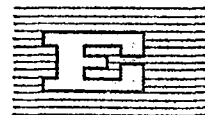


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COMMISSION ON HUMAN RIGHTS

Thirty-seventh session

SUMMARY RECORD OF THE 1593rd MEETING

held at the Palais des Nations, Geneva,  
on Tuesday, 10 February 1981, at 10 a.m.



Chairman:

Mr. CALERO RODRIGUES

(Brazil)

CONTENTS

Report of the Sub-Commission on Prevention of Discrimination and Protection of  
Minorities on its thirty-third session (continued)

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be consolidated in a single corrigendum to be issued shortly after the end of the  
session.

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

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-THIRD SESSION (agenda item 23) (continued)  
(E/CN.4/1413; E/CN.4/1420)

1. Mr. EL-FATTAL (Syrian Arab Republic) said that at the previous meeting the Brazilian delegation had made a very useful statement which had contained many points of relevance to the Commission's consideration of the item under discussion. He proposed that the statement should be issued as a working paper of the Commission.
2. After an exchange of views in which Mr. MARTINEZ (Argentina), Mr. SOFINSKY (Union of Soviet Socialist Republics), Mr. ORTIZ RODRIGUEZ (Cuba) and Viscount COLVILLE of CULROSS (United Kingdom) took part, the CHAIRMAN, noting that the summary record would reflect what had been said at the previous meeting, said he thought that it would be more expeditious if the Brazilian delegation could make copies of its statement available to the members of the Commission. If he heard no objection, he would take it that the Commission agreed to that procedure.
3. It was so decided.
4. Mrs. DAES, Special Rapporteur, introducing the study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights (E/CN.4/Sub.2/432/Rev.1 and Add.1-7), said that the entire report could be divided into three main parts: the duties of the individual; the limitations on certain human rights; and the protection of human rights in time of public emergency. In preparing the study, she had taken into consideration the replies of Governments and specialized agencies to her questionnaire, the Charter of the United Nations, international conventions in force, other international human rights instruments, reports of seminars organized under United Nations auspices, other United Nations documents, studies prepared by Special Rapporteurs and a select bibliography. She had also undertaken comparative research and study of a great number of contemporary constitutions of countries in all regions of the world.
5. In drafting the conclusions and recommendations of the study, she had taken into consideration, in particular, resolution 23 (XXXVI) of the Commission on Human Rights in which the Commission, inter alia, had re-emphasized the role of individuals and organs of society in promoting and defending human rights and had requested the Sub-Commission to continue to examine the question of the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights. The Sub-Commission had responded by adopting resolutions 6 (XXXIII) and 7 (XXXIII), in which it made certain recommendations for adoption by the Commission.
6. The general purposes of the study were to contribute to the freedom of the individual under law, to provide guidelines and to supply Governments with United Nations standards related to the main topics of the study, to examine and define the duties and responsibilities of the individual to the community and to indicate, at the national, regional and international levels, the basic judicial and other procedures and remedies against unlawful or arbitrary restrictions on individual rights and freedoms. The study as a whole was intended to be

action-oriented and to be used for the enlightenment of public opinion in connection with the human rights questions which it analysed. The work laid particular emphasis on the interpretation of articles 29 and 30 of the Universal Declaration and of the fifth preambular paragraph common to the two International Covenants on Human Rights.

7. She believed that the provisions of article 29 of the Universal Declaration, like the other articles of the Declaration and the relevant articles of the International Covenants on Human Rights, should be used as a shield for the protection of the individual and as a means for the attainment by all human beings, without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, of that dignity to which man was born.

8. In the modern era, the whole world formed, for some purposes at least, a single community. That was one of the considerations which had prompted the preparation of the Universal Declaration of Human Rights, the provisions of which either constituted general principles of law or represented elementary human considerations applicable to the world community.

9. The study dealt with the basic concept of freedom under law in a real democratic community; the fundamental principles of respect for human dignity, the rule of law, legality, justice, equality and non-discrimination; the moral, political, legal and jurisprudential principles relating to the right of the individual to develop his personality freely and fully in a democratic community; and the concept of the moral, legal and general responsibility of the individual.

10. As used in the study, "freedom under law" meant that whenever there was any conflict between the personal freedom of the individual and other rights or interests, the freedom of the individual should prevail. The concept of "personal freedom" meant the freedom of every law-abiding individual to think as he wished, to express his views freely and to go where he wished without let or hindrance. A just balance should be struck between that freedom and respect for the rights and freedoms of others and the requirements of morality, public order and the general welfare in a democratic society. The law, which protected individuals one against the other, also defended the rights of the individual against the power of the State, and the State against the exercise of individualism.

11. Part one of the study included a section referring to the legal significance and impact of the Universal Declaration of Human Rights. Her conclusion was that the Universal Declaration was of a quasi-legal significance as distinct from being the source and origin of legal rights and duties and that it had a legal effect by expanding the scope of customary and conventional law.

12. Paragraphs 521 to 527 examined the legal significance of the fifth preambular paragraph of the International Covenants on Human Rights. Her conclusion, based on article 31, paragraph 2, of the Vienna Convention on the Law of Treaties, was that the provisions of that paragraph served as an introduction to the articles which followed and constituted an aid in interpreting them. The paragraph concerned reminded the individual that, first, he had duties to other individuals and to the community to which he belonged and that, secondly, he was under a responsibility to strive for the promotion and observance of the human rights recognized in the International Covenants.

13. The Universal Declaration did not deal in detail with the duties and obligations of the individual in relation to the State, but article 29, paragraph 1, stated that "everyone has duties to the community" and that it was only within the community that the "free and full development of his personality is possible". "Duty" was a term loosely applied to any action which was regarded as morally or legally incumbent upon a person, leaving aside personal likes and dislikes. To fulfil a duty implied that there was a moral law or a legal rule regulating the relationship between certain persons or between the individual and the community.

14. It was the duty of the individual to conduct himself in relation to others in such a way that each person might fully form and develop his personality. Rights and duties were to some extent interrelated in certain social and political activities of man. The legal duty to promote respect for human rights included the legal duty to respect them.

15. The controversy concerning the position of the individual in international law was still continuing while States were the sole subjects of international law, certain international rights, duties and responsibilities of individuals had become part of international customary or conventional law. It was to be feared that the gross violations of human rights which existed in many parts of the world would increase if the international community did not take immediate action for the effective protection of the individual.

16. The examination of some substantive international rules, relevant international conventions, the charters of the International Military Tribunals of Nuremberg and the Far East, the International Covenants and the Optional Protocol to the International Covenant on Civil and Political Rights as well as several cases and facts relating to the problem of the international personality of the individual had shown that the individual had some capacity under international law. It could be said to be a restricted capacity differing from that of any political entity.

17. No international criminal tribunal with jurisdiction to try individuals responsible for committing crimes against peace, war crimes and crimes against humanity existed today, nor did any international criminal code applicable to the individual.

18. With regard to part two of the study, which concerned the limitations on the exercise of certain human rights, she pointed out that the freedom of the individual had to be balanced with the freedom of others and with the reasonable demands of the community. Such limitations were recognized first, in article 29, paragraph 2, of the Universal Declaration of Human Rights and, secondly, in article 4 and article 8, paragraph 1(c) of the International Covenant on Economic, Social and Cultural Rights and in article 4, article 12, paragraph 3, article 14, paragraph 1, article 18, paragraph 3, article 19, paragraph 3, article 21 and article 22, paragraph 2, of the International Covenant on Civil and Political Rights. The general principles governing restrictions on human rights and freedoms were established in article 29, paragraph 2, and article 30 of the Universal Declaration, in articles 4, 5 and 8 of the International Covenant on Economic, Social and Cultural Rights, and in articles 4, 5, 12, 14, 18, 19, 21 and 22 of the International Covenant on Civil and Political Rights.

19. Part two, chapter II of the report contained a detailed analysis of the meaning and scope of requirements, concepts and terms relating to such restrictions. One of her conclusions was that the provisions of article 29 of the Universal Declaration and the relevant articles of the International Covenants restricted also the rights and powers of the State in order to ensure that limitations on the exercise of rights were not used for improper purposes.

20. Among the principles which should govern limitations, the principle of respect for the dignity of the individual was the first recognized in the Universal Declaration. Recognition that human rights were absolute and that restrictions on their enjoyment were the exception was fundamental for the protection of individual freedoms.

21. A constitutional provision relating to the principle of equality was not a simple guideline: it imposed on the judiciary the obligation to ascertain whether the authorities had respected the equality of all individuals. In cases of violation of that principle, the judiciary should pronounce the official acts concerned invalid.

22. The most important requirement for the imposition of restrictions on human rights and freedoms was that the restrictions concerned should be legal. Moreover, limitations should be justified by specific reasons, including the need to ensure respect for the rights of others or to ensure public order and health, morality and national security. On the basis of the grounds mentioned, and always as defined by law, States might restrict the exercise of certain individual rights, but constitutional authorization was required. Limitations on human rights and freedoms should be imposed only for the purpose indicated and for no longer than the period necessary.

23. The imposition of restrictions on human rights by the legislative power should be limited. The latter had sovereignty, of course, over the executive and administrative authorities, whose right to impose direct restrictions should be exceptional and reviewed at suitable intervals.

24. The legal provisions of a modern State should prescribe only such limitations as were necessary to ensure the rights and freedoms of others and to satisfy the requirements of morality, public order and safety, national security, public health and general welfare in a democratic society. However, some of those concepts defied uniform definition at the international level; this meaning could only be determined pragmatically and in accordance with the aim of balancing the spiritual heritage of a society's past with the demands of modern development, and the individual's rights and freedoms with the welfare of the community as a whole.

25. Every State should try to set limits on preventive police action, with a view to safeguarding the individual's fundamental rights.

26. Only in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights was the concept of general welfare recognized as a ground for limiting human rights. No provision of the International Covenant on Civil and Political Rights referred to that concept, because of the danger of abuse. The concept varied according to time and to the state and needs of a society. Human rights might be limited, particularly in less developed countries, on grounds of general welfare for reasons relating to economic and social development, but the limitation should only be temporary.

27. The term "democracy" had long been applied to forms of government in which political power was in the hands of many rather than a few. It implied majority rule in the interests of all, and it did not exist where a minority dominated. The term "society", used in a wider sense in the Universal Declaration and the International Covenants, should denote the community, the public or the people in general; "democratic society" was not defined in the Covenants, and guidance on that point might be sought in article 21 of the Universal Declaration.

28. The expression "solely for the purpose" limited the powers of the executive and administrative authorities in imposing restrictions on human rights other than those expressly permitted by the relevant provisions of the Universal Declaration, the International Covenants and national legislation.

29. In principle, human rights could be fully effective only when directly applicable in national laws and forming a basis on which individuals could seek action in court. That presupposed that the courts should have authority to declare null and void any legal provisions which restricted a basic right beyond the extent constitutionally allowed.

30. National, local, regional and international bodies should have the power to examine ex officio whether the restrictions provided by national law or by the Universal Declaration and the International Covenants had been applied improperly, even if those instruments had not been expressly invoked in individual cases.

31. Mandamus, habeas corpus, prohibition and amparo, and review by administrative or constitutional courts or ombudsman were essential for the protection of the individual. Other procedures and remedies were detailed in addendum 5 to the report. Those remedies should be regarded as a constitutional right, affording protection in cases of unlawful prosecution and detention and of illegal acts or omissions by officials or private individuals restricting or threatening to restrict the individual's rights and freedoms, which should be guaranteed. Peoples and Governments should be urged to observe the principle embodied in the Universal Declaration and to strengthen their efforts to promote human freedom and dignity.

32. Most legal systems provided for derogation from constitutional guarantees in time of war or other emergency which affected the whole population of a country, not certain groups only, and posed a threat to the community's organized life. Under article 4 of the International Covenant on Civil and Political Rights, a state of emergency had to be officially proclaimed by the State Party concerned, which could take measures derogating from its obligations under that instrument only to the extent strictly required by the situation. Moreover, such measures must be consistent

with the State Party's other obligations under international law and must not involve discrimination solely on grounds such as race, sex or religion. Certain international instruments expressly provided that States might interfere with nationally and internationally protected human rights during an emergency. That was one reason why states of emergency and their effects must be scrutinized by the bodies responsible for ensuring the implementation of the relevant international instruments on human rights. It was for the Government concerned to furnish proof that a public emergency existed and that measures to restrict the individual's rights and freedoms were necessary. Even in a state of public emergency, the rule of law should prevail. States of exception should not always be equated with violations of human rights. There must be no derogation from articles 6, 7, 8, 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights, even in time of public emergency.

33. The main recommendations of the study, which she hoped the Commission would endorse, were: (a) the preparation of a draft declaration on the principles governing the responsibilities of the individual in connection with the promotion and observance of human rights and fundamental freedoms in a contemporary community; (b) the preparation of a study on the status of the individual in contemporary international human rights law; (c) the elaboration of a declaratory resolution defining limitations and restrictions on the exercise of certain human rights on the basis of common principles and standards; and (d) the preparation of a declaratory resolution relating to the protection of human rights in time of public emergency, containing common principles, guidelines and standards.

34. The recommendations on human rights teaching and education, which were based on Commission resolution 23 (XXXVI), deserved special emphasis. Such education should be made available to all individuals without discrimination and in all States, regardless of their legal, social, economic or political systems. The instruction should deal with respect for human rights in cases of armed conflict and should include the teaching of international humanitarian law at high schools and universities. The aim should be, inter alia, to contribute to economic and social progress and the maintenance of world peace.

35. Mr. GIAMBRUNO (Uruguay) expressed his appreciation of the statement made by the Special Rapporteur and said that his delegation fully agreed with the content of the report, particularly the definition of democracy and the outline of the development of law relating to the individual's rights and to general well-being and public needs. In his view, the Commission's approach to the matter had always been that the two aspects of the law should be harmonized wherever possible but that the inherent rights of the individual should remain paramount.

36. He felt that the Commission should reaffirm the need for further studies of that kind, and should give approval for the publication of the study in question.

37. His delegation fully endorsed the conclusions drawn in the analysis made by the representative of Brazil at the previous meeting. In that connection, subordinate bodies, such as the Sub-Commission, might occasionally exceed their terms of reference, but it was for the Commission itself to define any mandate conferred and monitor its observance. The proposal to set up a group of members of the Commission

for that purpose seemed a good idea in principle, but in practice the workload of each session would make it difficult to spare time for the task. Perhaps, therefore, the Division of Human Rights could carry out a study on ways in which the Commission could improve its methods of work.

38. He was particularly disturbed about the study of communications. On average, some 40,000 had to be sifted before each session - which meant that the selection of items for consideration was arbitrary and, sadly, often politically biased. The blame lay not with any individuals or groups but with the disorderliness stemming from the growth of the workload. Nevertheless, the Commission had a responsibility to do justice to all when dealing with communications, and must therefore look into its procedures.

39. His delegation had undiminished faith in the Commission and appreciated its unflagging efforts to carry out an arduous task in a very short time and with scant resources. However, it should organize its work carefully if optimum results were to be achieved.

40. Viscount COLVILLE of CULROSS (United Kingdom) said that the report of the Sub-Commission on its thirty-third session (E/CN.4/1413) was a substantial and valuable contribution to the Commission's work. It was unfortunate that previous such reports had been given insufficient attention by the Commission. The Sub-Commission had functioned as a real partner of the Commission and it was the Commission's duty, both to the Sub-Commission and to the victims of the human rights violations which it might investigate, to maintain adequate lines of communication in order to help that body carry out those tasks which it could perform more effectively than the Commission itself. Although the Sub-Commission's mandate was a broad one, it should be encouraged in its work in view of the important role it had to play in the protection of human rights. However, his delegation tended to agree that it might in some instances have exceeded its mandate, particularly in certain provisions of resolutions 8, 10, 15, 16, 20, 21 and 23 adopted at its thirty-third session and that the financial implications of its resolutions and decisions required careful consideration. Those reservations were primarily procedural, however, and should not be construed as any fundamental criticism of the Sub-Commission.

41. He also agreed with some of the criticisms of the report which had been made at the previous meeting by the representative of Brazil, particularly that the Sub-Commission should in some cases have submitted its views as recommendations to the Commission itself instead of approaching Governments or United Nations bodies directly. He hoped that the Sub-Commission's next report would take account of the constructive criticisms made by the representative of Brazil and other members of the Commission, and that the Commission would henceforth pay sufficient attention to the Sub-Commission's activities and provide it with practical guidance.

42. Mr. BEAULNE (Canada) said that his delegation welcomed the Commission's decision to give higher priority at its current session to consideration of the report of the Sub-Commission (E/CN.4/1413). Much of the criticism levelled at the Sub-Commission would have been unnecessary had the Commission paid sufficient attention to the Sub-Commission's work in the past and provided it with the guidelines it was entitled to expect.



43. The Commission should take account of the Sub-Commission's suggestions, recommendations and decisions when it came to take up the corresponding items on its own agenda. A number of those recommendations quite rightly dealt with the problem of how to examine allegations of human rights violations which required urgent measures, and the Commission should make a serious effort to provide the appropriate machinery.

44. He recalled that the terms of reference of the Sub-Commission called for it to make recommendations to the Commission concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and that, in resolution 8(XXIII), the Commission had specifically invited it to bring to the attention of the Commission any situation which appeared to reveal a consistent pattern of violations of human rights. Conversely, the Commission itself should draw the Sub-Commission's attention to certain situations which urgently required study. It was heartening to note how well the Sub-Commission had discharged its tasks in that regard. It was always useful to have independent experts, chosen for their competence, suggest ways for the Commission to improve its efforts to ensure universal respect for human rights, and its recommendations should be given serious consideration. Inter-sessional meetings of the Bureau of the Commission to deal with Sub-Commission recommendations requiring immediate action would be extremely useful in that connection.

45. His delegation welcomed the establishment by the Sub-Commission of a working group to promote the ratification of the various international human rights instruments, a step which could help to establish a useful and constructive dialogue with Member States and perhaps encourage them to take appropriate action. His delegation also had no objection to the establishment of a working group to meet before the Sub-Commission session to prepare the Sub-Commission's review of developments regarding the human rights of persons subjected to any form of detention or imprisonment.

46. He expressed appreciation of the various expert studies which had been commenced or completed in the Sub-Commission and urged that follow-up action should be taken where appropriate. In that connection he particularly supported the recommendation in Sub-Commission resolution 6(XXXIII) regarding the preparation of a study on the status of the individual in contemporary international human rights law.

47. He noted that in the past, some members of the Sub-Commission, invoking rule 13 of the rules of procedure of the functional commissions of the Economic and Social Council, had designated alternates to act in their place during their absence. The members of the Sub-Commission were not designated by their Governments, however; they were elected by the Commission after having been nominated by a Government, and only the Commission could authorize the designation of an alternate. That point should be clarified.

48. His delegation did not view with favour the suggestion that official representatives of Member States should be appointed to the Sub-Commission, as they were to the Commission itself; it strongly preferred the appointment of independent experts and was opposed to any change in the current status of the Sub-Commission's members or their terms of reference.

49. His delegation was also opposed to the establishment of a working group of the Commission to study the Sub-Commission's report before each session. It was the task of each delegation to judge the work of the Sub-Commission as the Commission's agenda items were dealt with, and during the examination of the Sub-Commission's report, which should be accorded the same priority in the future as it had been at the current session.

50. Mr. DIAGNE (Senegal) said that he was pleased that for the first time in several years the Commission was paying sufficient attention to the report of the Sub-Commission (E/CN.4/1413), whose important recommendations had often been neglected in the past. The report was a substantial one and reflected the excellent work done by the Sub-Commission at its thirty-third session. While noting some signs of progress in the field of human rights, the Sub-Commission also made it clear that much remained to be done, particularly in such areas as the struggle against apartheid, the fate of missing persons and the protection of migrant workers. He accordingly endorsed resolutions 1(XXXIII), 2(XXXIII) and 3(XXXIII). The human rights assistance fund recommended in the latter resolution would not only help countries to deal more effectively with their human rights problems, but would also help the victims of violations.

51. It was particularly astonishing to learn from the report that slavery and the slave trade still persisted in certain parts of the world. All Governments must make every effort to help the Working Group on Slavery ensure strict implementation of the relevant anti-slavery instruments. Apartheid, the negation of all human values, also deserved special attention, and he supported all the relevant Sub-Commission resolutions and urged that they should be given priority. He was also deeply concerned over the fate of disappeared persons in various parts of the world and the suffering caused to their families and therefore urged that the mandate of the Sub-Commission's Working Group on Enforced or Involuntary Disappearances should be extended, as recommended in paragraph 1 of resolution 18(XXXIII), and that the widest possible publicity should be given to that body's work.

52. He highly commended Mrs. Daes for her study on the individual's duties to the community and the limitations on human rights and freedoms. It was clear that an individual's rights were inseparably linked with his duties, which included the duty to reject discrimination against others, and he therefore favoured the adoption of the draft resolution contained in Sub-Commission resolution 7(XXXIII).

53. Turning to the criticism that the Sub-Commission had exceeded its mandate, he said that that mandate should be given a broad and flexible interpretation in the light of the new and expanded tasks with which the Sub-Commission had to cope. Indeed, it might even be appropriate to change its name to "Sub-Commission on Human Rights". The Commission must endeavour to make the Sub-Commission's work more effective, and more attention should be given to its report. The appointment of a working group of the Commission to examine the Sub-Commission's report might be very helpful in that connection.

54. Mr. POUYOUIROS (Cyprus) said that the work of the Sub-Commission was indispensable to the work of the Commission and ample time must be given to consideration of its report. He particularly commended Mrs. Daes for the excellent, comprehensive and critical analysis presented in her study, which deserved the Commission's close attention. Accordingly, he fully supported Sub-Commission resolutions 6(XXXIII) and 7(XXXIII).

55. Mr. MARTINEZ (Argentina) said that the Commission had a responsibility to draw the attention of the Sub-Commission to any decisions in which it appeared to have exceeded its mandate. The Sub-Commission was unquestionably a subsidiary body of the Commission and should therefore assist it in its work. On those occasions when the action taken by the Commission on a specific question differed from that recommended by the Sub-Commission, the latter should not continue to press its point of view, since it was for the Commission, as a political body, to determine future action. Moreover, failure by the Commission to adopt a decision on a given recommendation by the Sub-Commission should not be interpreted as tacit acceptance of the recommendation in question, particularly where political considerations were involved. It would be unacceptable to assume that the decisions of the Commission were adopted by omission.
56. In those instances where the Sub-Commission was in doubt as to its precise mandate, it was the responsibility of the Secretariat to provide guidance or to refer the matter to the Commission for clarification. The Sub-Commission could not assume that it had been given a mandate simply because certain of its actions or decisions had not evoked any comment or objection from the Commission.
57. As the report of the Sub-Commission dealt with almost all the questions on the Commission's agenda, detailed discussion of each of its proposals would anticipate the Commission's work for the whole of its session. He suggested, therefore, that where action requested by the Sub-Commission related to a specific item on the agenda of the Commission, it should be considered when the Commission took up the item in question.
58. Members of the Sub-Commission should continue to act in a strictly personal capacity, as experts, completely independent of any Government actions. In carrying out their mandate, they should concentrate on specific questions referred to them by the Commission, rather than discussing and voting on questions of a political nature. In that regard, the Sub-Commission's attention should be drawn to the fact that, when the Commission requested its expert opinion on a given question, it wished to be informed of both majority and minority views of members of the Sub-Commission. The adoption of some decisions of the Sub-Commission by vote meant that the Commission was not made aware of minority views, even in the case of resolutions where the Commission was requested to take action. At the expert group level, issues could not be resolved by a vote.
59. His delegation would reserve its views on specific resolutions of the Sub-Commission, until they were taken up under the relevant items of the agenda.
60. He congratulated Mrs. Daes on her report on one of the most difficult issues before the Sub-Commission.
61. Mr. BOEL (Denmark) said that his country was actively committed to international endeavours for the protection of human rights throughout the world. Accordingly, his delegation had read with considerable interest the report of the Sub-Commission on its thirty-third session. One of the most important functions of the Commission was its legislative or standard-setting task, particularly in the elaboration of international conventions. In a number of instances, the Sub-Commission had carried out useful groundwork with a view to preparing important United Nations instruments on human rights. His delegation was gratified to learn that that trend was continuing and that the Commission could expect to receive a number of proposals which would undoubtedly contribute further to the evolution of international law in the field of human rights.

62. His delegation welcomed the dialogue which the sessional Working Group on the encouragement of universal acceptance of human rights instruments had established with Member States and expressed the hope that it would facilitate the widest possible acceptance of human rights instruments.

63. With regard to the implementation of human rights instruments, he said that, where those instruments themselves did not provide for the necessary implementation machinery other solutions had to be found. The Working Group on Slavery, for example, had a useful role to play, in view of the fact that no other machinery was available to oversee the implementation of the relevant Convention.

64. It appeared from the report that the Sub-Commission had constantly to cope with the question of how to work in the most efficient and action-oriented manner. While legitimate criticism could no doubt be made of existing procedures, such criticism should not be allowed to obscure the value of the Sub-Commission's work as a whole.

65. Ms. FELLER (Australia) said that her delegation was gratified to note the priority that had been accorded at the current session to consideration of the Sub-Commission's report and strongly supported the work of the Sub-Commission, which made a significant contribution to the promotion and protection of human rights in the fields of standard-setting, research, and implementation of fundamental human rights instruments. Her delegation shared the Sub-Commission's view that there was a need to develop further the possibilities open to the United Nations for dealing with mass violations of human rights and believed that the Sub-Commission had a genuine role to play in that regard.

66. With respect to the view expressed by a number of delegations that the Sub-Commission might, in the past, have exceeded its terms of reference, she said that there was a lack of precision as to the scope of the Sub-Commission's mandate. Furthermore, the Commission itself had failed to develop sufficiently precise ideas as to the tasks to be performed by the Sub-Commission and should therefore assume some of the responsibility for the so-called excesses of the Sub-Commission. The Commission should give further consideration to the role to be played by the Sub-Commission. The establishment of a sessional working group to analyse the Sub-Commission's report might not necessarily be the best solution.

67. Her delegation would comment on the matters of substance arising out of the Sub-Commission's resolutions in the course of the Commission's consideration of the relevant agenda items.

68. With regard to certain procedural aspects of the Sub-Commission's work, she recalled that her delegation had already expressed its views on the proposals re-stated in Sub-Commission resolution 27 (XXXIII). While not objecting to a change in the Sub-Commission's designation or to the suggestion that the Sub-Commission should be empowered to vote by secret ballot under certain circumstances, her delegation nevertheless continued to have reservations concerning the proposal that the Sub-Commission should hold two annual sessions of two weeks each. The proposed arrangement might add to the difficulties of certain members with professional commitments elsewhere. More importantly, the continuity of a four-week session and the co-operative spirit which was built up over that period were more likely to ensure efficient use of the limited time available.

69. It was a source of increasing concern to her delegation that members of the Sub-Commission, elected as experts in their individual capacities, sometimes failed to attend the sessions of the Sub-Commission and sent alternates to replace them. There should be no alternates for persons elected to perform tasks for which their particular expertise suited them. Her delegation hoped that others would share that view.

70. In conclusion, her delegation expressed its appreciation of the study prepared by Mrs. Daes.

71. Mr. SOFINSKY (Union of Soviet Socialist Republics) said he wished to commend Mrs. Daes for her report, although he could not agree with all the conclusions which it contained.

72. Referring to the report of the Sub-Commission, he said that it would be worth while for the new members of the Sub-Commission to be elected at the current session to give careful consideration to the Brazilian representative's analysis of the Sub-Commission's work at its thirty-third session. At that session, the Sub-Commission had achieved important results, in particular in its consideration of the questions of racial discrimination and gross violations of human rights in various parts of the world, including Chile and other countries with dictatorial régimes and the Israeli-occupied Arab territories. He noted in particular the decision of the Sub-Commission, in its resolution 2 (XXXIII), to continue to update the list of banks, transnational corporations and other organizations assisting the racist régimes in Southern Africa. His delegation also fully supported the decision contained in paragraph 3 of that resolution.

73. In its consideration of measures to combat racism and racial discrimination, the Sub-Commission had departed from the provisions of General Assembly resolution 34/24, and of Commission resolution 14 D (XXXVI) concerning the preparation of a study on ways and means of ensuring the implementation of United Nations resolutions on apartheid, racism and racial discrimination. He expressed the hope that the Sub-Commission would give priority to that question at its thirty-fourth session.

74. He noted that the Sub-Commission had been prevented from considering the report submitted in connection with the study of the problem of discrimination against indigenous populations by the Secretariat's inability to make it available in all the working languages. That delay in the Sub-Commission's work was regrettable, particularly since members of the indigenous populations concerned had travelled to Geneva to be present at the Sub-Commission's deliberations.

75. He had noted a tendency for the Sub-Commission to assume tasks which did not fall within its mandate. As could be seen from a number of the resolutions adopted at its thirty-third session, the Sub-Commission had given disproportionate attention to the work of certain United Nations bodies. His delegation could not take a favourable view of that trend and saw no need for any modification of the Sub-Commission's mandate. Although the Sub-Commission was comprised of independent experts, it must continue to be guided by the Commission. At its thirty-third session, the Sub-Commission had adopted a number of decisions in which no account was taken of financial implications. Furthermore, in a number of its resolutions, including resolutions 18 (XXXIII) and 19 (XXXIII), the Sub-Commission had exceeded its mandate by addressing itself directly to Governments. He expressed the hope that, in the future, the Sub-Commission would devote greater attention to matters falling within its specific mandate.