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Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-sixth session
Agenda item 7

ADOPTION OF THE REPORT ON THE FIFTY-SIXTH SESSION

**Draft report of the Sub-Commission on the Promotion
and Protection of Human Rights**

Rapporteur: Mr. Paulo Sérgio Pinheiro

CONTENTS*

<i>Chapter</i>	<i>Page</i>
III. Organization of work	

* E/CN.4/Sub.2/2004/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights will be contained in documents E/CN.4/Sub.2/2004/L.11 and Addenda.

III. Organization of work

A. Opening and duration of the session and number of meetings

1. The Sub-Commission on the Promotion and Protection of Human Rights held its fifty-sixth session at the United Nations Office at Geneva from 26 July to 13 August 2004. It held ... meetings (see E/CN.4/Sub.2/2004/SR.1-...), 5 of which were held in closed session (see E/CN.4/Sub.2/2003/SR..., SR... and SR...).
2. The session was opened by Ms. Halima E. Warzazi, Chairperson of the Sub-Commission on the Promotion and Protection of Human Rights at its fifty-fifth session, who made a statement.
3. The United Nations High Commissioner for Human Rights, Ms. Louise Arbour, addressed the Sub-Commission at its 1st meeting, on 26 July 2004.

B. Attendance

4. The session was attended by members of the Sub-Commission, by observers for States Members of the United Nations, by observers for non-member States and by observers for intergovernmental organizations, United Nations bodies, specialized agencies, other organizations and non-governmental organizations. The attendance list is given in annex III to the present report.

C. Resolutions and documentation

5. The Sub-Commission adopted 30 resolutions and took 22 decisions. The texts of these resolutions and decisions appear in chapter II, sections A and B, respectively. Draft decisions for action or consideration by the Commission on Human Rights are set out in chapter I. For a list of the resolutions and decisions adopted by the Sub-Commission, see annex VIII to the present report.
6. Information concerning the administrative and programme budget implications of resolutions and decisions adopted by the Sub-Commission at its fifty-sixth session is provided in annex IV.

7. A list of the resolutions and decisions referring to matters drawn to the attention of the Commission on Human Rights is contained in annex V.
8. A list of studies completed at the fifty-sixth session, of ongoing studies, of working papers entrusted to members and of studies recommended for approval, drawn up in accordance with Commission on Human Rights resolution 1982/23, appears in annex VI.
9. A list of documents for the fifty-sixth session of the Sub-Commission appears in annex VII. Written communications submitted by Governments and non-governmental organizations for circulation at the session are also mentioned in annex VII.

D. Election of officers

10. At its 1st meeting, on 26 July 2004, the Sub-Commission elected the following officers by acclamation:

Chairperson: Mr. Soli Jehangir Sorabjee

Vice-Chairpersons: Ms. Françoise Jane Hampson

Ms. Antoanella-Iulia Motoc

Ms. Lalaina Rakotoarisoa

11. At its 5th meeting, on 29 July 2004, the Sub-Commission elected Mr. Pinheiro as Rapporteur by acclamation.

E. Adoption of the agenda

12. At its 1st meeting, on 26 July, the Sub-Commission had before it a note by the Secretary-General containing the provisional agenda for the fifty-sixth session (E/CN.4/Sub.2/2004/1), drawn up in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, on the basis of the draft provisional agenda considered by the Sub-Commission at its fifty-fifth session in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII).

13. The Sub-Commission had also before it a note by the Secretary-General containing a proposal for inclusion of a new item in the provisional agenda (E/CN.4/Sub.2/2004/3).

Statements in that connection were made by Mr. Alfonso Martínez, Ms. Chung, Mr. Guissé, Ms. Hampson, Ms. Mbonu, Mr. Sattar, Ms. Warzazi and Mr. Yokota.

14. At the same meeting, the agenda as contained in the document (E/CN.4/Sub.2/2004/1), (see annex I), was adopted without a vote.

F. Organization of work and conduct of business

15. At the 1st meeting, on the same day, the Chairperson of the sixtieth session of the Commission on Human Rights, Mr. Mike Smith, addressed the Sub-Commission in accordance with Commission resolution 2004/60.

16. The Sub-Commission considered item 1 of the agenda at its 1st, 2nd (closed) meetings on 26 and 27 July, at the closed part of its 17th and 18th meetings, on 9 August, as well as at the closed part of its 22nd meeting, on 11 August, at the closed part of its 23rd meeting and at the public part of its 23rd and 24th meetings, on 12 August 2004.

17. In the general debate on agenda item 1, statements were made by members of the Sub-Commission. For the list of speakers, see annex II.

18. At its 1st meeting, on 26 July 2004, and 2nd meeting, on 27 July 2004, the Sub-Commission considered the organization of its work and conduct of business.

19. Upon the recommendation of its officers, the Sub-Commission decided, without a vote, the following with respect to sessional working groups:

(a) To establish a sessional working group on the administration of justice under agenda item 3 and to nominate the following members of the Sub-Commission as members of the working group: Ms. Hampson, Ms. Motoc, Ms. Rakotoarisoa, Mr. Tuñón Veilles and Mr. Yokota. For the text of the decision, see chapter II, section B, decision 2004/101;

(b) To establish a sessional working group to examine the working methods and activities of transnational corporations under agenda item 4 and to nominate the following members of the Sub-Commission as members of the working group: Mr. Alfonso Martínez, Mr. Alfredsson, Mr. Bíró, Mr. Chung, Mr. Guissé. For the text of the decision, see chapter II, section B, decision 2004/102.

20. The Sub-Commission accepted the recommendations of its officers regarding limitation of the frequency and duration of statements. Members of the Sub-Commission would be entitled to make one or more statements of 10 minutes per item. Observers for non-governmental organizations would be limited to one statement of seven minutes per item. With regard to joint statements by non-governmental organizations, the following timing was agreed upon: 1 or 2 non-governmental organizations: 7 minutes; 3 to 5 non-governmental organizations: 10 minutes; 6 to 10 non-governmental organizations: 12 minutes; more than 10 non-governmental organizations: 15 minutes. National human rights institutions would be allowed to make statements on the same basis as non-governmental organizations. Government observers would be limited to one statement of five minutes per item. That speaking time would also apply to observers for intergovernmental organizations, United Nations bodies, specialized agencies and other organizations.

21. According to the special procedure for the allocation of speaking time and the closure of the list of speakers on the agenda item dealing with violations of human rights which was established by the Sub-Commission in its decision 1994/117, the maximum speaking time under agenda item 2 would be determined, for all observers, by dividing equally the time allocated to observers by the number of speakers who had signed up before the closure of the list. The closure of the list would be set at 6 p.m. on the day before the opening of the debate on that agenda item.

22. The Sub-Commission also accepted the recommendation that special rapporteurs should limit their statements to 15 minutes, to be divided between the introduction of the report and the concluding remarks.

23. It was also accepted that Sub-Commission members taking the floor on procedural matters should be as brief as possible and not exceed two minutes.

24. It was agreed that, with regard to statements by government observers equivalent to a right of reply, a limitation to two replies, of three minutes for the first and of two minutes for the second, at the end of the general debate on any particular item(s), would be observed. Under any agenda item, government observers should not address the human rights situations in countries other than their own, except when exercising the right of reply.

25. It was also agreed that the list of speakers would be opened at the beginning of the session for all participants to register to speak on any agenda item. If the list of speakers had not been exhausted during a particular meeting, the remaining speakers would be given the floor, in the same order, as the first speakers at the next meeting. The closure of the list of speakers on any item(s) would be announced by the Chairperson in advance, normally at the beginning of the consideration of that agenda item (except for item 2).

26. It was also agreed that if there were no more speakers on an agenda item at a particular meeting, the Sub-Commission would take up the next item on its calendar, if deemed necessary.

27. It was also agreed that, in order to respect editorial and other requirements, draft resolutions and decisions should be submitted at least three working days before the date on which they were scheduled to be considered. The deadlines for the submission of draft resolutions would be set by the Chairperson in consultation with the Bureau and announced sufficiently in advance.

28. Also at its 2nd (closed) meeting, the Sub-Commission approved the timetable for the consideration of agenda items proposed by the Bureau in the following order: 1, 2, 5, 4, 6, 3 and 7.

29. At the same meeting, the Sub-Commission met with the members of the Expanded Bureau of the sixtieth session of the Commission of Human Rights pursuant to Commission resolution 2004/60, paragraph 10 (a).

30. At the 20th meeting, on 10 August, Ms. Ruth Hahn-Weinert, Chief of users' service of the Library of the United Nations Office at Geneva, gave a briefing on facilities and services that the UNOG library can offer to the experts. A statement in this connection was made by Mr. Decaux.

31. At the 24th meeting, on 12 August 2004, the members of the Sub-Commission held an exchange of views with representatives of the non-governmental organizations.

32. At the 18th meeting, on 9 August, and at its 23rd meeting and 24th meetings, on 12 August 2004, representatives of the Administration Section of the Office of the United Nations High Commissioner for Human Rights made statements in connection with the programme budget implications of several draft resolutions and decisions considered by the Sub-Commission.

G. Other matters

33. At the 1st meeting, on 26 July 2004, in accordance with decision 1994/103 of the Sub-Commission and at the proposal of the Chairperson, the Sub-Commission observed a minute of silence in honour of the victims of all forms of violations of human rights in all regions of the world.

Technical cooperation

34. At the 24th meeting, on 12 August 2004, the Sub-Commission decided unanimously to consider draft decision E/CN.4/Sub.2/2004/L.34 under agenda item 6 (c).

Resolution under agenda item 1 (c) with regard to item 2

35. At the same meeting, Ms. Hampson introduced draft resolution E/CN.4/Sub.2/2004/L.52, sponsored by Mr. Alfredsson, Mr. Bíró, Mr. Bossuyt, Ms. Chung, Mr. Decaux, Ms. Hampson, Ms. Motoc, Mr. Pinheiro, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Wadibia-Anyanwu, Ms. Warzazi and Mr. Yokota, which read as follows:

2004/... Resolution under item 1 with regard to item 2 of the agenda

“The Sub-Commission on the Promotion and Protection of Human Rights,

Stressing the importance of item 2 of its agenda entitled, ‘Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation, in all countries, including colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII),

Taking note of Commission resolution 2004/60 of 20 April 2004, in which the Commission reiterated and reaffirmed that the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission, as well as urgent matters involving serious violations of human rights in any country,

Considering that the Sub-Commission can best assist the Commission in this regard by establishing methods to evaluate the situation of human rights and the priorities in responding to crises in terms of protection, prevention and promotion,

Recalling that item 2 of its agenda allows for debate and discussion of serious human rights violations such as unlawful killings, torture and disappearances, in particular those not discussed under other thematic agenda items and in relation in particular to victims not belonging to groups discussed under other agenda items,

Recalling also that the Commission has requested the Sub-Commission to improve its working methods and to facilitate the participation of non-governmental organizations in its work,

Welcoming the substantial debate that took place at its fifty-sixth session on the situation of human rights worldwide and the suggestions made for examining this item more methodically,

Welcoming also the contributions of non-governmental organizations to all aspects of the Sub-Commission's activities, as well as their suggestions on ways and means of improving the Sub-Commission's working methods and making their participation more effective,

Welcoming further the establishment of national institutions for the promotion and protection of human rights in accordance with the Paris Principles annexed to General Assembly resolution 48/134 of 20 December 1993,

1. Decides:

(a) To establish, without financial implications, a working group whose members will communicate by e-mail, composed of ..., to produce a report by 30 April 2005 on the organization, the content and the outcome of the Sub-Commission's work under agenda item 2, taking into account the discussions that took place at the fifty-sixth session of the Sub-Commission. Throughout its work the working group will take account of the need to avoid unnecessary duplication with the work of other United Nations bodies and the need for any Sub-Commission activity to make an identifiable contribution to the issue under discussion;

(b) That the working group will consider, among other issues:

- (i) Whether to rename agenda item 2 to better reflect its content;
- (ii) Whether to divide the item into two parts, i.e. the general debate and the evaluation or identification, on a thematic basis, of possible gaps in standards, implementation and monitoring, to enable the Sub-Commission to suggest themes for study and proposals to the Commission on Human Rights, with a view to preventing human rights violations and promoting respect for human rights;
- (iii) How best to enter into a dialogue with national human rights institutions;

- (iv) How best to gather and use evidence of good practice;
- (v) Whether it would be desirable to revive the mandate of the Special Rapporteur on the implications for human rights of states of siege or emergency;
- (vi) Whether the Sub-Commission should establish the mandate of a Special Rapporteur on good practice, follow-up and implementation, to identify recommendations made by the special procedures of the Commission on Human Rights with regard to a particular State, to follow up the measures, if any, the State has taken as a result and to assess the effect of those measures, with a view to making issue-oriented recommendations to the Sub-Commission with regard to the prevention of serious human rights violations and the promotion of respect for human rights;
- (vii) How to operationalize any proposals it might make;
- (viii) Whether to recommend whether the time devoted to agenda item 2 should be increased; and
- (ix) Making recommendations with regard to the form of the Sub-Commission's report to the Commission under agenda item 2 in the light of the revised structure of the debate on this item;

(c) That the report of the working group should be translated into the official languages of the United Nations and posted on the web site of the Office of the High Commissioner at the earliest opportunity and in any event no later than the end of May 2005, and that the report be sent to each member of the Sub-Commission;

(d) That non-governmental organizations, national human rights institutions, the special procedures of the Commission, the Office of the High Commissioner, States and all other interested parties be invited to submit comments on the report by the end of June 2005, and that the working group take these comments into account in preparing a final version of the report for submission to the Sub-Commission;

(e) That the report of the working group will be discussed under item 1 of the agenda at the first meeting of the fifty-seventh session of the Sub-Commission, and that at least one hour be devoted to a general discussion of the report as a whole in public session by means of an interactive dialogue with non-governmental organizations, national human rights institutions and other interested parties;

(f) To give effect at its fifty-seventh session to the agreed proposals of the working group regarding the structure of the discussion under agenda item 2 and to continue discussion of longer-term proposals, with a view to adopting any necessary resolutions, decisions or Chairperson's statements during that session;

(g) To request the Secretariat to bring the present resolution to the attention of non-governmental organizations, national human rights institutions, the special procedures of the Commission on Human Rights, States and all other interested parties, inviting them to submit comments and suggestions to the working group and, for that purpose, to identify a focal point within the Office of the High Commissioner to whom the comments and suggestions should be sent."

36. At the same meeting, Ms. Hampson replaced the draft resolution with an oral draft decision.

37. Statements in connection with the draft decision were made by Mr. Bengoa, Mr. Bossuyt, Mr. Chen, Mr. Decaux, Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Mr. Pinheiro, Mr. Salama, Ms. Warzazi and Mr. Yokota.

38. The draft decision, as orally revised, was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/120.

Working paper on methods of work of the Sub-Commission with regard to reports

39. At the same meeting, Mr. Bossuyt introduced draft decision E/CN.4/Sub.2/2004/L.53, sponsored by Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Ms. Warzazi and Mr. Yokota.

40. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/121.

Composition of working groups of the Sub-Commission for 2005

42. At the same meeting, the Sub-Commission considered a draft decision on the composition of the intersessional and pre-sessional working groups of the Sub-Commission introduced by the Chairperson on behalf of the Bureau of the Sub Commission.

43. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/122.
