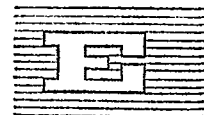


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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 51st MEETING

(First part) */

Held at the Palais des Nations, Geneva,
on Monday, 11 February 1984, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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*/ The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.51/Add.1

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The meeting was called to order at 3.45 p.m.

TRIBUTE TO THE MEMORY OF MR. KONSTANTIN CHERNENKO, GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE COMMUNIST PARTY AND CHAIRMAN OF THE PRESIDUM OF THE SUPREME SOVIET OF THE UNION OF SOVIET SOCIALIST REPUBLICS

1. The CHAIRMAN said he regretted to inform the Commission officially of the death of Mr. Konstantin Chernenko, General Secretary of the Central Committee of the Communist Party and Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics, which had occurred on 10 March 1985, after a serious illness. Mr. Chernenko had fought a long fight for Communism and peace. His name would remain in the memory of peoples that cherished peace and progress. On behalf of the Commission, he expressed his condolences to the family of Mr. Chernenko and to the Soviet Government and people.
2. On the proposal of the Chairman, the members of the Commission observed a minute of silence in tribute to the memory of Mr. Konstantin Chernenko.
3. Mr. KLENNER (German Democratic Republic), speaking on behalf of the member States and observers of the group of Socialist States of Eastern Europe, expressed the sorrow he felt at the death of Mr. Chernenko, whose life and work had been dedicated to the welfare of Soviet society, co-operation among peoples and the establishment of a social order and an international climate in which the political, civil, economic, social and cultural rights of peoples and individuals could be fully realized. He expressed his heartfelt condolences to the Soviet Union and, through it, to all Soviet citizens.
4. Mr. DHILLON (India), speaking on behalf of the Asian group of countries represented in the Commission, offered his sincere condolences to the delegation of the USSR and to the people of the Soviet Union on the death of Mr. Chernenko, who, during the short span that he had guided the destiny of his country, had given ample evidence of his dedication to progressive causes. The entire world had lost a statesman whose dedication to peaceful coexistence was well known.
5. Sir Anthony WILLIAMS (United Kingdom) conveyed to the delegations of the Byelorussian Soviet Socialist Republic, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics the condolences of the member and observer delegations of the European Community and of other delegations of western, southern and northern Europe, the United States of America, Australia, New Zealand and Canada. The Soviet Union had lost three respected leaders in quick succession; the best tribute that the Commission could pay to the great Soviet people was to complete its work in support of human rights everywhere. The death of President Chernenko marked the passing in the Soviet Union of a leading member of a generation which was that of the founding members of the United Nations, of the Commission and of the Universal Declaration and the Covenants. In paying tribute to the memory of President Chernenko, the purposes and principles which had inspired those actions of foundation must be reaffirmed.
6. Mr. CHARRY SAMPER (Colombia), speaking on behalf of the Latin American group, associated himself with the sorrow of the Soviet Government and people and likewise offered his condolences to the USSR, the Byelorussian and Ukrainian Soviet Socialist Republics and all the socialist countries in the world. The Soviet Union was a great country which had an essential part to play in contemporary affairs, particularly in promoting peace. The Latin American countries, which earnestly desired peace in the world, applauded President Chernenko's work for peaceful co-operation.

7. Mr. SENE (Senegal), speaking on behalf of the African group, joined the people of the Soviet Union in their mourning. Mr. Chernenko was one of those great statesmen who right up to the evening of their lives, had sacrificed all their physical and intellectual strength in the service of their country and in the cause of progress and world peace. He had had an acute awareness of the importance of disarmament problems, peace and international security, which determined in large measure the future of mankind. The work which he had accomplished would continue to inspire his successors in building the great Soviet nation, and in their participation in the march of peoples towards development, peace and fraternal co-operation.

8. Mr. SOFINSKY (Union of Soviet Socialist Republics), speaking also on behalf of the delegations of the Byelorussian and Ukrainian Soviet Socialist Republics, thanked the Chairman and the representatives of the regional groups who had offered their condolences on the death of Mr. Chernenko, General Secretary of the Central Committee of the Communist Party and Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics. Mr. Chernenko had been a great fighter, not only for peace and co-operation in the world but also for human rights. He had been the author of a work entitled "The Communist Party of the Soviet Union and Human Rights", in which he had expressed a deep concern about human rights violations throughout the world while welcoming the modest progress which had been achieved. President Chernenko had expressed the conviction that the day would come when human rights would be universally respected at last and when the happiness of peoples on earth would be guaranteed. He assured all those who had offered their condolences that their words would be conveyed to Mr. Chernenko's family and to the Soviet Government and people.

9. The CHAIRMAN said that the secretariat would see to it that the condolences of the Commission were conveyed to the Soviet Government.

The meeting was suspended at 4.05 p.m. and resumed at 4.20 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1985/2, 7/Rev.1, 9 and Add.1, 17-21, 44, 54, 57, 58, 60; E/CN.4/1985/NGO/4, 8, 13, 14, 15, 20, 21, 25, 28, 29, 34, 36, 38, 44, 50, 52 and 54; E/CN.4/1985/L.12/Rev.1 and L.30; A/39/635 and 636)

10. Mr. ERMACORA (Austria), Special Rapporteur on the situation of human rights in Afghanistan, thanked the speakers who had commended his report (E/CN.4/1985/L.21). To those who had expressed criticism about the report and deemed it one-sided, he recalled that the best manner for any Government to ensure full reflection of its views in that type of document was to communicate them to the Special Rapporteur; the Afghan Government had not done that. However, he had reported the views which the Afghan Government had expressed on his mandate in various forums, as could be seen from paragraphs 26-32 of the report.

11. His report put forward considerations which were undeniable and directly related to the situation of human rights in Afghanistan: there was a state of hostility in Afghanistan which was generating enormous human suffering, in particular to innocent civilians; the conflict had provoked the flight of one-third of the population; the reasons for those flights, which were described in the report, had not been challenged; the extent of the conflict went beyond the national level and the international community could not feign ignorance, if only in the interest of alleviating the resultant suffering; the question of legal or political responsibility was not the most important issue: the primary task was to find ways to reduce and if

possible eliminate human suffering, the reality of which could not be denied. The Commission's real task was to alleviate such suffering and he had wanted to do nothing more than contribute to the success of that task.

CONSIDERATION OF DRAFT RESOLUTIONS OR DECISIONS:

THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 15) (continued)

Draft resolution E/CN.4/1985/L.31/Rev.1

12. Mrs. BOJKOVA (Bulgaria) said that her delegation, which was one of the sponsors of the draft resolution, suggested that, in the eleventh preambular paragraph, the words "the new international economic order", should be replaced by the words "of a new international economic order".
13. Mr. MTANGO (United Republic of Tanzania) said that his delegation, which was also one of the sponsors, had difficulty in accepting that change. If the draft resolution was amended in that way, his delegation could no longer remain one of the sponsors.
14. Mrs. BOJKOVA (Bulgaria) observed that her amendment merely reproduced the wording used in operative paragraph 2; however, if it caused difficulties, she could withdraw it.
15. Introducing draft resolution E/CN.4/1985/L.31/Rev.1 on behalf of the sponsors (Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, Egypt, German Democratic Republic, India, Libyan Arab Jamahiriya, Mexico, Mozambique, Peru, Romania, Syrian Arab Republic, United Republic of Tanzania and Viet Nam), she recalled that her delegation had already dealt with the essential points of the text during the debate. She stressed that the International Youth Year proclaimed by the General Assembly coincided with the fortieth anniversary of the victory over fascism and nazism and with the founding of the United Nations. The fact that the three events coincided was food for thought. The founders of the United Nations had attached paramount importance to the role of youth, and the Commission, for its part, should not overlook the participation of young people in the enjoyment of all human rights.
16. The first eight preambular paragraphs of draft resolution E/CN.4/1985/L.31/Rev.1 brought out the links between the principles and objectives of the Charter, the Universal Declaration of Human Rights, the International Covenant and all the relevant international instruments. The seven subsequent paragraphs dealt with specific aspects of the role of youth which reflected those principles and objectives. In the thirteenth and fourteenth paragraphs in particular, the three interdependent objectives of the International Youth Year - participation, development and peace - were mentioned. Operative paragraphs 1 and 2 reaffirmed the role that youth should play in the realization of the entire range of human rights. In paragraph 3, an appeal was made to all Governments to ensure that young people had equal opportunities in economic, social, cultural, civil and political life. In paragraph 4, the Sub-Commission was requested to pay due attention to the role of youth in the field of human rights. In paragraph 5, the Secretary-General was requested to give special emphasis to educational materials and programmes for youth, in the light of the objectives of the International Youth Year. Finally, by paragraph 6, the Commission would decide to consider the matter under the agenda item to which the draft resolution referred.

17. Her delegation had done its best to take into account the comments made on the draft and to amend the initial text accordingly. The draft resolution might now be adopted by consensus and, on behalf of all the sponsors, she made an appeal to that effect.
18. Mr. BALOIU (Observer for Romania) said that the fact that the Commission on Human Rights had decided to give priority consideration to the question of the exercise by young people of all human rights and fundamental freedoms, in particular the right to education and the right to work, proved the importance that the United Nations, like other organizations, attached to the problems of youth. His delegation therefore commended the initiative of the Bulgarian delegation in formulating draft resolution E/CN.4/1985/L.31/Rev.1.
19. Romania had always given special attention to the problems of young people. It had been at its initiative that the Declaration on the Promotion among Youth of the ideals of Peace, Mutual Respect and understanding between Peoples had been adopted in 1965. During the past 20 years Romania had put forward further proposals on behalf of the younger generation, culminating in the proclamation of International Youth Year under the very contemporary and catalytic motto of "Participation, development, peace". The preparations for the International Youth Year by the United Nations Consultative Committee under the chairmanship of Mr. Ceausescu had contributed to the success of the activities which had so far taken place to mark the Year.
20. Obviously, action in favour of the younger generation should not cease at the end of 1985. It would be particularly useful to adopt an international instrument on the rights and duties of the younger generation as well as other documents on the situation of young people. His delegation hoped that the Commission would adopt the draft resolution by consensus, thus making a significant contribution towards the achievement of the objectives of the International Youth Year.
21. The CHAIRMAN announced that Afghanistan, Cuba and Nicaragua had become sponsors of the draft resolution. In view of the fact that no delegation had asked for a vote on draft resolution E/CN.4/1985/L.31/Rev.1, he took it that the Commission wished to adopt it by consensus.
22. It was so decided.
- Draft resolution E/CN.4/1985/L.32/Rev.1
23. Mr. OGURTSOV (Observer for the Byelorussian Soviet Socialist Republic) introduced draft resolution E/CN.4/1985/L.32/Rev.1 on behalf of the sponsors and indicated its main features. The draft did not require lengthy explanations and his delegation was sure that the Commission would adopt it by consensus.
24. The CHAIRMAN observed that no delegation had asked for a vote on draft resolution E/CN.4/1985/L.32/Rev.1. He therefore took it that the Committee wished to adopt it by consensus.
25. It was so decided.

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

- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
- (b) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES (agenda item 10) (continued)

Draft resolution E/CN.4/1985/L.34

26. Mr. KHMEL (Ukrainian Soviet Socialist Republic) introduced on behalf of the sponsors draft resolution E/CN.4/1985/L.34 on the situation of Palestinian, Lebanese and other detainees held by Israel as a result of its invasion of Lebanon. After outlining the main points of the draft resolution, he noted that the matter it dealt with had already been the subject of Commission decisions in the past.
27. The CHAIRMAN announced that Afghanistan, Algeria, Bangladesh, Congo, Cuba and India had become sponsors of the draft resolution.
28. Mr. SOLEY SOLER (Costa Rica) asked for a separate vote on operative paragraph 1.
29. Mr. SCHIFTER (United States of America) asked for the draft resolution as a whole to be put to a vote.
30. Mr. CLEMENT (France), speaking in explanation of vote before the vote, stated that he could not associate himself with the condemnation in operative paragraph 1. His delegation had suggested to the sponsors of the draft resolution a wording which would have enabled it to support the text, but its proposal had not been accepted. Although his delegation had supported a Security Council resolution condemning Israeli practices and measures, it considered that the two texts were different and that the Commission on Human Rights did not have the powers of the Security Council in its relations with States. In spite of that reservation, which would oblige it to abstain in the separate vote on operative paragraph 1, his delegation would vote in favour of the text as a whole because the French Government was profoundly concerned by the situation of human rights in Lebanon which had resulted from the occupation of the territory of that country. The French Government reaffirmed its desire to see compliance with the provisions of the Geneva Conventions of 12 August 1949 and expressed its concern at the situation of Palestinians, Lebanese and other persons held in Lebanon.
31. Mr. SCHIFTER (United States of America), speaking in explanation of vote before the vote, stated that his delegation would vote against the draft resolution for three reasons. Firstly it was unbalanced: Israel should not be the only party to be held accountable for its obligations under international law. Secondly, Israel had co-operated with ICRC whereas the other parties had not done so. Lastly, Israel had offered to negotiate the security measures to be taken during its withdrawal from Lebanon.
32. At the request of the representative of the Gambia, a vote was taken by roll-call on operative paragraph 1 of the draft resolution.

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

In favour: Bangladesh, Bulgaria, China, Congo, Cyprus, Gambia, German Democratic Republic, India, Jordan, Kenya, Lesotho, Libyan Arab Jamahiriya, Mexico, Mozambique, Nicaragua, Senegal, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Yugoslavia.

Against: Australia, Costa Rica, Germany, Federal Republic of, Ireland, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Austria, Brazil, Cameroon, Colombia, Finland, France, Japan, Liberia, Peru, Philippines, Spain, Venezuela.

34. Operative paragraph 1 was adopted by 22 votes to 7 with 13 abstentions.

35. At the request of the representative of the Gambia, a vote was taken by roll-call on draft resolution E/CN.4/1985/L.34 as a whole.

36. Mexico, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Argentina, Austria, Bangladesh, Brazil, Bulgaria, Cameroon, China, Colombia, Congo, Cyprus, Finland, France, Gambia, German Democratic Republic, India, Jordan, Kenya, Lesotho, Libya Arab Jamahiriya, Mexico, Mozambique, Nicaragua, Philippines, Senegal, Spain, Sri Lanka, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Venezuela, Yugoslavia.

Against: United States of America.

Abstaining: Australia, Costa Rica, Germany, Federal Republic of, Ireland, Japan, Liberia, Netherlands, Peru, United Kingdom of Great Britain and Northern Ireland.

37. Draft resolution E/CN.4/1985/L.34 was adopted by 32 votes to 1, with 9 abstentions.

Draft resolution E/CN.4/1985/L.41

38. Mr. RAVENNA (Argentina), introducing draft resolution E/CN.4/1985/L.41 on behalf of the sponsors, to which Costa Rica and Cyprus should be added, said that the practice of administrative detention was becoming more and more common. It enabled the authorities to keep in detention a person who had neither been charged nor committed for trial. Administrative detention was of a preventive character and was imposed, for example, on those regarded as constituting a potential danger to security of the State or the community in countries in which a state of siege or emergency had been proclaimed. In the normal way, the practice should be confined to periods of states of siege or emergency, but governments sometimes used it under other circumstances. Furthermore, even in cases in which a state of emergency had been proclaimed in due legal form, administrative detention was sometimes applied to persons who had completed

their sentence, contrary to the court decision ordering their release. Such disquieting situations were the reason for the formulation of the draft resolution on administrative detention, in document E/CN.4/1985/L.41. He hoped that the Commission could adopt it by consensus.

39. The CHAIRMAN, observing that no delegation had requested a vote on the draft resolution, said he took it that the Commission decided to adopt it by consensus.

40. It was so decided.

Draft resolution E/CN.4/1985/L.43.

41. Mr. QUINN (Australia) introduced the draft resolution on the right to freedom of expression and opinion on behalf of the sponsors. At its fortieth session, the Commission had adopted a similar resolution without a vote, and the sponsors hoped that it would do the same on the present occasion. The drafters of the resolution had taken considerable care to meet the concerns of all regional groups and to ensure that the international legal basis of the right to freedom of opinion and expression was fully set out (see preambular paragraphs 2 and 3). The only significant new element in the draft resolution was the affirmation that further measures might be required at the national and international levels to ensure respect for that right (operative paragraph 2), a formulation sufficiently broad to encompass, for example, at the national level, the reviewing of national legislation and administrative practice. At the international level, the Commission on Human Rights could consider a range of possible measures at future sessions.

42. The CHAIRMAN announced that Argentina and Portugal had become sponsors. Observing that no delegation had requested a vote on draft resolution E/CN.4/1985/L.43, he said he took it that the Commission wished to adopt it by consensus.

43. It was so decided.

Draft resolution E/CN.4/1985/L.45 and L.46

44. Mr. EKBLÖM (Finland) introduced two draft resolutions, one on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the other on the United Nations Voluntary Fund for Victims of Torture. The international community was united in regarding torture as one of the most serious violations of human rights, as has been shown by the unanimous adoption of the Convention against Torture by the General Assembly in December 1984. That instrument had been opened for signature on 4 February 1985 and it was satisfactory to note that 24 States had already signed it. The sponsors of draft resolution E/CN.4/1985/L.45 accordingly invited all States to become parties to the Convention so that it could enter into force as soon as possible.

45. In resolution E/CN.4/1985/L.46, all Governments, organizations and individuals were invited to contribute to the Fund, whose resources were far from sufficient to meet requests.

46. Mr. ERMACORA (Austria) informed the Commission that the President of the Republic of Austria would shortly sign the document conferring the necessary powers to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

47. The CHAIRMAN announced that Portugal had become a sponsor of draft resolution E/CN.4/1985/L.45.

48. Observing that no delegation had asked for a vote, he said he took it that the Commission wished to adopt the draft resolution by consensus.

49. It was so decided.

50. The CHAIRMAN announced that Costa Rica had become a sponsor of draft resolution E/CN.4/1985/46. Since no delegation had asked for the draft resolution to be put to a vote, he took it that the Commission wished to adopt it by consensus.

51. It was so decided.

Draft resolution E/CN.4/1985/L.42

52. Mr. CLEMENT (France) introduced draft resolution E/CN.4/1985/L.42 on the question of enforced or involuntary disappearances on behalf of the delegations of Argentina, Austria, Canada, Costa Rica, France, Gambia, the Federal Republic of Germany, Ireland, Italy, Netherlands, Portugal, Senegal, Spain and the United Kingdom of Great Britain and Northern Ireland.

53. The draft resolution dealt with one of the most serious and pernicious forms of human rights violations, the number of whose victims, direct and indirect, was unfortunately not tending to decline over-all. For that reason, the Commission had in 1980 set up a working group consisting of experts serving in their individual capacities, to examine the question and find ways of putting an end to the practice of enforced or involuntary disappearances. The purpose of the draft resolution under consideration was to extend the Working Group's mandate and to improve its means of action. To that end, the Commission was invited to endorse two of the recommendations formulated by the Working Group itself: that it should request the Secretary-General to invite the Governments of countries in which there were numerous cases of disappearances to envisage the establishment of a national body for investigations into disappeared persons and to answer requests for information addressed to them by the Working Group in connection with the measures they had taken in application of General Assembly resolution 33/173 (paragraph 7), and that it should study, at its forty-second session, the possibility of extending the term of the Working Group's mandate for two years (operative paragraph 2), an idea which had received the support of many delegations during the current session. Finally, the sponsors, aware of the importance of the Secretariat's assistance to the Working Group in the discharge of its mission, had stressed the desirability of reducing to the maximum possible extent any discontinuity in the Working Group's activities (paragraph 9).

54. The sponsors hoped that the draft resolution would, as at the previous session, be adopted by consensus.

55. Mr. NYAMEKYE (Deputy Director, Centre for Human Rights) read out the administrative and financial implications of the draft resolution, as set out in document E/CN.4/1985/L.85.

56. Draft resolution E/CN.4/1985/L.42 was adopted without a vote.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-SEVENTH SESSION (agenda item 19) (continued)

Draft decision E/CN.4/1985/L.53

57. Mrs. PEARCE (Australia) introduced draft decision E/CN.4/1985/L.53. The text was proposed as a replacement for draft resolution VIII, on the study of

the problem of discrimination against indigenous populations, submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on page 7 of its report (E/CN.4/1985/3).

58. Her delegation, which regarded the study by Mr. Martinez Cobo, the Special Rapporteur, on the problem of discrimination against indigenous populations as an important work of reference for indigenous populations, scholars and national and international organizations concerned with the defence of the human rights and fundamental freedoms of indigenous populations, and in particular for the future work of the Sub-Commission and its Working Group on Indigenous Populations, proposed that it should be published and distributed in its entirety in a single volume and that its conclusions and recommendations, prefaced by an introduction by the Secretary-General, should be printed and made available separately.

59. That was the most cost-effective and practical way of ensuring that the study was disseminated as widely as possible. The administrative and financial implications of the draft decision appeared in document E/CN.4/1985/L.56.

60. Mr. SCHIFTER (United States of America) asked for the draft decision to be put to the vote and said he wished to explain his vote before the vote.

61. His delegation was certainly aware of the usefulness of Mr. Martinez Cobo's study, but it did not consider that it would be enhanced by being printed. It would therefore vote against the draft decision, in the conviction that by so doing, it would not do a disservice to the cause of the rights and fundamental freedoms of indigenous populations.

62. Mr. CURTIN (Australia) stated that it was planned to print only the conclusions and recommendations of the study, with an introduction by the Secretary-General. The cost would be \$28,500, as against \$395,900 for the implementation of draft resolution VIII, submitted by the Sub-Commission (see E/CN.4/1985/L.45 for the financial implications of that draft resolution).

63. Sir Anthony WILLIAMS (United Kingdom) said that his delegation too was in favour of the study on the human rights of indigenous populations being disseminated as widely as possible, but it understood the position of the United States of America. It would vote in favour of the draft decision submitted by the Australian delegation on the understanding that in future everything must be done to achieve economies in order to free funds for allocation to equally useful purposes.

64. Mr. KOOLJMANS (Netherlands) endorsed the view expressed by the United Kingdom delegation.

65. Mr. SCIFINSKY (Union of Soviet Socialist Republics) said he understood the United States delegation's concern for economy; however, he saw no other solution in the circumstances but to approve the draft decision.

66. In future, it would be sufficient not to authorize the initiation of too many studies or to limit their scope and the time taken to prepare them.

67. Mr. SCHIFTER (United States of America) agreed with the Soviet delegation that the Commission should exercise prudence in authorizing the preparation of studies.

68. The study on the human rights of indigenous populations was just as valuable in its present mimeographed form. It would be pointless to waste money by printing it.

69. Mrs. OGATA (Japan) observed that her delegation had already explained its position on the Sub-Commission's studies and their publication in the hope that it would be borne in mind.

70. Her delegation would vote in favour of the draft decision submitted by the Australian delegation, but it endorsed the appeals which had been made for circumspection.

71. Mr. JARDIM GAGLIARDI (Brazil), referring to the concern for economy which had been voiced, said he wondered what had prompted the Australian delegate to submit the draft decision, which made provision for disseminating the whole of the study on the human rights of indigenous populations in a single volume, whereas the Sub-Commission proposed in its draft resolution VIII that only document E/CN.4/Sub.2/1983/21/Add.8 should be printed in full.

72. The CHAIRMAN replied that the financial implications of Sub-Commission draft resolution VIII amounted to \$US 395,900 (E/CN.4/1985/L.27) whereas those of the draft decision submitted by the Australian delegation were \$28,500 (E/CN.4/1985/L.56).

73. Draft decision E/CN.4/1985/53 was adopted by 34 votes to 1, with 7 abstentions.

74. Mr. HERNDL (Assistant Secretary-General for Human Rights) said he wished to make it clear that the dissemination of the whole of the study on the human rights of indigenous populations in a single volume, which had just been decided upon, would have no additional financial implications since the cost would be covered by existing resources and that only the printing of the conclusions and recommendations, prefaced by an introduction by the Secretary-General, would involve expenditure. The financial implications were set out in the statement published in document E/CN.4/1985/L.56

Draft resolution E/CN.4/1985/L.54.

75. Mr. EKBLUM (Finland) introduced draft resolution E/CN.4/1985/L.54 on behalf of the delegations of Argentina, Australia, Canada, China, Cuba, Denmark, Finland, the German Democratic Republic, Honduras, the Netherlands, Nicaragua, Norway, Peru, Sweden, the United Republic of Tanzania and the United States of America. He said that the third line of the second preambular paragraph should read "developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations ...".

76. The main purpose of the draft was to reiterate the Commission's support for the activities of the Working Group on Indigenous Populations and the sponsors hoped that it would be adopted without a vote.

77. Draft resolution E/CN.4/1985/L.54 was adopted without a vote.

Draft decision E/CN.4/1985/L.55

78. Sir Anthony WILLIAMS (United Kingdom) stated that draft decision E/CN.4/1985/L.55 referred to draft resolutions III and IV submitted by the Sub-Commission, the first of which related to a study that the Sub-Commission wished to undertake on the current dimensions of and problems arising from unlawful human experimentation, and the second to a study which the Commission proposed to undertake at some unspecified date on the implications for human rights of recent advances in computer and micro-computer technology (see E/CN.4/1985/3, pages 3 and 4).

79. His delegation considered that the Commission should not act on those draft resolutions without taking account of the considerable amount of work which the Commission itself and the Sub-Commission had undertaken in those fields. At its next session, the Commission was to study the question of human rights and scientific and technological developments, and on that occasion it would have to take a decision on various studies and initiatives, some of them relevant to draft resolutions III and IV, submitted by the Sub-Commission. It would therefore be useful for the Sub-Commission to review those draft resolutions in connection with the other initiatives under consideration and submit its views to the Commission at its next session. The Commission would then be in a position to review all the work undertaken in that field and decide how best to proceed.

80. In submitting its draft decision, his delegation did not seek to judge the Sub-Commission's requests. It hoped that the Commission would adopt the procedural text which it was submitting.

81. Draft decision E/CN.4/1985/L.55 was adopted without a vote.

Draft resolution E/CN.4/1985/L.58

82. Mr. THWAITES (Australia), introducing draft resolution E/CN.4/1985/L.58 on behalf of the sponsors, said that it concerned the functioning of the Sub-Commission, its relationship with the Commission and several questions arising from the report of the Sub-Commission on its thirty-seventh session. The text had been the subject of broad consultations; it reflected all the points of view which had been expressed and it should be adopted by consensus.

83. The preamble reaffirmed that impartiality and independence must be the essential qualities of members of the Sub-Commission. It referred to the need to prepare incisive and well-researched studies, the complementarity between the work of the Commission and that of the Sub-Commission, and the role played by non-governmental organizations.

84. The sponsors considered that the differing views of the independent experts should be appropriately reflected in the Sub-Commission's reports, and that point was made in operative paragraph 2. It was recalled in operative paragraph 4 that the experts must not operate under the direction of Governments, while operative paragraphs 7 and 8 were aimed at ensuring better continuity in the work of the Sub-Commission. In its resolution 1984/37, the Sub-Commission itself had suggested for that purpose that its members should have a four-year mandate, with half the members being elected every two years; that proposal had received wide support in the Commission and it was endorsed in operative paragraph 7, although other possible approaches were not ruled out.

85. The subsequent operative paragraphs were concerned with the more orderly and systematic organization of the Sub-Commission's work. In particular, operative paragraph 13 indicated that priority should be given to matters in which standards were being prepared, for example the rights of minorities, the rights of indigenous populations and the right and responsibility to promote human rights.

86. He drew the Commission's attention to a change in the wording of operative paragraph 16, where the words "consider further means" should be replaced by "study additional means".

87. In conclusion, he stressed that the aim of the sponsors in drafting the text had been to improve the relationship between the Commission and the Sub-Commission and to promote an active dialogue between the two bodies.

88. Mr. CHARRY SAMPER (Colombia) observed that the draft resolution took up a number of ideas which had been put forward during the discussions on the subject; without wishing to re-open the debate, he asked the sponsors either to delete operative paragraph 7 or to amend the text of paragraph 8 in order to take better account of different points of view. The solution of electing members of the Sub-Commission for a period of four years, half of them being elected every two years, seemed to require further consideration. In his view, one of the best means of ensuring that the Commission and the Sub-Commission maintained good relations was to provide that the duration of the mandate was the same in both bodies: it would seem strange if the members of a subsidiary body had a longer mandate than those of the parent body. In any case, the text of the two paragraphs was not very clear, particularly with regard to the "other methods" and the consultations on the procedures to be adopted.

89. His delegation thought it would be possible to adopt the draft resolution by consensus provided that operative paragraph 7 was deleted. It would also agree to the amendment of that paragraph; however, if that was to be done, it would be better to postpone the adoption of the draft resolution to allow consultations to be held.

90. Mr. JARDIM GAGLIARDI (Brazil) supported the whole of draft resolution E/CN.4/1985/L.58. He attached great importance to operative paragraph 3, to which he hoped the Sub-Commission would pay very great attention. He wished to make it clear that operative paragraph 16 should not be interpreted in any way as constituting a criticism of the Secretariat or the Centre for Human Rights.

91. Mr. SENE (Senegal) said he understood from the sponsors' oral amendment to operative paragraph 16 that it was agreed that the Secretary-General would report to the Commission on the steps he was taking.

92. Mr. SCHIFTER (United States of America) stressed that, although studies were not harmful in themselves, a great many of them were useless. Before undertaking a study, the Sub-Commission should ask itself seriously whether the report which would emerge would contribute something concrete or whether it was simply fated to be shelved. Two categories of works could be distinguished from an analysis of the studies which had already appeared: those which provided stimulating intellectual exercise for their authors but contributed nothing to the cause of human rights, and those which made an effective contribution to that cause. By ruthlessly eliminating the former category, considerable funds could be saved which might be used by the Centre for Human Rights, for example to provide advisory services. He therefore hoped that the Commission and the Sub-Commission would appreciate that the time had come to review the allocation of funds in favour of the most specific activities.

93. Mr. MTANGO (United Republic of Tanzania) said that he would like the entire phrase following the words "independent experts" to be deleted from operative paragraph 4, since it was not only an unnecessary repetition but it seemed to insinuate that Governments tried to influence experts and that civil servants were incapable of showing independence when they were members of the Sub-Commission. If his amendment was not accepted, he would ask for a separate vote on that paragraph.

94. Mr. GOLEMANOV (Bulgaria) endorsed the views expressed by the Colombian representative on paragraph 7 and the Tanzanian representative on paragraph 4.

95. Mr. de PIÉROLA (Peru) thought that operative paragraphs 7 and 8 of the draft resolution, which was otherwise entirely acceptable, were contradictory. He too would like the adoption of the draft to be postponed so that a satisfactory solution could be found; if that was not done, he would request a separate vote on paragraph 7.

96. Mrs. OGATA (Japan) asked whether the sponsors' oral amendment to operative paragraph 16 did not have financial implications.

97. Mr. THWAITES (Australia) said he was quite ready to enter into consultations in order to reach a text which would be acceptable to all. He stressed that operative paragraphs 7 and 8 were not contradictory but complementary. Perhaps the wording left something to be desired, since it was the result of negotiations, but the basic idea was that paragraph 8 made it clear that the decision would be taken only at the next session, whereas paragraph 7 gave an example of the type of measure which might be adopted; in any event, he was quite prepared to amend the text so as to make it clearer.

98. In reply to the Japanese representative, he stated that the new wording of paragraph 16 did not have any financial implications; it was merely a textual amendment.

99. Mr. ERMACORA (Austria) said he would agree to the deletion of the end of operative paragraph 4, as had been proposed. Paragraphs 7 and 8 were not mutually exclusive: the former stated the principle that there must be continuity in the work of the Sub-Commission, whereas the latter provided that the Secretary-General should study the best way of ensuring that continuity.

100. Mr. KOOLJMANS (Netherlands) said that operative paragraph 4 must be maintained in its entirety. It was essential that the experts who were members of the Sub-Commission should show their independence; if they were Government officials, they must not act on instructions from their Governments. It was not superfluous to make that point clear, in order to avoid any misunderstanding.

101. Mr. MAHONEY (Gambia), supported by Mr. BARAKAT (Jordan), asked the Commission not to embark upon a substantive discussion and requested that consultations should be started immediately.

102. The CHAIRMAN invited delegations concerned to enter into consultations. The Commission would revert to the draft resolution at a later date.

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103. Mr. KOOLJMANS (Netherlands), introducing the draft resolution on behalf of the sponsors, to which Australia had just been added, said that his delegation was particularly interested in the question with which it dealt.

104. In order to promote further standard-setting with regard to the right to leave any country, including one's own, and to return to one's own country, the draft resolution appealed to all Governments to reply to the questionnaire drafted by the Special Rapporteur on the question, Mr. Mubanga-Chipoya, so that he could continue his study of current trends and developments in that field. The draft

also requested the Sub-Commission to consider Mr. Mubanga-Chipoya's next report as a matter of priority with a view to submitting to the Commission as soon as possible a draft declaration on the right of everyone to leave any country, including his own, and to return to his country.

105. After consultation with the sponsors and with other delegations, he proposed the deletion of operative paragraph 4, on the understanding that the draft resolution as a whole could thereby be adopted without a vote.

106. Mr. SENE (Senegal) said that his country, which had just amended its legislation in order to recognize the right of everyone to leave his country and to return to it, wished to be included among the sponsors of the draft resolution.

107. The CHAIRMAN stated that in addition to Senegal, Argentina and Jordan had asked to become sponsors of the draft resolution.

108. Draft resolution E/CN.4/1985/L.67, as orally amended, was adopted without a vote.

The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.51/Add.1.