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Forty-sixth session

SUMMARY RECORD OF THE SECOND PART* OF THE 46th MEETING

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on Thursday, 1 March 1990, at 7 p.m.

Chairman: Mrs. QUISUMBING (Philippines)
later: Mr. DITCHEV (Bulgaria)

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* The summary record of the first part of the meeting appears as document E/CN.4/1990/SR.46.

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REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIRST SESSION (agenda item 19) (continued)
(E/CN.4/1990/2-E/CN.4/Sub.2/1989/58; E/CN.4/1990/40, 56, 75 and 82;
E/CN.4/1990/NGO/6; E/CN.4/Sub.2/1989/26, 36, 37 and 39)

1. Mr. STEEL (United Kingdom) emphasized the key position of the Sub-Commission which, by virtue of its independent membership, was uniquely qualified to make a distinctive contribution to the Commission's work. Over the years, the mandate of the Sub-Commission had been interpreted broadly, enabling it to make a powerful contribution to the analytical study of a wide variety of human rights problems and to help in setting standards for the international community. However, as it cast its net ever more widely, and in some instances encompassed issues in which the human rights aspect appeared extremely tenuous, it ran the risk of becoming less effective. He urged the Sub-Commission to avoid the dual temptation to take on too much work and automatically to duplicate the work of the Commission.
2. The report on the Sub-Commission's most recent session showed the valuable contribution made by non-governmental organizations (NGOs), whose comments on country situations and direct experiences had been truly beneficial to the debate. As to the Sub-Commission's work at that session, he commended Mr. Türk for his excellent working paper (E/CN.4/Sub.2/1989/26) on the right to freedom of opinion and expression, a topic which was of great concern to all; he looked forward to the early completion of the final study.
3. The Sub-Commission faced the perennial problem of an overloaded agenda, and its decision 1989/103, whereby it agreed to examine at its next session ways of rationalizing proposals for studies and to consider drawing up a medium-term programme, deserved particular note. It was right for the Sub-Commission to devote time to assessing the priorities for its future work.
4. At its previous session, the Sub-Commission had taken two decisions on procedural points. The decision to suspend article 59 of the rules of procedure of the functional commissions of the Economic and Social Council, in order to allow voting by secret ballot on draft resolutions under item 6, would enhance the independent nature of the Sub-Commission's work and had already been amply vindicated. However, the second procedural decision, to suspend consideration of communications until the Government concerned had had five months to submit a reply, might have serious consequences. Although it was essential for Governments to have enough time to investigate allegations thoroughly, in the vast majority of cases two months should be quite long enough, and extending the deadline was unlikely to change the attitude of those Governments which, to their shame, had chosen to ignore the confidential procedure.
5. In the past year the Sub-Commission had faced a direct challenge to its independence and effectiveness when Mr. Mazilu, the Special Rapporteur on human rights and youth, had been prevented by his Government from delivering his report to the Sub-Commission. The International Court of Justice had delivered its advisory opinion on that matter and confirmed that article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations was applicable to his case, although it had not been asked what privileges and immunities he might enjoy or whether they had been violated. Subsequent developments had fortunately made it unnecessary to pursue that second point. The episode illustrated the need for vigilance against government interference in an expert's work.

6. The question of the independence of the members of the Sub-Commission was highly topical, as the following week the Commission was due to elect or re-elect 13 members to the Sub-Commission. It was an appropriate moment to reflect on the need for the members of the Sub-Commission to be truly expert in the whole field of human rights: they should be learned in its doctrines and literature, be experienced in its administration, be capable of discharging a very heavy workload and, above all, be persons of integrity and independence. As representatives of Governments, the members of the Commission had a duty to ensure that the Sub-Commission was composed of persons who possessed those qualities, and they should be allowed to exercise their skills without interference and without complaint, however uncomfortable the result might occasionally be for Governments. Their overriding duty was to help advance the cause of human rights.

7. Mr. JASIC (Yugoslavia) reiterated his country's support for the efforts of the Sub-Commission to enhance the overall activities of the Commission and referred in particular to the recent initiative of the Sub-Commission in formulating positive measures for the protection and promotion of the rights of national, religious, linguistic and ethnic minorities, to which Yugoslavia attached great importance. The Sub-Commission's initiation and acceptance of the working paper (E/CN.4/Sub.2/1989/43) by Ms. Palley and its decision to study those issues as a separate agenda item had been significant steps forward.

8. Yugoslavia was a multinational, multilingual and multiconfessional federation which guaranteed equality to all its citizens, minorities included, at all levels. He drew attention to some of Yugoslavia's accomplishments and difficulties in resolving the problems of minorities with its neighbouring countries. In its approach to that issue Yugoslavia had always sought to foster mutual co-operation, friendly relations and respect for the territorial integrity of its neighbours; the minorities constituted important bridges for achieving that goal. Yugoslavia had established useful channels of dialogue with Italy concerning the Slovenian minority on the basis of the 1975 Osimo Agreements, and a similar situation existed with regard to the Yugoslav minorities in Austria, as a result of the State Treaty. As far as Hungary was concerned, recent democratic developments offered hope of significant progress; more should be done through legislative and other measures to preserve the national identity of the Yugoslav minorities there. In Romania, too, the process of democratization held out hopes of solving the hitherto serious problems and there was reason to believe that assimilation, denationalization and other forms of pressure were things of the past.

9. In Bulgaria, the rights of the Macedonian minority, which had been recognized and implemented immediately after the Second World War, were no longer acknowledged by the Bulgarian authorities. He expressed the hope that the current democratic Government in Bulgaria would restore the rights formerly enjoyed by that minority.

10. Yugoslavia's relations with Greece, the cradle of democracy, had been marked by a high degree of co-operation which gave reason to hope that the Macedonian minority in that country would be given the possibility to express its identity and enjoy minority rights.

11. Although his delegation had already spoken about the situation of the Yugoslav minorities in Albania under agenda item 12 he reiterated the need for Albania to enable them to enjoy their rights to the full.

12. The issue of the promotion of co-operation in Europe and in the Balkan region, and in particular the protection and promotion of the rights of minorities, illustrated both its complexity and the genuine possibilities for a constructive and useful approach. Conditions seemed increasingly favourable for tackling the problem from a less ideological angle and focusing on broader humanitarian needs.

13. Mr. LINS DE SALVO COIMBRA (Brazil) said that his delegation had taken note with satisfaction of the Sub-Commission's report (E/CN.4/1990/2). The Sub-Commission's work was of paramount importance to the Commission, providing a forum for high-level analysis of new developments in the field of human rights and an institutional framework for studies and reports. For some years now, however, his delegation had stressed the need for greater rationalization of the Sub-Commission's work. As the report showed, the Sub-Commission still duplicated the Commission to some extent. It had, once again, addressed many requests directly to the Secretary-General and to Governments, rather than to the Commission, and many of its resolutions and decisions were too general and unspecific. He was aware that the Sub-Commission had acknowledged those problems and was making efforts to rationalize its agenda.

14. His delegation had had the above considerations in mind when drawing up its remarks on the draft resolutions which the Sub-Commission had transmitted to the Commission for adoption. It supported draft resolution I on human rights monitoring mechanisms, and considered that the proposed international meeting of experts on international monitoring in the field of human rights could lead to more effective co-ordination between the existing human rights monitoring bodies. However, the Commission had been dealing with the same issue under item 18 of its agenda; better co-ordination was required in order to avoid unnecessary duplication of effort.

15. His delegation felt that the issues addressed in draft resolution II on the movement and dumping of toxic and dangerous products and waste could be better dealt with in other multilateral forums and that the draft resolution could, accordingly, be improved. His country attached great importance to standard-setting, fact-finding and institution-building, and therefore supported draft resolutions III, IV and VI-IX.

16. His delegation fully supported draft resolution V on assistance to Paraguay, which had a long tradition of friendship and co-operation with his country. It also supported draft resolutions X and XI and draft decision 3 on the rights of indigenous populations. The Brazilian Constitution, adopted in 1988, recognized the rights of indigenous peoples to enjoy their own social organization, practices, language, religious beliefs and traditions; they were also granted land rights in perpetuity. His delegation welcomed the proposed further studies on a universal declaration of indigenous rights. It had attended the meetings of the Sub-Commission's Working Group on Indigenous Populations as an observer, and wished to congratulate the Working Group on its patient and constructive efforts.

17. His delegation had some doubts about draft resolution XII on the sale of children. Further studies should be undertaken to assess the effect of the recently adopted Convention on the Rights of the Child before a special rapporteur was appointed to investigate the issue. However, he supported draft resolution XIII on the draft programme of action for prevention of sale of children, child prostitution and child pornography, which would enable the

Sub-Commission to gain a better picture of the issues involved. It also supported draft resolution XIV, draft decisions 1, 2 and 4, Sub-Commission resolutions 1989/19, 1989/23 and 1989/45 and Sub-Commission decisions 1989/101, 1989/102, 1989/105, 1989/107, 1989/111 and 1989/112. He preferred not to comment on Sub-Commission resolutions 1989/3, 1989/5-8 and 1989/10, which were to be dealt with under item 12, but he did consider that the Sub-Commission should not address Governments directly.

18. For the first time in the Sub-Commission's history, there were two Brazilian candidates for membership, which testified to the importance attached to human rights in the new democratic Brazilian society.

19. Mr. SPAHIU (Liberation) said that his organization welcomed Sub-Commission resolution 1989/7 (E/CN.4/1990/2, p. 25) expressing concern about the situation in East Timor. Under agenda item 12, many members of the Commission, observers and NGOs had drawn attention to the further deterioration in the human rights situation since that resolution had been adopted. Indeed, those who tried to conceal the facts about conditions in East Timor had themselves admitted in their own statement under item 12 that the Commission had been given "a gloomy picture" of human rights in Indonesia, particularly on East Timor, and had suggested that torture, detention without trial and disappearances did not "necessarily" exist in East Timor. That was the closest the authorities in control in East Timor had ever come to admitting that those abuses did in fact occur. It was pointless to assert that many more tourists had visited East Timor in 1989 than in the previous year, since 1989 was the first year when any tourists had been allowed in. The Indonesian authorities still refused to allow human rights organizations to visit East Timor to investigate conditions there; brief visits by foreign dignitaries or journalists were no substitute. The Commission should urge the Indonesian authorities to allow fact-finding missions to visit the territory.

20. The Sub-Commission's draft decision 4 dealt with the preparation of a study on national experience in the protection of minorities. In that connection, he wished to draw attention to the situation in the Yugoslav province of Kosovo, which had considerably deteriorated since the constitutional changes in 1989. The Albanians of Kosovo, who made up 40 per cent of the Albanian nation and were the third largest ethnic group in Yugoslavia, had enjoyed equal rights with other groups only between 1974 and 1981. Under the constitutional changes of 1972 and 1974, the province had become a constitutive element of the Yugoslav federation and a component part of the Republic of Serbia, and no decisions relating to the rights of nationalities and minorities could be adopted by the Republican Assembly without the approval of the provincial assemblies of Kosovo and Vojvodina. In March 1989, the Republic of Serbia had been unified, and its autonomy had been abolished. The Albanian population's demands for greater freedom had resulted in numerous clashes with the police, the most recent having left 35 people dead.

21. Since 1981, the State had discriminated against Albanians on the pretext of combating counter-revolution and separatism. Between 1981 and 1988, more than 500,000 Albanians - almost one third of the Albanian population in Kosovo - had been arrested by the police at one time or another. Albanians accounted for over 90 per cent of all political prisoners in Yugoslavia. They had been denied the right to freedom of assembly, the right freely to elect representatives to State and party organs, and a say in educational planning

and schooling, art, culture, economic affairs and urban planning. Under the state of emergency, now almost a year old, members of the security forces had entered private homes and attacked women, children and elderly people.

22. His organization called for an open and democratic dialogue between all the parties in Kosovo in order to reach a solution acceptable to all. It urged the Commission to request the Secretary-General to appoint an independent person of standing to act as mediator in the search for peaceful solutions to difficult and explosive situations such as that in Kosovo.

23. Ms. SMITH (International Organization for the Elimination of All Forms of Racial Discrimination), speaking on behalf of the Four Directions Council as well as her own organization, said that the Navajo Indians, of whom she was one, and the Hopi Indians were closely associated; both had religions based on the clan system with very strong ties to their ancestral homeland. The Navajo-Hopi Land Settlement Act, enacted by the United States Congress in 1974, had forced relocation on the Navajo. As a result, 3,000 of them had been relocated, 2,500 were currently refugees, 3,500 were still resisting displacement, and related psychological problems were common among them. Relocation was being forced on the Navajo despite United States claims that it was voluntary; the foundations of their religion were consequently being strained but attempts to seek help through application of the American Indian Religious Freedom Act had been ruled out of order by the courts. Relocation was a gross violation of human rights and an example of discrimination against an indigenous people. Unfortunately, further forced evictions were likely in the future, to allow an expansion of mining activity.

24. The tribal councils were unable to help because they were controlled by the United States Government, and so she had come before the Commission as a last resort. Sub-Commission resolution 1989/37 calling for the suspension of involuntary relocation and the direct involvement of the Navajo and Hopi in the process of negotiating a settlement of the dispute had been completely ignored and further action on relocation had been taken. The Navajo and Hopi were among the internally displaced peoples referred to by the Office of the United Nations High Commissioner for Refugees in its appeal to the Commission on the subject. She appealed to the Commission to urge the United States to comply with Sub-Commission resolution 1989/37 and to keep that resolution on its agenda for further study. She further appealed for an 18-month moratorium on all relocation activities pending the search for a humane solution to the problem. It appeared that there were plans to export coal mined from Hopi and Navajo land to Japan; her organization appealed to Japan not to accept that coal.

25. Ms. TOM (Caritas Internationalis), referring to the Sub-Commission's draft resolution VI on discrimination against HIV-infected people and people with AIDS, said that national organizations within Caritas had made great efforts in recent years to dispel fear of, and prejudice against, AIDS, to mobilize sufficient resources for medical and support services in developing countries, and to develop a holistic approach to AIDS services by encouraging the sponsorship of programmes which integrated pastoral care with health and social services. In that context she wished to stress what Pope John Paul II had recently stated, namely that AIDS had many more profound repercussions of a moral, social, juridical and structural nature than other infectious diseases, not only on individual families and communities, but also on nations

and on the entire community of peoples. One hundred and seventy-seven countries or territories were already affected by the immunodeficiency virus, which was expected to spread still further.

26. The children of HIV-infected mothers were among the victims of AIDS. Such children, especially those living in extreme poverty and excluded from society, were particularly vulnerable to abandonment. The provisions of the Convention on the Rights of the Child, whose speedy entry into force her organization looked forward to, should be invoked in such cases, so that the children concerned might be treated and given an adequate standard of living.

27. The right to medical care and necessary social services had been recognized, *inter alia*, in the Universal Declaration of Human Rights. However, thousands of persons suffering from AIDS, especially in developing countries, were deprived of palliative measures because of the inflated costs of the relevant technologies and medication. The world community needed to find a means to balance the financial interests of private corporations in the medical field with the right of all infected persons to timely and appropriate care. In certain countries, anyone receiving a blood transfusion ran the risk of HIV infection. Fears had been expressed by the Archbishop of New York that in the future, in view of the large numbers involved and the prohibitive cost of care, only a selected number of AIDS patients would be treated.

28. Special attention was called to the unethical discriminatory measures taken against HIV-infected people or people with AIDS. Many social problems arose from involuntary HIV-testing and from the resultant unfair exclusions and discrimination. International co-operation and information in the field of social services and development were essential in view of the deep impact of the HIV-AIDS pandemic on the social fabric and infrastructure of society. Caritas Internationalis was deeply committed to collaboration with WHO through its important Global Programme on AIDS. It urged the Commission to adopt draft resolution VI without a vote, and hoped that the Economic and Social Council would authorize a study of problems and causes of discrimination against HIV-infected people or people with AIDS, to be undertaken by Mr. Varela Quirós.

29. Ms. SCHREIBER (International Abolitionist Federation), referring to the study on ways and means for establishing an effective mechanism for the implementation of the Slavery Conventions (E/CN.4/Sub.2/1989/37), said it had been noted in the Sub-Commission that those Conventions did not contain adequate provision for their implementation or monitoring and required little information from States. She doubted whether the Working Group on Slavery, despite the fact that its mandate could encompass the consideration of reports, would be able to persuade States to reply accurately and in detail to any questionnaires submitted to them. For effective results, an expert committee should be set up, with terms of reference similar to those of the newly-established Committee on Economic, Social and Cultural Rights, for the purpose of examining reports submitted by States parties to the Conventions. That would require the preparation of additional protocols to the Conventions. A further recommendation endorsed by the Federation was that the United Nations and its specialized agencies should convene an expert meeting to consider international standards and the application of conventions on subjects including suppression of the traffic in persons and of the exploitation of the prostitution of others. The Federation also endorsed the proposal that

a special rapporteur be appointed to report annually on the situation relating to the sale of children, child prostitution and child pornography, and the possible preparation of a model law to combat such abuses.

30. In her statement to the Working Group on Slavery, the Norwegian Minister for Justice had noted that the Council of Europe was giving special attention to international co-operation against the sexual exploitation of children, and had recommended that emphasis should be placed on information, prevention and assistance measures. Action should also be taken against those who exploited, or were likely to exploit, children and those who made profits from such exploitation.

31. The Federation considered that child pornography and pornographic tourism should be treated as serious offences, and that international co-operation should ensure that those responsible for such activities were prevented by law from seeking refuge in other countries. The law should make, not the acts of children, but those of their customers and exploiters a criminal offence. Measures should be taken to provide for the confiscation of profits from the sexual exploitation of children.

32. The Federation had always considered child welfare to be one of its major concerns. It had been a member of the informal group of NGOs taking part in the preparation of the Convention on the Rights of the Child which had been adopted by the General Assembly in November 1989. It had been particularly concerned with article 34, relating to measures to protect children from sexual exploitation, including prostitution and pornography. The Federation applauded the fact that the King of the Belgians had devoted his entire Christmas message to his people to the Convention on the Rights of the Child, which Belgium would shortly ratify.

33. The Federation would be holding its thirty-first international congress in Geneva in September 1990 on the subject of the child as the principal victim of the exploitation of prostitution and violation of human rights.

34. Ms. TOLEDO (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that the most serious human rights problem affecting the Americas and other regions was that of disappeared detainees, of which there were roughly 90,000 cases in Latin America. It was a form of repression which violated the rights to liberty, security of person, due process and life, and also inflicted on the relatives of such detainees the uncertainty of not knowing the fate of their loved ones. However, such disappearances had only become prevalent in Latin America in recent decades and had not been a feature of colonization or the struggle for independence.

35. While characteristics varied from one country to another, there were features common to all cases of disappeared detainees. First, the practice was justified on the grounds of the doctrine of national security and low-intensity conflict, which decreed that the "enemy within" must be overcome at all costs. The second common feature was the involvement of the State apparatus. It was agents of the State who chose the victims and carried out the arrests, and it was the State which, by neglecting its duties, left the victims totally unprotected and accepted official reports as true. The State as a whole was involved at every stage of the process, seeking as it did to conceal crimes and thereby leaving them unpunished. Various pretexts were used for not investigating cases: one was the passing of time; another,

as far as newly-restored democracies were concerned, was that impunity laws were important in order to avoid provoking the military and thus to ensure the stability and security of the new democracy. Of course, such laws were unethical and should be declared null and void, particularly since pardoning the crimes in question did not contribute to national unity or help rebuild the moral fabric of society. Enforced disappearances and illegal executions were crimes against humanity, and therefore imprescriptible and unpardonable. Reconciliation could be achieved and society rebuilt not on the basis of crime and terror, but through truth and justice. The truth about the fate of disappeared detainees was vital, so that people would never again have to suffer the uncertainty of not knowing what had happened to their loved ones. It was equally important that crime should never be allowed to prevail over citizens' demands for justice. If criminals were allowed to go unpunished, there was nothing to prevent them from repeating their actions.

36. In order to prevent and condemn such crimes, her organization had submitted a draft convention to the United Nations. The first step, however, should be a declaration and a legal instrument condemning them. Although the Sub-Commission had worked on a draft declaration in August 1989, there had been no consensus on the definition of that particular form of repression. However, the Commission on Human Rights of the Organization of American States had approved a declaration on the basis of a proposal by the International Commission of Jurists. Her organization believed that it was vital to agree on a definition which would make that category of crimes an internationally-punishable act and a crime against humanity. It was particularly important that it should not be classed as a political crime and that action on the orders of a superior during an actual or imagined war should not be used as an excuse. Lastly, the declaration should contain specific provisions facilitating international co-operation in preventing and punishing such crimes.

37. Ms. FARHI (International Council of Jewish Women), speaking on behalf of Zonta International, the International Council of Jewish Women, the World Federation of Methodist Women, Defence for Children International, the International Child Catholic Bureau, the Bahá'í International Community, the International Movement ATD - Fourth World, the International Abolitionist Federation, the Arab Lawyers' Union, the Arab Organization for Human Rights, the World Association of Girl Guides and Girl Scouts, Liberation, Human Rights Advocates, the Union for Progressive Judaism, the International Movement for Fraternal Union Among Races and Peoples, the World Zionist Organization, the International Association of Penal Law, Christian Democratic International, the International Fellowship for Reconciliation, the International League for the Rights and Liberation of Peoples, the International Federation of Women Lawyers, the Medical Women's International Association, the International Association for Religious Freedom, the World Jewish Congress, the Co-ordinating Board of Jewish Organizations, the International Organization for the Elimination of All Forms of Racial Discrimination, the International Alliance of Women and the International Commission of Jurists, as well as her own organization, urged the Commission to endorse the appointment of Mr. Varela Quiros, in accordance with Sub-Commission resolution 1989/17, to undertake a study of problems and causes of discrimination against HIV-infected people and AIDS sufferers.

38. In that connection, she wished to draw the attention of the Commission to the problem faced by children whose parents had died from the illness and

who, although not infected by the virus, were themselves the victims of AIDS. Although the extended family system prevalent in some developing countries was normally capable of responding to individual cases of orphaned children, it was becoming severely strained and, given the weak or almost non-existent social welfare system in most of those countries, such orphans had no protection and were deprived of their most fundamental rights.

39. The report by the Commission on the Status of Women (E/CN.6/1989/6/Add.1) had pointed out that the problem was particularly acute in urban areas, where the number of AIDS cases was greatest and the traditional extended family ties might no longer exist. Orphaned children would be particularly exposed to the dangers of drug abuse and prostitution. In an effort to protect children from those risks, some members of local communities were reportedly caring for up to 20 or even 30 such orphaned children in their own homes without any extra resources. The prohibitive cost of sending children to school meant that the children would grow up to be predominantly illiterate and therefore particularly vulnerable. In addition, the lack of information on the ways in which the illness was transmitted led to discrimination against such children and thereby increased their suffering. Even uninfected children would run the risk of stigmatization and rejection and might be forced to leave school by the authorities.

40. In the light of the gravity of the problem indicated by the information now being supplied through WHO, UNICEF and other organizations, it was imperative that Governments should start to act before ever-increasing numbers of children were needlessly victimized. In that connection, WHO had proposed a programme to help States take the necessary action and avoid taking inefficient or counter-productive steps. However, it was important that help should be provided to and through communities, in order to respect the child's environment and practices. Such help should take the form of money, food and medical supplies, and the creation of information and educational structures. In most developing countries, sending orphaned children to orphanages would be damaging in many ways.

41. On behalf of the aforementioned NGOs, she appealed to the international community and all Governments to address the problem without delay and to make a commitment to implement effective measures that would combine health and social concerns with respect for the individual rights of the children concerned.

42. Ms. GAER (International League for Human Rights) drew attention to two important procedural decisions taken at the forty-first session of the Sub-Commission: first, the decision to allow voting by secret ballot on cases of gross violations; and secondly, the establishment of a five-month period before communications received under Council resolution 1503 (XLVIII) could be considered. Those decisions raised a number of questions regarding the overall work of the Sub-Commission. One such question was the extent to which the Sub-Commission carried out its work independently. As an expert body responsible for drawing the Commission's attention to patterns of gross violations of human rights, it must be independent. The Sub-Commission had begun a debate on that issue and one proposal, by Mr. van Boven and Mr. Eide, had been that it should explore alternative means of examining country violations. Far-reaching proposals to readjust the balance between the confidential consideration of gross violations and the public examination of such matters had been made by Mr. Chernichenko and Mr. Treat. One proposal

was that, instead of adopting resolutions on country cases, the Sub-Commission should consider preparing a single report addressing a wider range of such cases. There was also the question whether cases should be examined only in confidential sessions. The key to those questions lay in the conditions which would enable members to act most independently and objectively.

43. Sub-Commission decisions 1989/101 and 1989/105, which suspended rule 59 of the rules of procedure and permitted voting by secret ballot on questions involving gross violations, had, in her opinion, given the experts a measure of independence which had enhanced their objectivity *vis-à-vis* such violations. That was evident from the resolutions adopted on China and East Timor. While the decision on the secret ballot was a welcome temporary attempt to address the issue of independence, it did not address the broader question where the Sub-Commission should be heading in the future. In that connection, it was important that the Sub-Commission should not duplicate the work of the Commission, unless or until substantially more resources were available in the human rights programme.

44. As a result of the decision on the five-month lead-time before confidential consideration of cases of gross violations, it would take a full year before matters were brought to the Commission's attention. That would prevent the United Nations from taking action to aid individual victims of human rights violations, which was, after all, the fundamental purpose of the Sub-Commission. As other speakers had commented, the five-month lead-time did not seem necessary for those countries prepared to co-operate and was unlikely to encourage those which had shown themselves unwilling to co-operate. Furthermore, it would seriously undermine the ability of the Sub-Commission to respond rapidly to serious violations.

45. A further important issue which she wished to raise was the place of women's human rights within the so-called "mainstream" of human rights activities within the United Nations. Placing "women's rights" activities in Vienna, as opposed to Geneva where other "human rights" activities were centred, had had many unfortunate consequences. The Commission on the Status of Women and the Committee on the Elimination of Discrimination Against Women were marginalized within the United Nations system, and their work went largely unnoticed within overall human rights activity. While it was true that women's rights were on the agenda of the Sub-Commission, women's perspectives were given relatively little attention when formulating and implementing many standards. Unproductive duplication between the various bodies in Geneva and Vienna could be avoided by moving those bodies that dealt with women's rights issues to Geneva. That was unlikely to happen, however, and so her organization suggested that the Commission should request the Sub-Commission to undertake a study of the implications of the present conceptual and institutional separation of human rights and women's rights, and recommend appropriate action.

46. Ms. BRUCE (International Catholic Child Bureau), speaking on behalf of the Bahá'í International Community, Caritas Internationalis, Defence for Children International, the International Abolitionist Federation, the International Association of Penal Law, the International Commission of Jurists, the International Council of Jewish Women, the International Federation "Terre des Hommes", the International Fellowship of Reconciliation, the International Movement ATD - Fourth World, the International Save the Children Alliance, the International Social Service, Pax Romana, the World

Association for the School as an Instrument of Peace and World Federation of Methodist Women, as well as her own organization, drew attention to the results of the Sub-Commission's Working Group on Contemporary Forms of Slavery, which had shown that, although trade in human beings was forbidden all over the world, children were being increasingly bought and sold into various forms of slavery. The Working Group had mentioned eight purposes for which children were being sold: adoption, child prostitution, child pornography, child labour, crime, begging, organ transplants and bride-selling. A particularly obnoxious form of child exploitation was linked to modern forms of tourism, which in some countries had contributed to an increase in the incidence of the sale of children for prostitution. In view of the AIDS pandemic, it was even more urgent that the issue should be addressed and, in that connection, WHO had begun a series of consultations on HIV epidemiology and prostitution.

47. The United Nations had dealt with the problems of the sale of children and sexual exploitation in the past. In 1982, in the concluding remarks on his study of the exploitation of child labour, Mr. Boudhiba had pointed out that there were at least three cases when the exploitation of child labour was no less than a flagrant violation of the principles of the Charter and the Universal Declaration of Human Rights. Those cases were, firstly, sale and similar practices; secondly, child prostitution, trafficking in pornography involving the sexuality of children, and the international traffic in children; and lastly, under-age maidservants in a position of servitude. Those areas should be a priority target for concerted action and increased pressure on States condoning such practices, since it was not a matter of restricting practices but of bringing an end to them. A report to the Economic and Social Council in 1983 on the traffic in persons and exploitation of prostitution, by Mr. Fernand-Laurent, had made several references to the plight of children and stated that the sale of children should be treated by the United Nations in a specific way. In addition, a 1986 resolution of the Commission had mentioned the need to encourage national policies in those fields and recommended that particular attention should be given to child prostitution. It was now being recognized that a high degree of political will was needed to tackle the problems effectively. Sub-Commission draft resolutions XII and XIII currently before the Commission were accordingly very important.

48. Her organization supported the call for a special rapporteur who would not only consider the extent, frequency, causes and ramifications of such forms of slavery, but would also, in particular, try to identify the people or groups in whose interest it was to enslave children in those ways, give special consideration to beliefs, attitudes and practices which served to place and maintain children in slavery, and propose new and creative ways of addressing those problems in the future. At the same time, it was important not to forget the international programme of action on those issues referred to in draft resolution XIII. The programme incorporated former resolutions of the Commission which had not been adequately implemented and, in the opinion of her organization, the proposed special rapporteur should, in the course of his study, promote and adapt the programme. Similarly, the World Campaign on Human Rights and the advisory services programme should examine what contribution they could make to its implementation.

49. By appointing a special rapporteur, the Commission would make a major contribution to the fight to save the world's children from exploitation, while at the same time proving to all who worked to free those children that the international community had not forgotten them.

50. Mr. FERNANDEZ (International Organization for the Development of Freedom of Education) said that he wished to refer to the Sub-Commission's draft resolution IV, which related to the working paper prepared by Mr. Türk, Special Rapporteur of the Sub-Commission, on the right to freedom of opinion and expression (E/CN.4/Sub.2/1989/26). That right could not be fully enjoyed unless the right to education was also respected. Without freedom of education - the freedom to educate a child in accordance with one's own convictions, freedom of opinion and expression would be confined within limits imposed by the State. Philosophers throughout the ages had pointed to the dangers of a State monopoly on education; anti-democratic régimes invariably denied educational pluralism, seeing education as an instrument of political propaganda designed to create a new type of human being.

51. It was possible to judge the sincerity of a State's commitment to freedom of opinion and expression by assessing its attitude to freedom of education. The State must deliberately relax its control over education; that was the price of freedom. His organization considered that the absence of freedom of education constituted a serious limitation of freedom of expression and should figure among the limitations which may jeopardize the right to freedom of opinion and expression listed by Mr. Türk in chapter I (4) of his working paper.

52. While few democratic States denied the right to education altogether, his organization was concerned about the number of countries which advocated a State monopoly on education. Such an approach betokened a view of the world which was incompatible with democracy and the development of multicultural and pluralist systems of education. Pluralism should be respected and encouraged, and not merely tolerated.

53. His organization considered that the proposed study on the right to freedom of opinion and expression should pay more attention to freedom of education, particularly the right of parents to choose schools other than those established by the public authorities, and to ensure the education of their children in conformity with their own convictions, and the right to establish and direct educational institutions, as laid down in the International Covenant on Economic, Social and Cultural Rights.

The meeting rose at 9 p.m.