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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 36th MEETING

(First part) */

Held at the Palais des Nations, Geneva,
on Thursday, 28 February 1985, at 3 p.m.

Chairman:	Mr. CHOWDHURY	(Bangladesh)
later:	Mr. CHARRY SAMPER	(Colombia)

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

*/ The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.36/Add.1

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The meeting was called to order at 3.20 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-SEVENTH SESSION (agenda item 19) (continued)
(E/CN.4/1985/3 and 50; E/CN.4/Sub.2/476 and Add.1-6; E/CN.4/Sub.2/1982/2 and Add.1-7; E/CN.4/Sub.2/1983/21/ and Add.1-8; E/CN.4/Sub.2/1984/20 and 23)

1. Mr. EKBLOM (Finland) said that his delegation welcomed the increasing priority given by the Commission to its consideration of the substantial report of the Sub-Commission. The report for the current session (E/CN.4/1985/3) reflected the important work done by the Sub-Commission at its thirty-seventh session. Over the years, the terms of reference of the Sub-Commission had been enlarged by resolutions of the Commission, but the basic nature of its work had remained unchanged. To enable the Sub-Commission to provide the Commission with the necessary support by preparing studies on questions under consideration in the Commission and drawing its attention to human rights violations, the independent status of the experts who made up the Sub-Commission must be maintained. At its latest session, the Sub-Commission had considered the question of the review of its work, but had been unable to devote as much time to the matter as it would have deserved. However, the draft resolution on the question (1984/37) contained many useful recommendations, in particular the recommendation to extend the term of the members of the Sub-Commission to four years, with half the members being elected every two years. His delegation supported that recommendation since it would help to ensure continuity in the work of the Sub-Commission. At the thirty-seventh session, the system of elected alternates had been used for the first time and, as always with new systems, there had been some practical problems, which he hoped would be solved by changing the rules of procedure of the Sub-Commission in such a way as to specify clearly the role of alternates. It had always been his delegation's understanding that alternates should take part in deliberations only if the member was prevented from doing so for the entire session or for a considerable part of the session.
2. His delegation supported the proposed three-year cycle for studies by the Sub-Commission. On the other hand, the question of additional meetings seemed more doubtful since consideration should first be given to the possibilities of making more effective use of available meetings, a comment which also applied to the request to strengthen the Centre for Human Rights, whose services could perhaps be improved.
3. His delegation attached special importance to (a) the study concerning the elaboration of a second optional protocol to the International Covenant on Civil and Political Rights, which would concern the abolition of the death penalty, (b) the study on a draft body of principles and guidelines on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms, and (c) the study on the current dimensions of the problem of intolerance and discrimination on grounds of religion or belief. It looked forward to the publication of those studies.
4. He paid tribute to the Working Group on Indigenous Populations and, in particular, Mrs. Daes, its Chairman-Rapporteur. It was very encouraging to see that a large number of representatives of indigenous populations, observers for Governments, specialized agencies and non-governmental organizations had taken part in the most recent session of the Working Group, which constituted the only means of achieving real promotion of the rights of indigenous populations. The final report on the study of the problem of discrimination against indigenous populations, prepared by Mr. Martínez Cobo (E/CN.4/Sub.2/1983/21/Add.8) would also help to promote the rights of those populations.

5. Mr. XU Zhaochun (China) paid tribute to Mr. Tosevski^V for the particularly useful role he had played during the thirty-seventh session of the Sub-Commission, which had done fruitful work.

6. At its latest session, the Sub-Commission had considered the question of the policies of racial discrimination and genocide pursued by the racist régime in South Africa, and condemned its persistence in a reactionary and decadent racist policy, in defiance of condemnation by world public opinion; the Sub-Commission had taken note of the existence of numerous human rights violations in certain areas of the world; it had expressed concern about the occupation of certain countries by foreign forces and the indiscriminate bombing of those territories, which had caused death and destruction. It had also carried out studies on certain special problems and considered numerous reports by its working groups, in particular the Working Group on Indigenous Populations. The report on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1984/8 and Add.1 and 2) should be widely distributed so as to draw the attention of all peoples in the world to that important question. Lastly, the Sub-Commission had also heard the report of the Working Group on Slavery and discussed it in detail.

7. In 1949, the Commission on Human Rights had authorized the Sub-Commission to undertake studies on special problems and to make recommendations to it on those problems. Subsequently, the Commission had requested the Sub-Commission to study certain situations that appeared to reveal a consistent pattern of gross violations of human rights, and in that way the terms of reference of the Sub-Commission and its relationship with the Commission had at last been clearly defined. Over the years, the Sub-Commission had done considerable work; it had submitted to the Commission several useful studies and recommendations. The Commission should consider the suggestions and reports submitted. As to the draft resolutions, it was certainly within the power of the Commission to accept, revise or reject them.

8. His delegation urged the Commission to exercise caution with regard to the recommendations relating to the change of title of the Sub-Commission and extension of the term of its members. The Sub-Commission's name was related to its mandate, which in turn touched on its very nature. Some considered that the Sub-Commission had already exceeded its functions and that a change in title would accordingly result in the legalization of its enlarged functions. As to the members' tenure, the issue was not whether it should be three or four years, but rather to ensure that new and old members worked together in a co-ordinated manner.

9. On the whole, his delegation considered that much of the work of the Sub-Commission should be endorsed, since its members were experts well versed in legal matters. However, the Sub-Commission was not entirely flawless: for example, for a good many years, many of its resolutions had been repetitious and considerable delays had been noted in the preparation of reports. It was therefore necessary to find means of acting with greater effectiveness and, in particular, the Sub-Commission would benefit greatly from demonstrating more realism. For example, the items involving definitions (such as indigenous populations and minorities) had been discussed at length for many years, but still remained unresolved. All too often, progress was out of step with the rhythm of real life.

10. Furthermore, while some studies of the Sub-Commission were particularly useful, others could be removed from the agenda without any adverse effects. His delegation agreed with those delegations which considered that the reports of the Sub-Commission were too numerous, too long and too broad in scope. That was inadvisable from the standpoint of both economy and efficiency.

11. Mr. DROGE (Federal Republic of Germany) recalled that his delegation had repeatedly stressed the importance it attached to the Sub-Commission's role in the development and protection of human rights. His delegation particularly welcomed the preliminary report submitted by Mrs. Daes on "The status of the individual and contemporary international law" (E/CN.4/Sub.2/1984/29). A detailed analysis of the numerous international codifications which conferred upon the individual the status of a subject of international law with rights and duties should enable the role of the individual to be strengthened in future international instruments.

12. Situations of civil unrest all too frequently led to grave violations of human rights, which could be lessened by the proclamation of an amnesty; the preliminary report entitled "Study on amnesty laws and their role in the safeguard and promotion of human rights" (E/CN.4/Sub.2/1984/15) was of particular importance in that respect. His delegation looked forward to the discussion that would be held on both those studies at the Commission's next session.

13. His delegation was also following with great interest the study on the right to leave any country, including one's own. In 1963, the Sub-Commission had already submitted an excellent report on that subject, which had concluded that although the right in question was embodied in article 13 of the Universal Declaration of Human Rights and article 12 of the International Covenant on Civil and Political Rights, it must be noted that there had been setbacks rather than progress in its implementation. His Government deplored the fact that that statement remained valid in various parts of the world; in its view, the time had come to consider new means of implementing that fundamental right. Mr. Ingles, the first Special Rapporteur, had noted in 1963 that the legal reservations provided for in article 12, paragraph 3 of the International Covenant on Civil and Political Rights might jeopardize the application of that right. That fear was shared by the delegation of the Federal Republic of Germany, which therefore called on Mr. Mubanga-Chipoya, the current Special Rapporteur, to give special attention in his study to that specific aspect of the question. In order to complete that huge task, he would require all possible assistance from the Centre for Human Rights.

14. His delegation fully supported the Sub-Commission's recommendation that one of its members should be requested to analyse the advantages and disadvantages of elaborating a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of capital punishment.

15. Referring to draft resolution 1984/37 (E/CN.4/1985/3, p. 18, and annex IV), on the review of the work of the Sub-Commission, his delegation was pleased to note that the Sub-Commission was trying to streamline its work through the adoption of a long-term plan of studies and the biennial consideration of some long-standing agenda items. His delegation also supported the proposed three-year cycle for studies undertaken by the Sub-Commission and the view that the Centre for Human Rights should be strengthened. On the other hand, while his delegation understood the Sub-Commission's request that it should be authorized to hold an additional 10 meetings a year, it could not fail to note that the Sub-Commission should first of all try, as it itself recognized implicitly in operative paragraph 5 of resolution 1983/37 (*loc. cit.*, p.114), to do its utmost to make its work more efficient within the existing context.

16. His delegation fully supported the proposal for a change in the method of election of members of the Sub-Commission, since it was clear that the simultaneous election of all members had negative effects on the continuity of its work. The

proposal in paragraph 6 (a) of the resolution recommended (*loc. cit.* p. 18) was therefore very reasonable; moreover, that formula was already applied in other bodies of the United Nations. It was to be hoped that the Commission would take action on that proposal at the current session.

17. While the question of changing the name of the Sub-Commission did not have priority, it nevertheless deserved further consideration. The present name was a far from adequate reflection of the Sub-Commission's real mandate; the new designation (Sub-Commission of Experts of the Commission of Human Rights) would have the merit of indicating clearly that the Sub-Commission was a subsidiary body of the Commission and emphasizing its special role as a body of independent experts.

18. In his delegation's opinion, it was precisely that expert character which was essential. The Sub-Commission should concentrate on those areas in which the independence and expertise of its members could fully assert themselves. His Government would continue to support initiatives aimed at further strengthening the Sub-Commission's independence; in its view, the proposal to vote by secret ballot, which would have that effect, should be taken into account.

19. Mrs. CASCO (Nicaragua) paid tribute to the quality of the report. She nevertheless wished to associate her delegation with those which had observed, as in previous years, that the Sub-Commission was exceeding its terms of reference. The duplication of the activities of the Sub-Commission with those of the Commission could be eliminated, but there too it would be necessary to begin by ensuring that the mandate was more closely complied with. The Sub-Commission should not forget its status as a subsidiary body of the Commission, to which it was required to provide technical advice. But the manner in which it did so, through draft resolutions for example, was perhaps not the best and should be changed.

20. Her country was not mentioned in the report of the Sub-Commission, but she wished to refer to the measures taken by her country's authorities to protect Nicaraguan ethnic groups. It was appropriate that the Commission should be informed of the progress made in some countries with regard to the protection of minorities. In accordance with article 30 of the Universal Declaration of Human Rights, articles 20, 26, 27 and 47 of the International Covenant on Civil and Political Rights, and the provisions of the Statutes of Rights and Guarantees of Nicaraguans, her Government had adopted several legislative texts on the ethnic, religious and linguistic minorities concentrated on the Atlantic coast, and it had helped the eight indigenous communities in the western part of the country to preserve the use of their language. Steps had first been taken to resolve the ethnic question with the end of the Somoza dictatorship and with the patriotic struggle for the reconstruction and recovery of authentic national values. A further step had now been taken with the establishment of a national commission to prepare a special draft statute for the autonomous rights of the ethnic groups on the Atlantic coast. The statute concerning autonomous rights would mark the successful conclusion of the campaign by those members of Nicaraguan society who had been the most exploited and oppressed throughout history. Her delegation hoped that that bold initiative would serve as a model for other countries in the same situation and make a useful contribution to the activities of the Working Group.

21. The idea of regional autonomy originated in respect for the integrity of the nation and for the principle that the Republic of Nicaragua was one and indivisible. In that regard, all Nicaraguans, irrespective of their ethnic, cultural, racial or religious background, had the same rights and duties as citizens. Her Government nevertheless considered that the language and culture of certain ethnic groups should be respected and enriched. It was furthermore convinced that the cultural and social diversity of the Atlantic coast was an asset for the entire nation and that its affirmation would contribute to the unity of the national community. The demands and rights of ethnic minorities had largely been recognized, for instance through the measures for promoting literacy in the indigenous languages, bilingual education, legalization of communal lands through the issue of specific land titles, encouragement of hitherto unrecognized cultural activities and the appointment of indigenous government delegates.

22. The adoption of those measures was all the more to the credit of the Nicaraguan authorities in the light of the continuing aggression by foreign mercenaries, with the resulting manipulation of a sector of the indigenous population and a cynical campaign of slander and distortion of the indigenous problem. Moreover, indigenous communities had been broken up and their members enrolled in the mercenary forces. Recently, the Nicaraguan Government had initiated negotiations with a representative of the indigenous organization MISURASATA; those negotiations, which had been taking place since December at Bogota in the presence of representatives of the Governments of Canada, the Netherlands, France, Mexico, Sweden and Colombia, might enable the return of Miskito families to their community of origin to be speeded up, without the proposed autonomy being made subject to their success. It must be stressed that the Miskito communities problem would be solved with the end of the war of aggression which was being waged against Nicaragua, in particular in the Atlantic coast area, the historic stronghold of those communities.

23. Mr. KOLESNIK (Union of Soviet Socialist Republics) noted that the questions before the Sub-Commission were particularly important for the promotion of human rights. Every year, the Commission carried out a detailed analysis of the activities of the Sub-Commission and made well-founded suggestions and critical observations. For example, in several resolutions adopted at previous sessions, the Sub-Commission had been called upon not to exceed its terms of reference and to be directed by the guidelines of the Commission, in order to achieve a much wider measure of agreement in its decisions. Apparently not all the experts of the Sub-Commission had heeded that appeal by the Commission to its functional body, whose activities should complement its own.

24. At the Commission's thirty-eighth session, the Sub-Commission had made proposals aimed at changing its status, but it now seemed to have abandoned that claim. Nevertheless, in its resolution 1984/37 (E/CN.4/1985/3, p.18), the Sub-Commission recommended a change of name, a proposal which his delegation rejected, since the present name clearly reflected its role.

25. The Sub-Commission also recommended the Commission (*ibid.*) to envisage an additional 10 meetings for it per session; the duration of the Sub-Commission's session had already been extended to four weeks, which, together with the meetings of the working groups, represented a considerable increase. It was impossible to increase still further the burden of the United Nations budget. That comment also applied to the request to "strengthen the Centre for Human Rights", a rather vague expression which could only mean an increase in the staff of the Centre. The Commission should exercise common sense in combating Parkinson's Law and not accept such requests. It should be borne in mind that resolution 1984/37 had been adopted with only 10 votes in favour; 16 members of the Sub-Commission had cast a negative vote, abstained or not participated. It was therefore a

minority resolution. In making the appeal to the Commission contained in that resolution, the Sub-Commission had not taken account of the recommendation which had been made to it to seek a consensus.

26. There were in fact other ways to streamline the Sub-Commission's work which was far from perfect. He referred in that connection to Commission resolution 1982/23, whose provisions remained valid. An effective means of streamlining the work would be to lighten the agenda, which included secondary items whose consideration took time that the experts could put to better use by examining more serious questions. Its unduly wide-ranging agenda had a negative effect on the quality of the Sub-Commission's decisions. In particular, at the Sub-Commission's previous session, dozens of resolutions had been adopted without any real discussion. Those texts had then been transmitted to the Commission even though they were still very controversial. It was therefore essential that the Sub-Commission should refrain from needlessly lengthening its agenda and adopting an excessive number of decisions. It was a body of experts which should take its decisions by consensus, rather than by a vote.

27. One of the main activities of the Sub-Commission was to prepare studies. It had begun a large number of studies, many of which had had to be held over. However, despite the Commission's recommendations, it had approved additional studies at its most recent sessions. At present, there were about 20 ongoing studies. The Sub-Commission should adopt a less ambitious programme.

28. The Commission's discussions of the reports of the Sub-Commission had for some years shown that the latter's working methods could be improved. The improvements desired by the Commission were clear from the decisions it had taken on those reports and from its discussions as reflected in the summary records. He expressed the hope that the Commission would make appropriate reference to its recommendations in the resolution it was to adopt on the report of the Sub-Commission. For its part, the Sub-Commission would certainly increase its efficiency by implementing the recommendations of the Commission.

29. Mr. SAKER (Syrian Arab Republic) thanked the Chairman and Rapporteur of the Sub-Commission and praised the over-all quality of the Sub-Commission's report (E/CN.4/1985/3). He thanked all the members of the Sub-Commission, in particular Mrs. Daes, Chairman of the Working Group on Indigenous Populations, and Mr. Bossuyt, who had visited Mauritania. The members of the Sub-Commission were required to possess outstanding personal qualities, and that body greatly helped the Commission through its observations and proposals.

30. The Sub-Commission's mandate included the preparation of reports on racial, linguistic, national and other minorities. It was a body composed of independent experts which functioned alongside the political body that was the Commission, in which States expressed their views. The expert members of the Sub-Commission were certainly very competent, but the Commission had a duty to help them to carry out their mandate properly. First of all, the Sub-Commission had undertaken numerous studies, but those studies had not always been of equal importance. It was desirable that the Commission should give advice to the Sub-Commission in order to improve the quality of its work; in particular, it was essential that a study should not represent the views of one expert only. Furthermore, the Sub-Commission should refrain from requesting additional studies at present, unless they were of exceptional importance.

31. Similarly, not all the resolutions and decisions adopted by the Sub-Commission were of equal importance. While its report (E/CN.4/1985/3) contained some very important resolutions, particularly on southern Africa, he had searched in vain for a resolution on the Middle East, a region where there nevertheless existed a situation which threatened international peace. In that light, many resolutions adopted by the Sub-Commission were not very significant and moreover, not all the items which encumbered the Sub-Commission's agenda were essential.

32. In the opinion of his delegation, the Sub-Commission should not take its decisions by secret ballot, which was not very compatible with its mandate, was contrary to the rules of procedure and did not enable the members to demonstrate the moral courage necessary for the performance of their functions.

33. He wished to single out for special praise the Working Group on Indigenous Populations, and especially its work on land rights. He hoped that the Sub-Commission would take full account of delegations' comments on its report, in order to increase the efficiency of its work.

34. Mr. DHILLON (India) thanked the members of the Sub-Commission and, in particular, Mr. Toševski, its Chairman, and Mr. Despouy its Rapporteur. The Sub-Commission was composed of independent experts, but those experts were designated by States Members of the United Nations and elected by the Commission. The Sub-Commission examined specific items at the Commission's request, and that created a close, organic link between the two bodies.

35. With regard to the "Review of the work of the Sub-Commission" (E/CN.4/1985/3, pp. 13 and 113), a sessional working group presided over by Mr. Khalifa had done excellent work in examining three main issues: the Sub-Commission's relationship with the Commission and the secretariat, the rationalization of the working methods of the Sub-Commission, and lastly, the Sub-Commission's work programme for the next five years. After considering the Sub-Commission's recommendations, his delegation would support the recommendation that members of the Sub-Commission should be elected for four years and that half its members should be elected every two years. As to changing the name of the Sub-Commission to the "Sub-Commission of Experts of the Commission on Human Rights", his delegation saw no particular benefit. The present name clearly showed the two primary questions with which the Sub-Commission was required to concern itself: the prevention of discrimination and the protection of minorities. A more general designation and a more general role would only dilute the Sub-Commission's contribution. The paragraph of resolution 1984/37 (loc. cit., p. 18) which related to the question of a change of name had been supported by only half the members of the Sub-Commission; the Commission should therefore give the matter further thought and refrain from taking an immediate decision.

36. His delegation agreed that the Sub-Commission's studies should as far as possible be prepared according to a three-year cycle (loc. cit., p. 18, para. 6 (c) of the resolution). After the presentation of a concise report at the end of the first year, suggestions could be made, and at the end of three years the report could reasonably be expected to take into account the various views expressed. His delegation would agree that the Sub-Commission should hold an additional 10 meetings per session, and that the facilities available in the Centre for Human Rights should be strengthened in order to provide better services to the Sub-Commission.

37. In the annexes to the report of the Sub-Commission (E/CN.4/1985/3), the items to be included in the Sub-Commission's agenda and the studies commissioned for the next five years were clearly listed. His delegation hoped that in the new studies, the Sub-Commission would give priority to those matters which were widely recognized as being urgent and having priority. In addition, the studies prepared by individual experts should be reviewed by a small representative group of members of the Sub-Commission, in order to reflect more accurately the over-all opinion of the Sub-Commission.

38. Several important resolutions of the Sub-Commission called for action or consideration by the Commission; it was to be hoped that the Commission would be able to give its fullest consideration to those resolutions, since they dealt not only with interesting thematic issues but also with specific human rights violations, which were the Commission's essential concern.

39. Mr. HEWITT (United States of America) said that his Government had consistently supported the Sub-Commission since its establishment in 1947, taking the view that a body composed of independent experts could play an essential complementary role in relation to the Commission. In his Government's opinion, the role of the Sub-Commission should be essentially advisory and apolitical; it was in the Commission that the political implications of human rights issues must be considered.

40. The very name of the Sub-Commission indicated that the problems of discrimination and minorities had been regarded as being of overriding concern in the area of human rights. The terms of reference of the Sub-Commission, as laid down by the Commission in 1947 and expanded in 1949, also indicated the primacy of those problems. The Sub-Commission had continued to make a detailed analysis of the term "minority" and, as the Commission had never been satisfied in that respect, the Sub-Commission had once again attempted another definition at its most recent session. The difficulty lay not so much in any deficiency in the Sub-Commission as in the deficiency of political will on the part of the Commission, which was unwilling to grapple with the enormous complexities of the subject or to admit the indefinable nature of the term. The question of the definition of minorities nevertheless illustrated the type of co-operation which should exist between the two bodies: the Sub-Commission had lent its expertise to that effort, whereas the Commission had supplied the governmental input - the critical political setting in which any definition must operate. That dichotomy of an expert Sub-Commission and a political Commission should be maintained.

41. The studies prepared by the Sub-Commission had represented an essential contribution to the Commission's work. After listing some of those studies, including the most important, he raised the question whether the Commission had performed its own role well by taking the necessary follow-up action. In order to be truly useful, the expert studies should provide the groundwork for follow-up action by the Commission. That posed a problem of the Commission's capacity, which should be viewed in relation to the size of its agenda. His delegation therefore considered that the Sub-Commission should undertake fewer studies and that the Commission should give more attention to those which were produced.

42. It should be added that, within the framework of its mandate, the Sub-Commission was required to perform any other functions which might be entrusted to it by the Economic and Social Council or the Commission. For some years concern had been expressed, at the Commission's sessions, about the growing tendency of the Sub-Commission to assume an independent stance. In his delegation's view, some recent resolutions of the Sub-Commission reflected not to much the expertise of its members as their preconceptions or political preferences.

43. In 1970, the Economic and Social Council, by resolution 1503 (XLVIII), had entrusted the Sub-Commission with the task of considering certain communications. The Sub-Commission examined communications screened by its Working Group on Communications, and itself decided on the basis of the communications which of the country situations required action on the part of the Commission. In that role, the Sub-Commission was required to make a kind of judgement which constituted a sharp departure from its former mandate and had had an inevitable effect on its working methods and on the content of its debates. At present, it might be asked retrospectively whether the role entrusted to the Sub-Commission under resolution 1503 (XLVIII) had been advisable and whether that role might not better be assigned to another body in which independent expertise would be less important.

44. The report on the most recent session of the Sub-Commission (E/CN.4/1985/3) revealed the increasing number of issues it considered. It accordingly appeared appropriate to caution the Sub-Commission to keep closely to the terms of reference laid down by the Commission. His delegation stressed that the Sub-Commission should remain a subordinate body; there should not be two Commissions on Human Rights. In its report, the Sub-Commission had submitted 37 resolutions, which themselves contained eight draft resolutions recommended to the Commission for adoption. With particular regard to resolution 1984/37 (E/CN.4/1985/3, p. 18) and paragraph 6 of that resolution, his delegation opposed the recommendation for an additional 10 meetings per session; it would be preferable for the Sub-Commission to curb its programme of work. The recommendation that the Centre for Human Rights should be strengthened also called for the same comment. In a period of budgetary restraint, the Sub-Commission, too, should exercise restraint and ensure in particular that its study programme was in conformity with the resources at its disposal.

45. On the other hand, his delegation was prepared to consider favourably the recommendations that the term of office of the experts should be extended from three to four years and that half should be elected every two years. It would be preferable to postpone any action on the recommendation concerning a change of name; for its part, his delegation would be reluctant to support a move which would diminish the emphasis placed on questions relating to discrimination and minorities.

46. His delegation would join those members who wished to work out new guidelines in order to enable the Sub-Commission to make as valuable a contribution as possible to the work of the Commission.

47. Mrs. SCHREIBER (International Federation of Women in Legal Careers) paid tribute to Mrs. Daes, Special Rapporteur of the Sub-Commission, for the excellent report she had submitted on the question of persons detained on the grounds of mental ill-health or suffering from mental disorder (E/CN.4/Sub.2/1984/19). At its next session, the Working Group established for that purpose would examine on second reading the draft body of principles, guidelines and guarantees for the protection of the mentally ill or persons suffering from mental disorder, annexed to the report.

48. The Special Rapporteur had rightly pointed out that, while progress in medicine, biology and biochemistry had provided many benefits to mankind, some scientific and technical advances also represented dangers to the physical and intellectual integrity of persons. The individual should therefore be able to rely on the protection of the community, which presupposed the affirmation of respect for the fundamental rights of the human person and for the dignity of each patient, the need to protect his physical and intellectual integrity and his right to decide his own fate and not to be subjected to undue constraints.

49. Her organization was particularly concerned that the rights of children and adolescents, who were particularly vulnerable, should be protected. As the Special Rapporteur had indicated, the Working Group would resume its consideration of draft articles 41, 42, 43 and 44 relating to the rights of patients who were minors and adolescents. The Federation would like to see established legal regulations, economic and social provisions, and provisions relating to emotional development that took account of the age of the child, his right to be defended throughout his detention and to maintain family contacts, the right to an environment compatible with his condition and a right of inspection that would enable him to be treated in a manner better adapted to the vulnerability of children than detention.

50. The mental health of children was of primary importance. Mrs. Daes stated that more than 1 billion children in the third world continued to live in the face of constant hazards, but 5 to 15 per cent of children between 3 and 15 years of age suffered from mental disorder, in both the third world and the developed countries. The condition of at least 100 million of those children in the developing countries was aggravated by physical illness. UNICEF therefore, stressed the importance of preventing mental illness. UNICEF further stressed that in emergency situations, particularly in Africa and Kampuchea, children affected or threatened by mental illness were much more disoriented than others.

51. The Commission's Working Group on a draft convention on the rights of the child had adopted, at its latest session and subject to a second reading, an article on the rights of handicapped children. Under that article, States parties to the convention recognized that children who were mentally or physically deficient should live a full and decent life in conditions that guaranteed their dignity, promoted their independence and facilitated their active participation in community life. Deficient children should have effective access to education; rehabilitation, vocational training and recreational activities in such a way as to ensure their fullest possible integration in society and their development.

52. It was also important to note that, while a mentally-ill person required treatment or surveillance for his own protection and that of others or of the community, it was especially important to exercise caution with regard to the application of such treatment or surveillance, particularly in the case of compulsory treatment. According to the Special Rapporteur, it would be advisable to give the patient the absolute right to oppose a detention decision and to be able to appeal against such a decision and, in any case, the right to a hearing.

53. Mr. CHARRY SAMPER (Colombia) said that at the previous session of the Commission his delegation had submitted amendments to the draft resolution, which the Sub-Commission had recommended to the Commission for adoption, on the question of the relationship between the two bodies. However, the text of resolution 1984/60 ultimately adopted by the Commission, as reproduced in the report on the

fortieth session (E/1984/14), was incomplete. He therefore requested the secretariat, as he already had done in writing, to arrange for the text to be reproduced in its entirety with the addition of the following paragraph in the preamble:

"Considering that the Sub-Commission is a subsidiary body of the Commission" (E/1984/14, para. 257).

54. It was disquieting to see that the relationship between the Commission and the Sub-Commission was not developing in accordance with the wishes of the majority of the members of the Commission, who agreed that the Sub-Commission should not become a parallel organ of the Commission. While it was normal to entrust to working groups of the Sub-Commission human rights activities and research of a general nature as requested by the Commission, it was important to proceed with great care when it was a question of examining actual situations in specific countries, since in such cases the question of relations between States was involved, and that did not come within the competence of independent experts. It should be recalled that the Sub-Commission had been set up by the Commission because the latter had wished to benefit from the contribution and competence of independent experts and to know the views of non-governmental organizations, which played a very important role in the cause of human rights. The Sub-Commission therefore had two characteristics: firstly, it was a subsidiary body of the Commission; secondly, it was composed of independent experts, unlike the Commission, which was composed of government representatives, even though representatives of Governments might also rely on their own expertise. The Sub-Commission therefore had a role as a protagonist. It was also clear that representatives of States in the Commission could not ignore the policies of their Governments.

55. In order to avoid duplication and repetition prejudicial to the efficiency of the system set up in the United Nations for human rights, it was preferable clearly to establish the functions of the Sub-Commission, whose role was both specific and limited, whereas the Commission had a more global mission. In order that the Sub-Commission might remain a subsidiary body and not become a parallel commission or even a super commission, it must be as different as possible from the Commission, just as the Commission must be as different as possible from the General Assembly. Since only certain violations of human rights could be examined, there was necessarily a choice to be made among the problems to be tackled, a choice which was sometimes based on political criteria. To ensure that the Commission and the Sub-Commission did not study the same country situations, the Sub-Commission should devote itself essentially to studies and research and to the development of international law. The role of a subsidiary body was to assist and support the parent body and to take action at its request. The impression must not be given, as was sometimes the case, that, on the contrary, the Commission was subordinate to the Sub-Commission. The Sub-Commission should also avoid undertaking new studies before completing those which were under way; otherwise, it would harm the image of the United Nations by giving the impression of wastefulness.

56. His delegation was not in favour of any change in the terms of reference of the members of the Sub-Commission, which might complicate matters further. In its work, the Sub-Commission should lay stress on the protection of minorities, and in particular on the definition of minorities and on efforts to combat discrimination throughout the world. In some cases, the Commission could also request the Sub-Commission to study a problem in detail, in order to obtain supplementary information on certain situations.

57. Mr. ARTUCIO (International Commission of Jurists) said that the wind of freedom was blowing in South America, with the disappearance of several military dictatorships which had failed in the political, economic, social and cultural sectors. It was thus encouraging to see the rebirth of democracy and hope in Brazil, Bolivia, Argentina and Uruguay.

58. In Brazil, the democratic process begun at the end of 1979 had been concluded on 15 January 1985 with the election as President of the Republic of the civilian candidate, Mr. Tancredo Neves, who had defeated the candidate of the military. For Argentina the date 10 December 1983 had marked the beginning of a new era and the return of respect for human rights, with the inauguration of Mr. Raúl Alfonsín's civilian Government, the expression of popular sovereignty. The representative of Argentina had stressed a few days previously during consideration of agenda item 21 that eight years of the "ideology of national security" had deeply affected Argentine society. However, after one year of democracy, the result was very positive and, from both the legislative and practical standpoints, the year 1984 had marked the restoration of rights and freedoms. Uruguay was emerging from 12 years of dictatorship, torture, imprisonment, assassination and exile, accompanied by strict control over education, the press, public enterprises, political and trade-union activities, and the judiciary. It was to be hoped that the 350 political detainees still listed would benefit from a general and unlimited amnesty. In that country, too, the military had been obliged to hold elections which had opened the way to democracy, because they had been unable to acquire a political and social base and because they had failed in the economic field, with the unemployment, increase in the foreign debt, decline in the standard of living and poverty which had resulted from that failure. However, the victory of the opponents of the dictators had been even more important than the failures of the dictators. It was the Uruguayan people who had brought about the fall of the dictatorship and the elections of 25 November 1984, which, although under strict surveillance by the military régime, had marked the return to democracy and the end of oppression. The world had thus witnessed the victory of the "Colorado" party and of Mr. Julio Sanguinetti, who was to be confirmed as President of the Republic on 1 March by the Parliament which had been inaugurated on 15 February 1985, thus completing the process of return to democracy.

59. The case of Paraguay, on the other hand, continued to give cause for concern. In its resolution 1984/9 (E/CN.4/1985/3, p.11), the Sub-Commission requested the Commission to recommend the Paraguayan Government to end the state of siege and to consider enacting a measure of amnesty allowing the participation of all in the public affairs of the country. For 35 years, General Alfredo Stroessner had imposed on Paraguay a "state of siege" - which had been renewed every 3 months - through the support of the armed forces. It was because of that state of siege that the population remained subjected to repression and saw its rights flouted. And because of that state of siege political opponents had been imprisoned without trial for 19 years or placed in administrative detention. The Paraguayan Government had made the emergency situation permanent and conferred exorbitant powers on the executive. There was no longer any protection for those who were opposed to the Government, which had also amended the Constitution to enable General Stroessner to be re-elected six times. The International Commission of Jurists reaffirmed the statements which it had made on that subject in the Sub-Commission and to which the observer for Paraguay had referred at length at the previous meeting. Its report on the independence, or rather lack of independence, of the judiciary was the result of a mission presided over by a lawyer who had travelled to Paraguay and whose conclusions were confirmed by the reports of the Inter-American Commission on

Human Rights. With regard to torture, contrary to the statement made by the observer for Paraguay, cases were sufficiently numerous to be regarded as an established "practice".

60. Respect for human rights and fundamental freedoms in Paraguay therefore more than ever required the lifting of the state of siege and the adoption of measures allowing the participation of all in the political and social affairs of the country. The International Commission of Jurists therefore endorsed Sub-Commission resolution 1984/9, which it commended to the Commission for adoption.

61. Mr. Charry Samper (Colombia) took the Chair.

62. Mr. RAJA NAYAGAM (Centre Europe-Tiers Monde) recalled that at its most recent session in August 1984 the Sub-Commission (see E/CN.4/1985/3, pp. 16, 104 and 105), deeply concerned about the recurrence of violence in Sri Lanka, which had caused severe loss of life and property, and recognizing the ultimate responsibility of the Government of Sri Lanka to protect all sections of the community, had expressed the hope that that Government would submit to the Commission, at its forty-first session, information on progress made in the investigation of the incidents, and the efforts to promote communal harmony (resolution 1984/32). The events that had taken place since only served to justify the Sub-Commission's concern.

63. In its latest report released in January 1985, Amnesty International recorded a catalogue of killings of Tamil civilians, including elderly men, women and children. It reported that, despite government denials, there was sufficient evidence to show that they were in fact killings by the security forces. Amnesty International and the Civil Rights Movement of Sri Lanka also pointed out that, recently, thousands of Tamils had been rounded up and detained in army camps, where they were subjected to torture. Furthermore, it seemed that Christian clergymen had become the latest target of atrocities by the army: a Methodist minister and a Catholic priest had recently been shot dead.

64. It was highly regrettable that the Sri Lankan Government had so far failed to undertake an impartial investigation into the violence which had occurred in July-August 1983 and in which several hundred Tamils had perished and nearly 200,000 had been rendered homeless. That Government had also failed to institute an impartial judicial investigation into the gruesome massacre of 53 Tamil political prisoners in a Colombo maximum-security prison in July 1983; nor had it conducted an investigation into several other incidents and rampages during which the security forces had engaged in summary killings of civilian Tamils and the destruction of their property. The culprits had not been punished.

65. The failure of the Sri Lankan Government to prevent repeated excesses by the army against civilians prompted the following question: to what extent were those excesses due to the indiscipline of the armed forces and to what extent did they flow from conscious government policy?

66. Unfortunately, it seemed that the Sri Lankan Government, far from endeavouring to restore the inter-communal harmony desired by the Commission, had decided on a military solution to the ethnic conflict which was destroying the country. In November 1984, it had promulgated a plethora of emergency regulations, which made normal life in the Tamil areas virtually impossible. Thus, prohibited zones had been established along the northern coast, where all forms of human habitation and

activity were forbidden; the ban on fishing had deprived thousands of fishermen of their livelihood. Some of the northern districts had been declared "security zones", where ownership and use of vehicles, including bicycles, were banned without special permits; only a few roads could be used; the inhabitants were compelled to carry identity cards. No one could enter or leave those zones without special permits. As the Civil Rights Movement of Sri Lanka had observed, those emergency regulations were destroying the life of an entire community.

67. Moreover, the Head of State had announced a plan to colonize all Tamil areas with Sinhala settlers to reflect the national ratio of 75 per cent Sinhalese and 25 per cent other ethnic groups. The Minister of National Security had announced plans for the provision of military training and arms to the new settlers. Those plans had already been applied in some zones. The citizens' committees of the affected areas had complained of the seriousness of the situation and of starvation conditions. However, the Sri Lankan Government seemed to have refused the request of international relief agencies to go to the affected areas.

68. Abandoning their homes, the inhabitants of those Tamil areas were fleeing to other countries, particularly southern India, and some to Western countries. The extent of the exodus testified to the dimension of the violence, violations and deprivations to which the Tamil minority were subjected in Sri Lanka today.

69. At the Commission's previous session, the delegation of Sri Lanka had placed great emphasis on the All-Party Conference which had been meeting at that time. Unfortunately, the Government of Sri Lanka appeared to have failed to seize the opportunity given by the Commission. The Conference had formally ended on 16 December 1984, and the Government had subsequently abandoned the meagre proposals it had placed before the Conference. The Tamil political party, the TULP, while rejecting the Government's proposals, had expressed its readiness to continue to negotiate a settlement on the basis of the recognition of the legitimate aspirations of the Tamil people. The Centre Europe-Tiers Monde urged the Commission, taking into account the concern expressed by the Sub-Commission, to consider taking such steps as were necessary in order to protect human rights and restore inter-communal harmony in Sri Lanka.

70. Mr. EYA NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that he wished to make some observations on three aspects of the Sub-Commission's work.

71. Firstly, with regard to the problem of discrimination against indigenous populations, it was to be hoped that the study by Mr. Martínez Cobo (E/CN.4/Sub.2/1983/21 and Add.1-8) would be given wide distribution. Since that study posed the problem of the definition of the term "indigenous populations", it was important, in order to ensure genuine equality among races and peoples, that the indigenous populations themselves should define their own identity. Definitions of other populations or races were inappropriate, since such definitions would almost always contain some degree of prejudice. True fraternity among races and peoples involved listening to others and letting others define themselves.

72. He was convinced that Indigenous Populations, would guide the Working Group's deliberations to a successful conclusion. He stressed that Africans were very interested in that matter, since during the colonial era they had been called "indigenous populations" and knew the meaning of the term.

73. Secondly, the study by Mr. Mubanga-Chipoya on the right to leave any country, including one's own, and the right to return to one's own country (E/CN.4/Sub.2/1984/10) was of great importance because it dealt, among other things, with the thorny question of visas, whether they were issued by the country of nationality of the applicant or a foreign country. He had noted the racist behaviour of frontier police at many airports, ports and railway stations.

74. Furthermore, it was more difficult for an African than for a foreigner to travel within Africa. For example, Rwandese citizens wishing to return to Rwanda had not been authorized to do so; they had been stuck at the frontier for many days and had finally had to return to Uganda, where they had been living previously. The Organization of African Unity should endeavour to secure freedom of movement for Africans in Africa. It was paradoxical that non-Africans enjoyed more facilities in that regard than Africans themselves. "African brotherhood" should be a reality and not just a theory which was invoked at major international conferences.

75. Thirdly, with regard to Sub-Commission resolution 1984/9 (E/CN.4/1985/3, p.11) on the state of siege in Paraguay, he had listened with interest to the statement made by the observer for Paraguay at the previous meeting. He would like to ask the following question: if the situation in Paraguay was as good as the Paraguayan delegation had said, why had the state of siege been declared? What fears prompted the Paraguayan Government to decree such a measure? The reply given by the Paraguayan delegation was not clear. It seemed in fact that there was a twofold fear: the Paraguayan Government was afraid of its opposition, and the opposition was afraid of the Government. The problem would be resolved only when the Paraguayan Government was in a position to deal with that situation by granting a genuine amnesty to its opponents abroad so that they would be able to return to their country, and to its opponents in Paraguay so that they would be able to play a real part in political affairs. The question was not whether there were numerous opponents, since even if there was only one, the Paraguayan Government would keep him in detention. Paraguay was a country which could be governed without need for emergency measures. That was why his organization hoped that the Government of that country would comply with Sub-Commission resolution 1984/9. It must not be forgotten that the state of siege in Paraguay had been in force since August 1954, i.e. for nearly 31 years. That was a particularly abnormal situation, but in Paraguay the exception was already the rule. His organization requested the Commission to press the Paraguayan Government to lift the state of siege.

76. Mr. ROBERTSON (Australia) noted that for a few years the Commission had been studying the reports of the Sub-Commission more attentively and, in so doing, it was in a better position to appreciate the range of problems on which the Sub-Commission could report to it and enrich its work. His country strongly supported the activities of the Sub-Commission, which uniquely complemented those of the Commission: whereas the Commission, as an intergovernmental body, inevitably considered the questions before it from the standpoint of national interests, the Sub-Commission provided a forum in which independence, impartiality, expertise and individuality should be the guiding principles.

77. However, the relationship between the Commission and the Sub-Commission had not always been easy. His delegation therefore welcomed with satisfaction the

dialogue which had begun to develop between the two bodies, it being understood that within the framework of that dialogue it was ultimately the Commission which defined the nature of the relationship between the two bodies and the priorities of the Sub-Commission's work. It was certainly possible to improve further the work of the Sub-Commission, and it was right that the Commission should seek means of promoting such improvement. But it was also important to note that, in view of the nature of the work of the Sub-Commission, the Governments concerned would on occasion seek reasons to question its capacity to act or try to confine its scope.

78. The terms of reference of the Sub-Commission were deliberately broad. His delegation welcomed the vigour and commitment with which its members had in general approached their task. If, in exercising their judgement in complete independence, they occasionally pressed against the boundaries of their terms of reference, that was a symbol of a healthy commitment. It was, of course, for the Commission to approve their recommendations, and the Commission could and should decide, when appropriate, to take no action to suggest a reformulation or reconsideration of proposals, and to offer guidance of a general nature. In his delegation's opinion, that was a sufficient safeguard against any misconceived action. By making a continuing review of its relationship with the Sub-Commission, the Commission could give special emphasis to preserving the Sub-Commission's vitality and independence.

79. The Commission had given consistent attention to ways of preserving and strengthening the essential character of the Sub-Commission, namely, its status as a group of independent experts, free from all government interference. That had led to the establishment, in 1983, of the system of elected alternates as a means of ensuring that all persons participating in the Sub-Commission's work met the necessary criteria of expertise and independence vis-à-vis Governments. That system was, of course, designed solely to provide for occasional situations where an elected member was unable for a significant period to participate in the Sub-Commission's deliberations. His delegation had therefore noted with some concern the fact that at the thirty-seventh session of the Sub-Commission, a member and his alternate had participated concurrently on several occasions in the consideration of a single agenda item. The Commission should, at its current session, clarify the role of alternates with a view to preserving the individual expert character of the Sub-Commission.

80. An important function of the Sub-Commission was to bring to the attention of the Commission any situation, in any country, which it had reasonable cause to believe revealed a consistent pattern of gross violations of human rights and fundamental freedoms, and a number of resolutions in the report of the Sub-Commission under consideration (E/CN.4/1985/3) stemmed from that aspect of the Sub-Commission's competence. In view of its expert character, the Sub-Commission should not merely duplicate the language of resolutions adopted by the Commission. Its efforts should be devoted, in particular, to bringing to the attention of the Commission situations which were not already before the Commission. It went without saying that the resolutions adopted by the Sub-Commission should be carefully considered and couched in terms consistent with Commission resolution 8 (XXIII). His delegation encouraged the Sub-Commission to pursue its responsibilities in that area in appropriate cases, through the preparation of reports delineating the situations which, in its view, required action on the part of the Commission.

81. The Sub-Commission had done especially useful work through a series of working groups (on slavery, detention and indigenous populations). His Government took a particular interest in the work on indigenous populations, and the Australian Minister for Aboriginal Affairs had participated in the work of the Working Group on Indigenous Populations at its 1984 session. The question of indigenous populations had long been neglected, and it was satisfying to note that the Working Group approached its task in an effective manner. Moreover, the completion of the report (E/CN.4/Sub.2/1983/21/Add.1-8) of the Special Rapporteur, Mr. Martínez Cobo, would give greater impetus to its activities. His delegation welcomed the participation of representatives of various indigenous populations in the Working Group's activities, and urged it to continue, at its future sessions, to formulate a set of standards relating to the rights of those populations. The preparation of a definition of indigenous populations was clearly essential, but there might be a need for wide consultations.

82. His delegation commended to the Commission the Sub-Commission's draft resolution on the establishment of a United Nations voluntary fund for indigenous populations (E/CN.4/1985/3, p. 7). It firmly believed that the establishment of that fund would enable the Working Group to obtain a wide range of opinion within the indigenous populations whose rights and interests it sought to serve. His delegation hoped that organizations concerned with the defence of indigenous populations would be adequately represented on the proposed board of trustees of the fund.

83. His delegation felt the other draft resolutions submitted by the Sub-Commission to be worthwhile but, as it had already stated during the discussion on agenda item 10, the appointment of a special rapporteur on the administration of justice and the human rights of detainees should await the completion and consideration of the document to be prepared for the Sub-Commission in accordance with its resolution 1984/27. His delegation reserved the right to make further comments on those draft resolutions when the time came for the Commission to act on them.

84. Sub-Commission resolution 1984/37 (E/CN.4/1985/3, p. 113), entitled "Review of the work of the Sub-Commission", testified to the Sub-Commission's efforts to place its work on a more orderly footing. His delegation welcomed the review which the Sub-Commission had begun, and it took note with particular interest of the recommendations contained in paragraph 6 of the resolution. In its view, the Commission could take action on some of those recommendations at the current session.

85. In connection with the resolution in question, his delegation supported the Sub-Commission's recommendation that its members should be elected for a term of four years and that the election of half its membership should take place every two years. That would promote greater continuity in the Sub-Commission's work and would bring its electoral arrangements into line with those which had proved to be effective in other expert groups working in the human rights field.

86. His delegation also supported the Sub-Commission's recommendation that its name should be changed to the "Sub-Commission of Experts of the Commission on Human Rights". That designation would describe the Sub-Commission's work more clearly. His Government was also in favour of a three-year cycle for the completion of studies.

87. His delegation had already had an opportunity to note the need to strengthen the Centre for Human Rights. It therefore supported the recommendation made by the Sub-Commission along those lines, on the understanding that it was not a question of the Sub-Commission giving excessive work to the secretariat, but rather of the Secretary-General ensuring that adequate staff and facilities were made available for the servicing of the meetings of the Sub-Commission and its working groups and for the prompt completion of studies.

88. In consultation with other delegations, he had undertaken the preparation of a draft resolution on the question under consideration.

89. Sir Anthony WILLIAMS (United Kingdom) said that the size of the Sub-Commission's report (E/CN.4/1985/3-E/CN.4/Sub.2/1984/43) was an indication of the range of its work, and his delegation welcomed the time that had been set aside for its consideration.

90. The thirty-seventh session of the Sub-Commission had been unusual in that more than half its members had been sitting for the first time and some of them had needed some time to become familiar with its work. Consequently, the session had not been one of the Sub-Commission's most productive. However, the session had also been the first since the introduction of the system of elected alternates, of which his Government had been an advocate. Nevertheless, his delegation was concerned about two aspects of the use made of alternates. Firstly, it had learned that the Centre for Human Rights would assume the travel and subsistence costs of an alternate only if the nominated expert was unable to attend the work of the Sub-Commission at all. What would happen if the member fell ill or was otherwise incapacitated after his arrival at Geneva? His delegation wished to know whether the secretariat would then take the necessary measures to enable the alternate to replace the member.

91. Secondly, it seemed that some members had decided to use their alternates as an additional member of the Sub-Commission while themselves participating in its work. It had even happened that a member and his alternate had both taken the floor on the same item. In his delegation's view, that was not the way in which the system of alternates should operate: an alternate should participate in the deliberations only if the member was absent. The Commission had not given its approval for the Sub-Commission to be expanded to 52 members.

92. The work of the Sub-Commission was very useful when it did not duplicate the work of other bodies. At its most recent session, the Sub-Commission had failed to undertake some of the tasks which the Commission had entrusted to it. It would make better use of its time by adopting a more limited and ordered agenda. It was disappointing to note that the Sub-Commission continued to increase its workload without, however, improving its methods of work. However, it had at least considered ways to improve its structure and organization, as was clear from its resolution 1984/37, of which paragraph 6 (E/CN.4/1985/3, p. 113) contained several precise recommendations addressed to the Commission.

93. The Recommendation that the term of office of members should be extended from three to four years, with half the members elected every two years, seemed eminently sensible: it would bring the Sub-Commission's election procedure into line with that of other expert bodies and would clearly ensure improved continuity of work.

94. The recommendation that the Sub-Commission should change its name would undoubtedly be welcome, since the present name ("Sub-Commission on Prevention of Discrimination and Protection of Minorities") was not only a mouthful but also a misnomer.

95. The rationalization of the production of studies was long overdue. Indeed, some reports had taken so many years to prepare that they had lost their topicality and usefulness. The choice of a three-year cycle seemed wise but it was also necessary that the Sub-Commission should not decide to prepare more studies than it could reasonably complete.

96. With regard to the loss of expert man-hours because sessional working groups were unable to meet at the same time, his delegation considered that three sessional working groups could meet simultaneously, but it would expect the time saved to offset any additional costs resulting from the introduction of concurrent working groups.

97. His delegation fully supported the recommendation that the Centre for Human Rights should be strengthened and its facilities increased so as to enable it to provide further services to the Sub-Commission and to implement its five-year plan of work. It encouraged the Assistant Secretary-General to reorganize his services and reallocate his staff so that the existing resources provided yet more effective support for the Sub-Commission.

98. There was another way to improve the quality of the work of the Sub-Commission which the Sub-Commission had itself often discussed: the adoption of the procedure of voting by secret ballot. That procedure would enhance the independence of the members of the Sub-Commission, who of course should not make use of it on every occasion.

99. His delegation followed closely the Sub-Commission's work, which constituted a valuable contribution both for the Commission and to efforts to combat human rights violations. It therefore expected the experts or their alternates to be present throughout the session, to make considered statements, to examine their own conscience, in short, to be independent experts. As such, they had a great deal to offer the Commission and the cause of human rights.

100. Mr. YIANGOU (Cyprus) said that he would confine himself to making some general comments on the report of the Sub-Commission (E/CN.4/1985/3) in an effort to promote a more positive and constructive approach to its work.

101. His delegation did not question either the importance of the work of the Sub-Commission in the promotion and protection of human rights or the importance of its role in the action carried out by the organizations of the United Nations system in that regard.

102. To evaluate the work of the Sub-Commission correctly and to place it in its proper perspective, account must be taken of the fact that the Sub-Commission was, or at least was considered to be, a body of independent experts acting in their personal capacity. It should not be forgotten that, under its original terms of reference, the Sub-Commission was entrusted with undertaking studies and making recommendations to the Commission on the prevention of any discrimination and the protection of racial, national, religious and linguistic minorities, and performing any other task which the Economic and Social Council or the Commission itself might request of it. Its present designation clearly reflected those functions.

103. However, both the Council and the Commission had since considerably extended the initial terms of reference. Thus, under Council resolution 1503 (XLVIII), the Sub-Commission had the delicate task of receiving and examining communications referring to human rights violations, wherever they occurred in the world.

104. A reading of the reports of the Sub-Commission was sufficient to indicate the number and importance of the issues before it. That was perhaps the reason why the members of the Sub-Commission had considered it necessary to propose that its title should be changed in order more accurately to reflect the evolution of its terms of reference. In his delegation's opinion, what was really important was the work done by the Sub-Commission rather than its name, although it was appropriate that the name should coincide with the content of the terms of reference.

105. The Sub-Commission had so far amply justified its existence by preparing a large number of studies on various questions relating to human rights. A number of those studies were still in the process of preparation, and some were to be submitted to the Sub-Commission at its 1985 session. Of course, the priority given to a particular study could be questioned, but the fact remained that the studies had aroused wide interest and been the focal point for most interesting and constructive discussions, thereby contributing to the promotion and protection of human rights and fundamental freedoms. The Sub-Commission should pursue that course and even intensify its work along those lines. By rationalizing its agenda, which was very heavy, it could perhaps devote more time to a more careful examination of the studies prepared. The rationalization process should be continued.

106. Much of the criticism frequently levelled against the Sub-Commission concerned the unacceptable degree of politicization of its work and discussions. That politicization was clearly contrary to the independence, impartiality and objectivity expected of a group of independent experts acting in their personal capacity. Having said that, his delegation wished to stress that while the status of a group of independent experts required absolute impartiality and objectivity, the very nature of some of the subjects dealt with - for example, violations of human rights and matters coming under the procedure defined in Council resolution 1503 (XLVIII) - was such that it was extremely difficult, in the independent world of today, not to be politicized in some way or other.

107. In that connection, it would perhaps be relevant to recall that the observers representing Governments participated freely in the consideration of nearly all the items on the Sub-Commission's agenda. That fact introduced into the discussions a political element which was precisely the subject of criticism at a later stage. Of course, his delegation did not advocate, let alone demand, any politicization of the discussions of the Sub-Commission. It merely wished to point out that the very nature of the issues dealt with were likely to give rise to some degree of politicization. Could that politicization be avoided, up to a certain point? If the reply was affirmative, that would be ideal. Otherwise, the Commission would have to demonstrate understanding and tolerance.

108. In any event, any divergence of approach between the Sub-Commission and the Commission to the work and role of the Sub-Commission should be discussed calmly, analysed in detail, and resolved through dialogue and consultations, and certainly not through confrontation, more or less caustic criticism, or even accusations.

109. While regretting that it had not been possible, at the current session, to have an exchange of views between a spokesman for the working group entrusted with the "review of the work of the Sub-Commission" and the Commission or a working

group of the Commission, as envisaged in Commission resolution 1984/60, his delegation expressed the hope that such an exchange of views could take place at the next session of the Commission and that it would produce constructive and fruitful results.

110. For the most part, the draft resolutions submitted by the Commission generally created no problem for his delegation, which would express its position in due course. His delegation welcomed the remarkable work done by Mr. Martínez Cobo, Special Rapporteur on the study of the problem of discrimination against indigenous populations, and it would support the three draft resolutions on indigenous populations submitted by the Sub-Commission. It also wished to congratulate Mrs. Daes, Chairman-Rapporteur of the Working Group on Indigenous Populations on the excellent work she had done.

The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.36/Add.1.