of deliberate leaks to the press. For example, a newspaper report in 1981 had strongly attacked the member for whom he had been acting as alternate, on the basis of information leaked from confidential procedures.

129. It was also essential to avoid a two-pronged attack against a country. Some non-governmental organizations, and some individuals, reserved the right to report to the press the communications they submitted under Council resolution 1503 (XLVIII). There had even been cases where the contents of such communications had been raised in the British Parliament. The authors of the communications expected to be allowed to introduce them under the confidential procedures in order to indict the countries concerned, despite the fact that attacks had already been made in the press or in a parliament on the same subject. In all fairness, a non-governmental organization or an individual should choose between submitting a case to the Sub-Commission and taking it to the press or to a national parliament.

130. Mr. FOLI said he endorsed the proposal to defer consideration of the draft resolution and the amendment and wished to reiterate his view that any member who belonged to a permanent mission in Geneva could not avoid reporting to his ambassador. The question of whether that fact influenced his independence was a matter for such a member and the other members to judge. He was himself a diplomat stationed in New York and, because of his position, he was not called upon to report on his work in the Sub-Commission either to his Government or to anyone else. Members of the Sub-Commission who were diplomats had made useful contributions to its work and they should be allowed to continue to participate in it until the position was officially changed.

131. The CHAIRMAN said that, if there were no further comments, he would take it that the Sub-Commission agreed to defer consideration of draft resolution E/CN.4/Sub.2/1982/L.6 and the proposed amendment (E/CN.4/Sub.2/1982/L.31) for one year.

132. It was so agreed.

Draft resolution E/CN.4/Sub.2/1982/L.7

133. Mr. EIDE, introducing draft resolution E/CN.4/Sub.2/1982/L.7, said that the sponsors had decided to insert a new paragraph 4 reading: "Expresses alarm at the reports of massive repression against, and displacement of, indigenous communities". Paragraphs 4, 5 and 6 should be renumbered accordingly. The purpose of the change was to include a reference to the problem of the indigenous populations in Guatemala, thereby obviating the need for a separate resolution on the subject.

134. Mr. JOINET said he welcomed the inclusion of the new paragraph. However, the opening words "Urges the Government of Guatemala...", in former paragraph 4, should be amended to read "Requests the Commission on Human Rights to urge the Government of Guatemala...", a formulation that would show greater consideration towards the Commission on Human Rights and would conform with the practice of going through the parent body when making requests to Governments. In the French version of the new paragraph 4, the opening words "Expresses alarm at ..." should be rendered by "S'elève contre..."

135. Mr. CAREY pointed out that a letter dated 6 September 1982 had been received from the Government of Guatemala. Hence, the wording of the draft resolution should be adjusted in order to welcome that fact and express the expectation of some follow-up action. The reference in paragraph 5 to the assurance of co-operation given to the Commission by the Government of Guatemala clearly related to some earlier assurance. The recent letter must therefore be mentioned specifically in the preamble and also in paragraphs 5 and 6.

136. As to the phrase "aggravated by the passive and inactive attitude of the present Guatemalan authorities towards such violations" in the last preambular paragraph, he for one could not concur in such a characterization of the situation in Guatemala and the passage in question should be deleted. Again, the words "renders impossible", preceding "the effective exercise of civil and political rights" in paragraph 7, were greatly exaggerated and should be replaced by a more suitable form of language such as "adversely affect". Lastly, the reference in paragraph 3 to the "deterioration" regarding the situation in Guatemala was unacceptable. The situation had certainly been very bad before, but to his knowledge it had not grown worse.

137. Mr. JOINET said that the sponsors would be prepared to include a reference to the new element of the Government's reply. As for the language criticized by Mr. Carey, it had actually been taken from a note dated 31 December 1981 by the Secretary-General expressing concern at the persistent deterioration in the human rights situation in Guatemala.

138. Mr. FOLI said that on reflection, he agreed it would not be fair to leave the concluding portion of the preamble as it stood. The situation in Guatemala was not satisfactory, but it would be unfortunate to level accusations that were unlikely to induce any Government to co-operate actively with the Sub-Commission.

139. Mr. BELTRAMINO agreed with Mr. Carey and Mr. Foli that governments must be encouraged to seek solutions to the situations criticized by the Sub-Commission and that it was necessary to avoid langauge which might deter them from doing so.

140. Mr. BOSSUYT said he too supported Mr. Foli's views in that regard.

141. Mr. EIDE said that the sponsors agreed to insert at the end of the preamble a new paragraph which would note that the Government of Guatemala had informed the Sub-Commission by letter of its intention of improving the participation of all sectors of society in the decision-making of the country and then go on to express the hope that that intention would actually be carried out in the future. He was reluctant to delete the last part of the fourth preambular paragraph: "aggravated ... violations" because the Working Group on Indigenous Populations had received much alarming information backed by data from a number of disinterested non-governmental organizations, but he was prepared to do so if such a course could be of assistance in improving the lot of the Guatemalan people.

142. Mr. SOFINSKY supported Mr. Carey's proposal to omit the last part of the fourth preambular paragraph.

143. Mr. FERRERO said that it should now be possible for the Sub-Commission to adopt the draft resolution by consensus.

144. Mr. JOINET said that the form of language employed in the passage: "aggravated ... violations" was abrupt and not at all encouraging to the Government concerned, but the underlying idea should not be abandoned altogether. Mr. Eide's proposed additional preambular paragraph could be retained and the passage in question could be reformulated in more constructive and acceptable terms by using the phrase: "in the hope that the Guatemalan authorities will strengthen the measures to put an end to those violations".

145. Mr. EIDE said that the sponsors were prepared to accept the formulation proposed by Mr. Joinet. The new concluding preambular paragraph would read:

"Noting in this regard that the Government of Guatemala, in a letter to the Sub-Commission, has indicated its willingness in the future to guarantee and ensure the legitimate rights of all the citizens of Guatemala, and e pressing the hope that this will be fully implemented".

146. Mr. SOFINSKY proposed that, in Mr. Joinet's oral amendment, the word "strengthen" should be replaced by "take".

147. Mr. JOINET said he agreed to that sub-amendment, which was fully in keeping with his own idea.

148. Mr. CAREY thanked the sponsors for accepting changes in order to meet some of the points he had raised. However, he still considered that, in paragraph 1, the exaggerated wording "render impossible" should be replaced by "adversely affect" and that the words "the deterioration in", in paragraph 3, should be deleted in order to avoid making a judgement as to whether the situation had actually worsened. Those changes did not entail any alteration in the meaning of the passages concerned.

149. Mr. EIDE urged Mr. Carey not to press for those changes. In the light of current information he was fully satisfied with the accuracy of the statement in paragraph 1 to the effect that the effective exercise of civil and political rights in Guatemala was rendered impossible at the present time. Similarly, it was not inappropriate to say, as did paragraph 3, that there had been a deterioration in the situation. He therefore hoped that the draft resolution, with the amendments agreed to by the sponsors, would be adopted by consensus.

150. Mr. CAREY said that he had no objection to adoption of the draft resolution by consensus, so long as the records showed clearly what his attitude would have been if paragraphs 1 and 3 had been put to the vote.

151. Draft resolution E/CN.4/Sub.2/1982/L.7, as amended, was adopted.

152. Mr. FERRERO pointed out that the word "deterioration" in the second preambular paragraph had to be rendered in the Spanish version as "deterioro" since the word "degradación" was wrong; apart from having a different meaning, it had a somewhat pejorative connotation.

The meeting rose at 8.20 p.m.