

# COMMISSION ON HUMAN RIGHTS

## REPORT ON THE THIRTY-SIXTH SESSION

(4 February-14 March 1980)

ECONOMIC AND SOCIAL COUNCIL

OFFICIAL RECORDS, 1980

SUPPLEMENT No. 3



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**E/1980/13  
E/CN.4/1408**

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I. ISSUES THAT REQUIRE ACTION BY OR ARE BROUGHT TO THE  
ATTENTION OF THE ECONOMIC AND SOCIAL COUNCIL

A. Draft resolutions

I. Implementation of the Programme for the Decade for Action  
to Combat Racism and Racial Discrimination 1/

The Economic and Social Council

1. Decides to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Justice Abu Sayeed Chowdhury with the preparation of a study on the discriminatory treatment against members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice proceedings, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences including the ideologies or beliefs which contribute or lead to racism, in the light of the comments made in the Sub-Commission at its thirty-second session;

2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work;

3. Requests the Special Rapporteur to submit his report to the Sub-Commission at its thirty-fourth session;

4. Decides also to authorize the Sub-Commission to designate a special rapporteur from amongst its members to carry out a study on political, economic, cultural and other factors underlying situations leading to racism including a survey of the increase or decline of racism and racial discrimination.

II. Question of international legal protection of the human  
rights of individuals who are not citizens of the  
country in which they live 2/

The Economic and Social Council,

Recalling its resolutions 1790 (LIV) of 18 May 1973 and 1871 (LVI) of 17 May 1974 and its decision 1979/36 concerning the question of international legal protection of the human rights of individuals who are not citizens of the country in which they live,

Noting resolutions 8 (XXIX), 11 (XXX), 16 (XXXV) and 19 (XXXVI) of the Commission on Human Rights on the same subject,

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1/ See chap. XXVI, sect. A, resolution 14 (XXXVI), and chap. XV.

2/ See chap. XXVI, sect. A, resolution 19 (XXXVI), and chap. XIX.

Noting also resolution 9 (XXXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Decides to transmit to the General Assembly at its thirty-fifth session the text of the draft declaration on the human rights of individuals who are not citizens of the country in which they live (E/CN.4/1336), prepared by the Special Rapporteur of the Sub-Commission, Baroness Elles, and amended by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, together with the comments on the text received from member States in response to its decision 1979/36 (E/CN.4/1354 and Add.1-6);

2. Recommends that the General Assembly consider the adoption of a declaration on the human rights of individuals who are not citizens of the country in which they live, taking appropriate account of the above-mentioned comments.

III. Development of public information activities in the field of human rights 3/

The Economic and Social Council,

Mindful of General Assembly resolution 34/182 of 18 December 1979 on questions relating to information,

Recalling resolution 23 (XXXV) of the Commission on Human Rights on the development of public information activities in the field of human rights,

Taking note of the report of the Secretary-General on this subject which was submitted to the Commission on Human Rights (E/CN.4/1368),

Conscious of the importance of teaching, education, research, training and information in the promotion and protection of human rights,

Reiterating its belief that progress in the promotion of respect for and protection of human rights is assisted by a favourable world public opinion,

1. Urges all Governments to consider action to facilitate publicity regarding United Nations activities in the field of human rights, with particular reference to the work of the Commission on Human Rights;

2. Draws the attention of Governments, to the importance of encouraging the dissemination of international instruments on human rights as widely as possible, including texts in their own languages;

3. Requests the Secretary-General, in co-operation with the United Nations Educational, Cultural and Scientific Organization and the International Labour Organisation to draw up and implement a world-wide programme for the dissemination of international instruments on human rights in as many languages as possible and to report on the implementation of this programme to the Commission on Human Rights at its thirty-seventh session;

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3/ See chap. XXVI, sect. A, resolution 24 (XXXVI), and chap. IX.



4. Requests the Secretary-General to inform the United Nations Committee on Information of its strong hopes that the Committee will make suitable recommendations for developing public information activities in the field of human rights;

5. Requests the Secretary-General to bring this resolution to the attention of Governments, regional governmental organizations, non-governmental organizations and United Nations Information Centres with a view to inviting their comments on its implementation;

6. Requests the Secretary-General to report to the Commission at its thirty-seventh session on the measures taken to enhance public information activities in the field of human rights, including any proposals made to this end by the United Nations Committee on Information, and to include in his report information on the implementation of the plans mentioned in document E/CN.4/1368, as well as information received pursuant to paragraph 5 of this resolution.

IV. Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission on Human Rights resolution 8 (XXIII) and Economic and Social Council resolution 1503 (XLVIII) 4/

The Economic and Social Council,

Considering that the Commission on Human Rights has been examining since its thirty-third session in 1977 the situation regarding the alleged persecution of Jehovah's Witnesses in Malawi,

Considering further that the Government of Malawi has not co-operated nor replied to the communications addressed to it regarding this matter,

1. Regrets the failure of the Government of Malawi to co-operate with the Commission on Human Rights in the examination of a situation said to have deprived thousands of Jehovah's Witnesses in Malawi of their basic human rights and fundamental freedoms between 1972 and 1975, which failure constrains the Economic and Social Council to publicize the matter;

2. Expresses the hope that the human rights of all citizens of Malawi have been fully restored and, in particular, that adequate measures are being taken to provide remedy to those who may have suffered injustices.

V. Draft convention on torture and other cruel, inhuman or degrading treatment or punishment 5/

The Economic and Social Council,

Recalling General Assembly resolution 32/62 of 8 December 1977 by which the Commission on Human Rights was requested to draw up a draft convention on torture

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4/ See chap. XXVI, sect. B, decision 10 (XXXVI), and chap. X.

5/ See chap. XXVI, sect. A, resolution 34 (XXXVI), and chap. VIII.

and other cruel, inhuman or degrading treatment, or punishment; and resolution 1979/35 of 10 May 1979 by which the Economic and Social Council authorized an open-ended working group of the Commission on Human Rights to meet for a period of one week prior to the thirty-sixth session of the Commission to complete the work on a draft convention on torture and other cruel, inhuman or degrading treatment or punishment,

Considering that it was not found possible to complete the work on the convention during the thirty-sixth session of the Commission,

Taking note of Commission on Human Rights resolution 34 (XXXVI),

1. Authorizes a meeting of an open-ended working group for a period of one week prior to the thirty-seventh session of the Commission on Human Rights to complete the work on a draft convention against torture,
2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-seventh session all relevant material relating to the draft convention.

#### B. Draft decisions

1. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 6/

The Economic and Social Council, noting Commission on Human Rights resolution 15 (XXXVI), authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Benjamin Whitaker with the further extension and updating of the Report on Slavery 7/ in the light of the comments made in the Sub-Commission at its thirty-first session and requests the Secretary-General to give the Special Rapporteur all the assistance he may require in his work, including all relevant information from reliable sources.

2. Question of the human rights of persons subjected to any form of detention or imprisonment 8/

The Economic and Social Council, noting Commission on Human Rights resolution 16 (XXXVI), authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. L. M. Singhvi with the preparation of a report on the independence and impartiality of judiciary, jurors and assessors and the independence of lawyers, to the end that there shall be no discrimination in the administration of justice and that human rights and fundamental freedoms may be maintained and safeguarded, in the light of the comments made in the Sub-Commission at its thirty-second session. It also requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work.

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6/ See chap. XXVI, sect. A, resolution 15 (XXXVI), and chap. XVII.

7/ United Nations publication, Sales No. 67.XIV.2.

8/ See chap. XXVI, sect. A, resolution 16 (XXXVI), and chap. XVII.

### 3. Exploitation of child labour 9/

The Economic and Social Council, noting Commission on Human Rights resolution 17 (XXXVI), authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Abdelwahab Bouhdiba with the preparation of a report on the exploitation of child labour, taking into account all the economic, social, cultural and psychological dimensions of the problem, in the light of the comments made in the Sub-Commission at its thirty-second session, reports prepared by the International Labour Organisation on this subject and other relevant reports. It also requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work, including all relevant information from reliable sources.

### 4. The new international economic order and the promotion of human rights 10/

The Economic and Social Council, noting Commission on Human Rights resolution 18 (XXXVI), authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Raúl Ferrero as Special Rapporteur, with the mandate of preparing a study on the new international order and the promotion of human rights, as provided for in the above-mentioned resolution. It further authorizes the Special Rapporteur to represent the Sub-Commission at the Seminar to be held within the framework of the advisory services programme, on the basis of Commission on Human Rights resolution 5 (XXXV), paragraph 8, and requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work.

### 5. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Extension of the period of work of the Working Group on Slavery 11/

The Economic and Social Council approves the decision of the Commission on Human Rights, in its decision 5 (XXXVI), to extend the period of work of the Working Group on Slavery to five working days immediately before the session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

### 6. Question of the human rights of all persons subjected to any form of detention or imprisonment - Question of missing and disappeared persons 12/

The Economic and Social Council, noting Commission on Human Rights resolution 20 (XXXVI), approves the Commission's decision to establish for a period of one

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9/ See chap. XXVI, sect. A, resolution 17 (XXXVI), and chap. XVII.

10/ See chap. XXVI, sect. A, resolution 18 (XXXVI), and chap. XVII.

11/ See chap. XXVI, sect. B, decision 5 (XXXVI), and chap. XVII.

12/ See chap. XXVI, sect. A, resolution 20 (XXXVI), and chap. VIII.

year a Working Group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. The Council requests the Secretary-General to provide the Working Group with all necessary assistance, in particular staff and resources they require in order to perform their functions in an effective and expeditious manner.

7. Question of human rights in Chile 13/

The Economic and Social Council approves the decision of the Commission on Human Rights in its resolution 21 (XXXVI), in response to General Assembly resolution 34/179 of 17 December 1979, to extend the mandate of the Special Rapporteur on the situation of human rights in Chile for another year. The Council requests the General Assembly to make arrangements for the provision of adequate financial resources and staff for the implementation of Commission resolution 21 (XXXVI).

8. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 14/

The Economic and Social Council, noting Commission on Human Rights resolution 7 (XXXVI), requests the Secretary-General to furnish all the assistance necessary in order that the study of the "regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of this right", as provided for in Commission resolutions 4 (XXXV) and 7 (XXXVI) and in Economic and Social Council decision 1979/29, may be completed in a fully satisfactory manner.

9. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa 15/

The Economic and Social Council, noting Commission on Human Rights resolution 11 (XXXVI): (a) decides that the revised report (E/CN.4/Sub.2/425, Corr.1 and 2 and Add.1-6) on the subject, which contains a general provisional list of banks, transnational corporations and other organizations giving assistance to the racist and colonial régimes of southern Africa, prepared by Mr. Ahmed Khalifa, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, should be appended to the original report (E/CN.4/Sub.2/383/Rev.2) by

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13/ See chap. XXVI, sect. A, resolution 21 (XXXVI), and chap. III.

14/ See chap. XXVI, sect. A, resolution 7 (XXXVI), and chap. VI.

15/ See chap. XXVI, sect. A, resolution 11 (XXXVI), and chap. V.

the Special Rapporteur and that it should be printed and disseminated on the widest scale; (b) decides to forward the revised report to the General Assembly; (c) approves the decision of the Commission on Human Rights to request the Sub-Commission on Prevention of Discrimination and Protection of Minorities to mandate Mr. Ahmed Khalifa, Special Rapporteur, to continue to update the list every year and to submit, through the Sub-Commission, the updated report to the Commission.

10. Services of the Secretariat concerned with human rights 16/

The Economic and Social Council, noting Commission on Human Rights resolution 22 (XXXVI), requests the Secretary-General to consider, if he deems it appropriate, the redesignation of the Division of Human Rights, and to ensure that adequate financial and other resources are allocated to the sector in the Secretariat concerned with human rights so as to enable it to discharge its functions.

11. Reinstatement of summary records 17/

The Economic and Social Council, noting Commission on Human Rights resolution 25 (XXXVI), decides that summary records be reintroduced for the Commission and for the Sub-Commission on Prevention of Discrimination and Protection of Minorities, commencing with the thirty-seventh session of the Commission and the thirty-third session of the Sub-Commission.

12. General decision concerning the establishment of a working group of the Commission on Human Rights to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) and situations which the Commission has decided to keep under review 18/

The Economic and Social Council approves the decision of the Commission on Human Rights in its decision 8 (XXXVI) to set up a working group composed of five of its members to meet for one week prior to its thirty-seventh session to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 and those situations which the Commission has decided to keep under review.

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16/ See chap. XXVI, sect. A, resolution 22 (XXXVI), and chap. IX.

17/ See chap. XXVI, sect. A, resolution 25 (XXXVI), and chap. IX.

18/ See chap. XXVI, sect. B, decision 8 (XXXVI), and chap. X.

13. Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission on Human Rights resolution 8 (XXIII) and Economic and Social Council resolution 1503 (XLVIII) 19/

The Economic and Social Council approves the decision of the Commission on Human Rights in its decision 9 (XXXVI) that States in respect of which situations are being considered under Council resolution 1503 (XLVIII) shall have the right to attend and to participate in the entire discussion of the situation in which they are concerned, and to be present during the adoption of the final decision taken in regard to that situation.

14. The situation of human rights in Democratic Kampuchea 20/

The Economic and Social Council, noting Commission on Human Rights resolution 29 (XXXVI), approves the decision of the Commission on Human Rights to request a member of the Sub-Commission on Prevention or Discrimination and Protection of Minorities at its next session to review any further material on the human rights situation in Kampuchea which may become available and to submit it together with appropriate recommendations to the Commission on Human Rights.

15. The situation of human rights in Equatorial Guinea 21/

The Economic and Social Council approves the decision of the Commission on Human Rights in resolution 33 (XXXVI) of 11 March 1980 to request the Secretary-General, in response to the request of the Government of Equatorial Guinea;

(a) To appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the political economic and social realities of that country;

(b) To provide, in consultation with the expert, the assistance necessary to help the Government of Equatorial Guinea take the action necessary for the full restoration of human rights and fundamental freedoms in that country.

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19/ See chap. XXVI, sect. B, decision 9 (XXXVI), and chap. X.

20/ See chap. XXVI, sect. A, resolution 29 (XXXVI), and chap. X.

21/ See chap. XXVI, sect. A, resolution 33 (XXXVI), and chap. X.

16. Question of a convention on the rights of the child 22/

The Economic and Social Council, noting Commission on Human Rights resolution 36 (XXXVI), decides to authorize a one-week session of an open-ended working group prior to the thirty-seventh session of the Commission on Human Rights to facilitate the completion of the work on a draft convention on the rights of the child.

17. Postponement of the session of the Ad Hoc Committee on Periodic Reports 23/

The Economic and Social Council, noting Commission on Human Rights decision 14 (XXXVI), decides that the session of the Ad Hoc Committee on Periodic Reports scheduled to meet prior to the Commission's thirty-seventh session be postponed to meet prior to the thirty-eighth session of the Commission on Human Rights.

18. Meeting services for the Commission on Human Rights 24/

The Economic and Social Council, noting Commission on Human Rights decision 15 (XXXVI), decides to authorize three hours of additional meeting services per day during the Commission's thirty-seventh session.

19. Report of the Commission on Human Rights 25/

The Economic and Social Council takes note of the report of the Commission on Human Rights on its thirty-sixth session.

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22/ See chap. XXVI, sect. A, resolution 36 (XXXVI), and chap. XI.

23/ See chap. XXVI, sect. B, decision 14 (XXXVI), and chap. XXVII.

24/ See chap. XXVI, sect. B, decision 15 (XXXVI), and chap. XXVII.

25/ See chap. XXV.

II. QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE  
OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

1. The Commission considered agenda item 4 at its 1528th to 1534th and its 1538th meetings, held from 6 to 11 February 1980 and on 13 February 1980.

2. By its resolution 1 A (XXXV), the Commission had decided to place this item on the provisional agenda of its thirty-sixth session as a matter of high priority. For its consideration of this question, the Commission had before it the following documentation:

(a) A note by the Secretary-General (E/CN.4/1352 and Add.1) submitted pursuant to the Commission's request for relevant information concerning Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories;

(b) A report of the Secretary-General (E/CN.4/1360) on the measures taken to bring resolution 1 A (XXXV) to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity;

(c) A note by the Secretary-General (E/CN.4/1361) listing all United Nations reports issued since the thirty-third session of the Commission that deal with the situation of civilians in the occupied Arab territories, including Palestine;

(d) A note by the Secretary-General (E/CN.4/1355) submitted pursuant to the provisions of paragraph 5 of resolution 2 (XXXV);

(e) Report of the mission sent by the Director-General of ILO to examine the situation of workers of the occupied Arab territories, circulated in accordance with a request made by the Permanent Mission of the Syrian Arab Republic (E/CN.4/1391);

(f) A letter addressed to the Chairman of the Commission on Human Rights by the representative of Egypt (E/CN.4/1393);

(g) A letter addressed to the Chairman of the Commission on Human Rights from the representative of Morocco (E/CN.4/1395);

(h) A letter addressed to the Chairman of the Commission on Human Rights by the representative of Egypt (E/CN.4/1370).

3. In addition, the Commission had before it a written statement submitted by the World Peace Council (E/CN.4/NGO/266), and a written declaration submitted by the Afro-Asian People's Solidarity Organization (E/CN.4/NGO/270).

4. The Commission heard statements by the observers for China (1530th meeting); Israel (1531st meeting); the Libyan Arab Jamahiriya (1531st meeting); Democratic Yemen (1532nd meeting); the Ukrainian Soviet Socialist Republic (1532nd meeting);



Hungary (1533rd meeting); the German Democratic Republic (1533rd meeting); Czechoslovakia (1533rd meeting); the representative of the League of Arab States (1530th meeting); and the representative of the Palestine Liberation Organization (1528th and 1532nd meeting).

5. The Commission also heard statements by the following non-governmental organizations in consultative status: International Commission of Jurists (Category II); Women's International Democratic Federation (Category I) (1528th meeting); and World Federation of Trade Unions (Category I) (1529th meeting).

6. The report (A/34/631) of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, was referred to by most speakers; they considered it an important document that gave an accurate account of the serious situation of the civilian population of the occupied territories; the members of the Special Committee were commended for their objective and impartial manner in which they had carried out their mandate despite Israel's continuing refusal to co-operate. One speaker said that a report of his Government on the human rights situation in the occupied territories provided a different perspective from the report of the Special Committee.

7. Most speakers expressed grave concern at the systematic and constant violations of human rights in the occupied Arab territories, including Palestine, which resulted in the continuous deterioration of the situation in the area, since the last session of the Commission. They endorsed the conclusions of the Special Committee that the fundamental violation of human rights lay in the very fact of occupation. The attention of the Commission was called to the continued refusal of the Israeli Government to implement the numerous resolutions adopted by the Commission and other United Nations bodies such as the General Assembly and the Security Council on the subject.

8. It was pointed out that Israel persisted in taking measures aimed at changing the demographic structure of the occupied territories, by creating conditions which made the life of Palestinian inhabitants difficult or by direct measures, such as evacuation, eviction or expulsion of Arab inhabitants of the occupied territories, and denial of the right to return of those who had been forced to leave their homes and properties because of the hostilities. Such measures consisted of arbitrary arrest, intimidation and mistreatment, torture, confiscation of property, expropriation, obstruction of educational activities and policies aimed at securing the status of occupation and at maintaining the civilian population in a situation of continued deprivation of their right of expression, assembly and self-determination.

9. A number of delegations condemned partial agreements and separate treaties such as the Camp David Agreement and the Washington Treaty which, in their view, would only encourage Israel to intensify its policy of colonization and annexation. Those agreements had done more damage to the Palestinian cause than 30 years of Israeli occupation and intimidation. As a result, the situation with regard to the human rights in this area would continue to worsen despite the struggle of the people of Palestine. Those agreements violated international law, which rejected bilateral arrangements with an occupying Power alone, ran counter to the decisions and resolutions of the United Nations and disregarded the right of the Palestinians to self-determination and independence and their right to create a sovereign State in Palestine. They made a distinction between self-determination and administrative autonomy. The contracting parties to those agreements

squandered Palestinian rights and moulded international legitimacy. A few other delegations stated their support for the Camp David agreements which, in their view, could provide a step toward peace in the Middle East. One speaker said those agreements provided the most promising avenue for dealing with the issues in the Middle East and were thus important in creating a just and lasting peace which would include recognition of the legitimate rights of the Palestinians. A number of speakers condemned the Camp David agreements and the Washington Treaty as an act of treason against the Arab Nation in general and the people of Palestine in particular. Some delegations rejected such allegations as slanderous and stated that the road to enable the Palestinian people to exercise their right to self-determination was not through their massacre in their camps.

10. Several members expressed the view that measures taken to Judaize Jerusalem and to annex it to Israel were null and void. They insisted that Jerusalem could not be made the subject of bargaining, and called for the strongest measures, both political and economic, against States which recognized the Holy City as the capital of Israel. In that connexion they called the attention of the Commission to the decisions adopted in this regard by the General Assembly and the Security Council as well as by the 1979 Islamic Conference held in Fez (Morocco), the VI Conference of non-aligned countries held in Havana (Cuba), and the extraordinary meeting of Islamic Foreign Ministers held in Islamabad (Pakistan), in January 1980.

11. Deep concern was expressed by many delegations about the continued measures taken by Israel to change the physical character, demographic composition, institutional structure and legal status of the occupied territories including Jerusalem.

12. Many delegations drew the Commission's attention to certain grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and, in particular, to articles 27, 33, 47, 49 and 53 thereof, as evidenced by the continued policy and practice of annexation of the occupied territories, the establishment of new Israeli settlements and reports of ill-treatment of the civilian population. These illegal acts showed that Israel continued to violate the Convention.

13. Some delegations referred to the cable of the Commission on Human Rights to the Government of Israel, sent during its thirty-fifth session, expressing deep concern about acts of torture and the policies of repression and collective punishment against the Palestinians in the Arab occupied territories which constituted a violation of this Convention.

14. The establishment of Israeli settlements and the increasing number of Israeli settlers were exhausting the water resources of the West Bank. The Palestinians suffered hardship and several were being forced to abandon their land and become cheap labourers for Israeli industry.

15. Another dangerous development brought to the attention of the Commission was the pattern of severe reprisals taken by the Israeli authorities and individuals taken against Palestinians who had attempted to express their resistance to the occupation. According to the Special Committee, the severity of such reprisals had increased in the period covered by its latest report. The Special Committee considered that the treatment of civilians in the occupied territories had become distinctly serious owing to the absence of any effective protection of the civilian population or any control over the conduct of the Israeli authorities.

16. References were also made by some members to the conclusions of the Special Committee with regard to the situation of detainees in the occupied territories. The Special Committee had accumulated considerable evidence which proved beyond reasonable doubt that the prison conditions of security detainees were extremely poor and inferior to applicable international standards, and that interrogation procedures were often accompanied by physical abuse. On the basis of information made available to it, the Special Committee even suggested that there was indeed in Israeli prisons a systematic practice of torture.

17. Many members of the Commission endorsed the conclusions of the Special Committee that the fact of occupation itself constituted a fundamental violation of the human rights of the civilian population of the occupied territories. A few delegations affirmed Israel's right to secure and recognized borders. Some delegations pointed out that Israel's policy in the occupied territories was based on the so-called "homeland" doctrine, which envisaged a mono-religious (Jewish) State established in the area including those territories occupied by Israel in June 1967. This doctrine was presented as being the basis for the decision of the Government of Israel to authorize Israeli citizens and entities to purchase land in the occupied territories.

18. There was general agreement that the Commission should reaffirm that the Geneva Convention relative to the Protection of Civilian Persons in Time of War was applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem, and that it should condemn Israel for its failure to acknowledge the applicability of that Convention to those territories.

19. Most speakers insisted that the Palestine Liberation Organization was the sole representative of the Palestinian people inside and outside the occupied territories. A number of delegations drew a parallel between Zionism and apartheid and expressed the view that racist régimes should be excluded from the international community.

20. It was stated that the Camp David Accords ignored the rights of the Palestinian people. As a result, since the signing of the peace treaty between Egypt and Israel the situation of Palestinians had deteriorated. Those Accords, for example, ignored the right of Palestinians who had been evicted and uprooted because of Israeli policies and practices. Nor was there any assurance that the Palestinian people would have the opportunity to free themselves from their present situation under which they were denied enjoyment of their very basic rights. It would have been better if the rights of the Palestinians had been assured through the appropriate international machinery since this would more accurately reflect the will of the international community, the majority of which had expressed its serious reservations about the effectiveness or utility of the Camp David Accords. Instead, as one delegation suggested, Egypt had harmed the Arab cause by co-operating with Israel.

21. It was stated that Egypt remained firmly convinced that military occupation was the most fundamental violation of human rights and that only through total withdrawal of Israeli forces from all occupied territories and through the exercise of their right to self-determination could the Palestinians ensure enjoyment of their human rights. It was with this in mind that Egypt had signed the Camp David framework agreement as a first step towards the achievement of a comprehensive and durable peace in the area, based on the Charter of the United Nations and the principles of international law. It was stated further that the Camp David

framework agreement was by no means the final settlement of the Palestinian problem. Its purpose was to break the stalemate that had immobilized the Palestinian problem for years and to obtain concrete commitments from Israel. The Camp David framework agreement was designed to establish transitional arrangements to serve as a bridge between the existing situation, namely, the military occupation, and a definitive solution of the Palestinian problem. Since the Palestinian problem was the core of the Arab-Israeli conflict, any solution which did not recognize the inalienable rights of the Palestinian people to self-determination, to the recovery of its territory and to the establishment of a State of its own would not lead to a comprehensive, just and lasting peace. In its negotiations Egypt had not spoken on behalf of the Palestinian people. The Palestinian people alone had the final word so far as the solution of the Palestinian problem was concerned. Referring to the question of negotiations as a method of solving international problems, it was stated that at no period of history had any country, big or small, chosen to deny itself the right to negotiate with an adversary. Such an approach would call the entire present international system into question. Referring to the "series of lost opportunities" in the past, the hope was expressed that the present negotiating process and its prospects would not become another lost opportunity for everyone involved in the Palestinian problem.

22. Reservations were expressed by the observer for Israel concerning the Special Committee's mandate and constitution; he criticized the quality and the reliability of the Special Committee's methods of work and its conclusions. Regarding the allegation that Israel followed a policy of annexation in the occupied territories, he stated that the settlements were established for well known security reasons. He rejected the allegation that Israel was a mono-religious State, stating that Israeli law recognized 12 religious denominations. With regard to the question of the expropriation of property, the report of the Special Committee gave a distorted picture based on inflated figures and the account of the judgements of the Israeli Supreme Court on the matter was inaccurate and confusing. He said that the report lacked sensitivity and objectivity with regard to the suffering caused by terrorism and to the threat it posed. He rejected the allegations that detainees were tortured and referred to reports prepared by "Pax Romana" and the United States State Department which did not find any proof of the existence of a deliberate Israeli policy in that regard. The allegations that prisoners were given injections against their will were also false, as was proved by the details of their interrogation given in the report. He stated that individual complaints had been thoroughly refuted by his Government at the last session of the General Assembly and gave the Commission a description of the essentials of the special agreement with the International Committee of the Red Cross on arrangements for visits to detainees and of the Israeli judicial system, which, he emphasized, was independent from the executive branch. He added that international law had always recognized the right of a military government to take adequate measures to ensure its security after an armed conflict. He referred to the social and economic advances achieved in the occupied territories. Israel believed in the rights of the individual and faithfully abided by international treaties. It was now earnestly engaged in an attempt to find a constructive solution of the Palestinian question, under the Camp David agreements.

23. Algeria, Cuba, Cyprus, Democratic Yemen, Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Morocco, Pakistan, Syrian Arab Republic, Tunisia and Yugoslavia submitted draft resolutions (E/CN.4/L.1484, draft resolutions A and B). The draft resolutions were introduced by the representative of Iran at the 1534th meeting.

India, Nigeria, Senegal and Qatar joined the sponsors of the draft resolution. At the suggestion of the representative of Senegal, the sponsors of the draft resolutions agreed to substitute the words "an affront against humanity" for the words "crime against humanity" in paragraph 2 of draft resolution A.

24. Draft resolutions A and B contained in document E/CN.4/L.1484 were put to the vote at the 1538th meeting, on 13 February 1980.

25. At the request of the representative of Colombia, a vote by roll-call was taken on draft resolution A. The draft resolution was adopted by 28 votes to 3, with 8 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Iraq, Jordan, Mongolia, Morocco, Pakistan, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, Netherlands, United States of America.

Abstaining: Australia, Denmark, France, Germany, Federal Republic of, Ivory Coast, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland.

26. At the request of the representative of Colombia, a vote by roll-call was taken on the fourth preambular paragraph of draft resolution B. The fourth preambular paragraph was adopted by 23 votes to 8, with 8 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Pakistan, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, Denmark, France, Germany, Federal Republic of, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Brazil, Costa Rica, Greece, Ivory Coast, Panama, Peru, Philippines.

At the request of the representative of the Syrian Arab Republic, a vote by roll-call was taken on draft resolution B as a whole. The draft resolution as a whole was adopted by 28 votes to 1, with 10 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Pakistan, Panama, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: United States of America.

Abstaining: Australia, Canada, Denmark, France, Germany, Federal Republic of, Greece, Ivory Coast, Netherlands, Peru, United Kingdom of Great Britain and Northern Ireland.

27. The representatives of Nigeria and Uruguay stated that if they had been present they would have voted in favour of both draft resolutions. For the text of the resolutions, see chapter XXVI, section A, resolutions 1 A and B.

28. At the same meeting, statements in explanation of vote on draft resolution E/CN.4/L.1484 were made by the representatives of Australia, Costa Rica, France, Federal Republic of Germany, Greece, Iran, Iraq, Netherlands, Nigeria, Peru, Senegal, United Kingdom and United States of America.

### III. QUESTION OF HUMAN RIGHTS IN CHILE

29. The Commission considered agenda item 5 at its 1555th and 1559th and 1563rd meetings held from 25 February to 29 February 1980.

30. By its resolution 11 (XXXV) of 6 March 1979, the Commission had decided to consider at its thirty-sixth session, as a matter of high priority, the question of the violation of human rights in Chile. The Commission had authorized its Chairman, in accordance with General Assembly resolution 33/175 of 20 December 1978, to appoint Mr. Abdoulaye Dieye as Special Rapporteur on the situation of human rights in Chile, who on the basis of the mandate in Commission resolution 8 (XXXI) of 27 February 1975 and in contact with Chilean authorities was to inquire into the present situation of human rights in Chile and report to the General Assembly at its thirty-fourth session and to the Commission on Human Rights at its thirty-sixth session.

31. By the same resolution, the Commission authorized its Chairman to appoint as experts, in their individual capacity, Mr. Félix Ermacora and Mr. Waleed M. Sadi to study the question of the fate of missing and disappeared persons in Chile. In August 1979, Mr. Waleed M. Sadi resigned his appointment as expert to study the fate of disappeared persons.

32. By resolution 33/174 of 20 December 1978, the General Assembly decided to establish a voluntary fund, called the United Nations Trust Fund for Chile, for the purposes stated in paragraph 1 of that resolution.

33. The Special Rapporteur had submitted his report (A/34/583) to the General Assembly. The expert had also submitted through the Special Rapporteur, his report to the General Assembly.

34. By resolution 34/179 of 17 December 1979, the General Assembly expressed its grave concern about the deterioration in the situation of human rights in Chile in certain areas and requested the Commission on Human Rights to study thoroughly at its thirty-sixth session the reports of the Special Rapporteur and the report of the Expert on missing and disappeared persons and to continue to give close attention to the situation in Chile. To that end, it invited the Commission to extend the mandate of the Special Rapporteur in accordance with paragraph 6 of Commission resolution 11 (XXXV).

35. The Commission had before it the following documents:

(a) The report of the Special Rapporteur to the General Assembly at its thirty-fourth session (A/34/583);

(b) The report of the Experts on missing and disappeared persons to the General Assembly at its thirty-fourth session (A/34/583/Add.1);

(c) The report of the Secretary-General to the General Assembly at its thirty-fourth session on the United Nations Trust Fund for Chile (A/34/558/Add.1);

(d) A document sent to the Secretary-General by the Permanent Representative of Chile to the United Nations entitled "Consideration of the Government of Chile on the examination of the present situation of human rights in the country" (A/C.3/34/112);

(e) The report of the Special Rapporteur to the Commission on Human Rights at its thirty-sixth session (E/CN.4/1362);

(f) The report of the Expert on the question of disappeared persons in Chile to the Commission on Human Rights at its thirty-sixth session (E/CN.4/1363 and E/CN.4/1391);

(g) The report submitted by the Chairman of the Board of Trustees of the United Nations Trust Fund for Chile on behalf of the Board to the Commission on Human Rights at its thirty-sixth session on the operation of the Fund (E/CN.4/1364);

(h) A written statement submitted by the World Peace Council, a non-governmental organization in consultative status (Roster) (E/CN.4/NGO/261);

(i) A written communication submitted by the Inter-Parliamentary Union, a non-governmental organization in category I consultative status (E/CN.4/NGO/267);

(j) A report prepared by the International Commission for Jurists, a non-governmental organization in category II consultative status (E/CN.4/NGO/269);

(k) A written statement submitted by the Women's International Democratic Federation, a non-governmental organization in category I consultative status (E/CN.4/NGO/274).

36. The Commission heard statements by the observers for the German Democratic Republic (1558th meeting), Hungary (1558th meeting), and Chile (1558th meeting).

37. The representatives of the following non-governmental organizations in consultative status made statements: International Confederation of Free Trade Unions, International Indian Treaty Council, International Commission of Jurists, World Federation of Trade Unions, International League for Human Rights and International Union of Students.

38. At the 1535th meeting, the Chairman of the United Nations Trust Fund for Chile, Mr. Ghulam Ali Allana, introduced the report of the Board of Trustees (E/CN.4/1364). He stressed the role of the Fund in assisting, free from political considerations, the victims of violation of human rights and their relatives, inside and outside Chile. He expressed the hope that the Commission would appeal to Member States for contributions.

39. At the 1555th meeting the Special Rapporteur, Mr. Abdoulaye Dieye, introduced his report contained in document E/CN.4/1362, which updated the report submitted to the General Assembly (A/34/583). He expressed his regret that the Chilean authorities had refused to co-operate on the grounds that the special procedure was discriminatory, and rejected the reasons invoked by the Chilean Government, stating that the grave situation of human rights in Chile, recognized as such by various United Nations organs and expert committees, justified the special procedure. He added that an investigation should be carried out in other situations giving rise



to serious concern. He indicated that the situation of human rights in Chile had not improved and in a number of areas had even deteriorated, and referred in particular to the maintenance of the state of emergency, the lack of independence of the courts of law, the violations of the rights to life, personal freedom and security, physical and moral integrity, the wider powers given to the security forces as well as to legal and other measures designed to stabilize and legalize a situation that in many aspects is at variance with international instruments to which Chile is a party, particularly the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

40. At the same meeting, Mr. Félix Ermacora, Expert on the question of the fate of missing and disappeared persons in Chile introduced his report contained in documents A/34/583/Add.1, E/CN.4/1363, E/CN.4/1381. He also deplored the lack of co-operation from the Chilean authorities and explained that the study had been prepared taking into account only 669 - not all - of the cases of missing persons, in which information from reliable sources proved conclusively that the persons have been arrested by military or security forces and never seen again. He added that in his view the key to the fate of missing persons was to be found in the action of the governmental security agency, DINA. He stressed the responsibility of the State regarding disappearance, and listed a number of recommendations relating to measures that should be taken in national and international legislation and, more specifically, measures concerning missing persons in Chile.

41. Many speakers praised the reports submitted by the Special Rapporteur and the Expert for their impartiality and objectivity, and declared that their countries supported the recommendations contained in those reports.

42. Most of the speakers expressed grave concern about a deterioration of the situation of human rights in a number of areas, compared with that described in the last report of the Ad Hoc Working Group. Statements were made by some speakers about the increase in the number of cases of arbitrary arrest and detention, the deaths reported to have occurred for political reasons, and the persecution to which many persons had been subjected. They mentioned the increasing powers of the security agencies, the existence of secret places of detention, the use of torture for the interrogation of detainees, and treatment during arrest and the detention. Some speakers said that there was a climate of intimidation and terror within the country and that irregularities and arbitrariness continued to be the general rule. Others stated that flagrant and massive violations of human rights, especially torture, were engaged in more as a matter of policy than as an exception. A number of speakers, however, did not agree with the view that the human rights situation in Chile had deteriorated but saw improvements in certain sectors. Some delegates also expressed reservations at the special procedure applied against Chile which was not being used against human rights violations of similar or greater importance in other countries.

43. Mention was repeatedly made of the lack of fundamental civil and political rights, such as the right to vote and the right to express opinions without interference. Some speakers referred to the state of emergency that had remained in force since 1973, despite several United Nations resolutions requesting the Chilean Government to put an end to it.

44. Some representatives drew the attention of the Commission to the denial, to

many Chilean citizens, of the right to live in their own country, as well as the right to enter, stay in and leave it. They mentioned several cases of persons deprived of those rights, even when urgent humanitarian reasons were invoked.

45. Many speakers expressed their concern also about the situation with respect to the rights of assembly and association, trade union rights, and the economic and social situation of wide sectors of the population and the lack of effective legal remedies. They also mentioned the situation of the indigenous population, whose culture was threatened as a result of new legislation concerning their property and official policies concerning their status.

46. Most of the representatives expressed their grave concern at the problem of thousands of missing and disappeared persons. Some welcomed the fact that no new disappearances had been reported during 1978 and 1979, although the problem remains, since the fate of over 600 persons is still unknown. Many representatives stressed that the international community must request the Chilean Government to give explanations concerning the fate of those persons. Some delegations suggested the use of the new procedure on disappearance as an alternative method of handling the problem in Chile.

47. Many speakers expressed the view that the Commission should continue to give close attention to the question of human rights in Chile and urge the Chilean authorities to respect human rights, in accordance with international instruments. One representative indicated that the consistent activities of the United Nations must achieve a positive result. Another delegation stated that further work on missing persons in Chile should be carried out by the Special Rapporteur.

48. The need for concrete measures aimed at alleviating the suffering of persons whose human rights have been violated was also emphasized. Appeals for contributions to the Trust Fund for Chile were made by several delegations.

49. At its 1558th meeting the observer for Chile repeated the objections of his Government against special ad hoc procedures. He added that the Chilean Government had co-operated with the Ad Hoc Working Group for a long time, even after it had been convinced of its inefficiency. That inefficiency was attributable to the fact that its members came from different regions of the world and, therefore, were not aware of the particular conditions existing in Chile. In seeking information these persons interfered in matters reserved to the sovereignty of the State concerned, and created new problems instead of solving them. Such procedures created a dangerous precedent, serving as means for interference in the internal affairs of small countries. The report of the Special Rapporteur tried to show that the Chilean Government had destroyed the economic and cultural bases of the country, whereas the facts were quite different. The observer for Chile cited a number of statistics concerning economic and social achievements of the present Government and said that they were confirmed in reports and documents published by international organizations such as the World Bank, the International Monetary Fund, the Interamerican Bank for Development, the Economic Commission for Latin America and the Organization of American States. He called attention to the fact that no cases of missing or disappeared persons had been reported since May 1977 and rejected the evidence contained in the report of the Experts on the fate of missing persons concerning the responsibility of the Government for disappearances. In conclusion, he stated that Chile would persist in its refusal to accept ad hoc procedures and special entities, created without the previous consent of the country involved but

would collaborate with an international organization or specialized institution of a technical or humanitarian nature which applied general procedures.

50. At the 1559th meeting, replying to the statement made by the observer for Chile, the Special Rapporteur Mr. Abdoulaye Dieye stated that the special procedure to investigate the situation of human rights in Chile had been established in full agreement with the Chilean Government, including the composition of the Ad Hoc Working Group. He added that while in Chile, in 1978, the Group had investigated the situation as thoroughly as it could. Therefore, the comments about inefficiency and ignorance of the conditions within the country lacked substance. He noted that the observer for Chile referred to actual human rights problems in his country in a very vague manner, and had not in his reply refuted the findings contained in the report. Furthermore, the observer for Chile had merely cast aspersions on the report without bothering to provide specific answers to the serious charges made against his Government. He reaffirmed that he had prepared his report in the light of principles contained in the pertinent international instruments and in strict compliance with the mandate that had been entrusted to him by the Commission on Human Rights.

51. At the 1556th meeting, the representative of Denmark introduced a draft resolution (E/CN.4/L.1486) which was co-sponsored by the Netherlands, Algeria, Cuba and Yugoslavia submitted amendments to the draft resolution (E/CN.4/L.1511).

52. At the 1563rd meeting on 29 February 1980, Iraq introduced oral amendments to the revised draft resolution submitted by Denmark and the Netherlands (E/CN.4/L.1486/Rev.1). The sponsors of the draft resolution accepted the amendments.

53. A statement on the administrative and financial implications of the draft resolution was brought to the attention of the Commission (E/CN.4/L.1487). 1/

54. The representative of Costa Rica requested a roll-call vote on the draft resolution as amended, which was adopted by 29 votes to 3, with 10 abstentions. The voting was as follows:

In favour: Algeria; Australia; Bulgaria; Burundi; Byelorussian Soviet Socialist Republic; Canada; Cuba; Cyprus; Denmark; Ethiopia; France; Germany, Federal Republic of; Ghana; Greece; India; Iran; Iraq; Mongolia; Morocco; Netherlands; Poland; Portugal, Senegal; Syrian Arab Republic; Union of Soviet Socialist Republics; United Kingdom of Great Britain and Northern Ireland; United States of America; Yugoslavia; Zambia.

Against: Argentina; Brazil; Uruguay.

Abstaining: Colombia; Costa Rica; Egypt; Ivory Coast; Jordan; Nigeria; Pakistan; Panama; Peru; Philippines.

55. Statements in explanation of vote were made by the representatives of Algeria, Argentina, Brazil, Canada, Costa Rica, Cuba, Egypt, France, the Federal Republic of Germany, the Soviet Union, the United Kingdom, the United States of America, and Uruguay.

56. For the text of the resolution, see Chapter XXVI, section A, resolution 21 (XXXVI).

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in Annex III.

IV. VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA:  
REPORT OF THE AD HOC WORKING GROUP OF EXPERTS

57. The Commission considered agenda item 6 together with items 7, 16 and 20 (see chaps. V, XII, XV) at its 1547th to 1553rd meetings, held between 19 and 22 February 1980, and at its 1556th meeting on 26 February 1980.

58. The Commission heard statements by the observers for the German Democratic Republic (1548th meeting), the Republic of Zaire (1550th meeting), and for Czechoslovakia, Hungary and Democratic Yemen (1551st meeting). It also heard statements by the representative of the United Nations Educational, Scientific and Cultural Organization (UNESCO) (1550th meeting), by the observer for the Palestine Liberation Organization (1551st meeting) and by the observer for the Organization of African Unity (1552nd meeting).

59. The Commission also heard statements by the observers for the following non-governmental organizations in consultative status: International Confederation of Free Trade Unions (1548th meeting), and Amnesty International (1551st meeting).

60. By its resolution 12 (XXXV) of 6 March 1979, the Commission had decided that the Ad Hoc Working Group of Experts should continue to study the policies and practices which violate human rights in South Africa, Namibia and Zimbabwe, and that it should carry out a comprehensive study on the action taken to implement the recommendations made by the Ad Hoc Working Group of Experts since its establishment, with a view to improved assessment of the further efforts needed in the struggle against the system of apartheid and against colonialism and racial discrimination in southern Africa. The Commission had also requested the Ad Hoc Working Group of Experts to continue to institute inquiries in respect of any persons suspected of having been guilty of the crime of apartheid or of a serious violation of human rights in Namibia, and to bring the result of those inquiries to the attention of the Commission on Human Rights. The Working Group had also been requested to submit a progress report to the Commission at its thirty-sixth session.

61. By the same resolution (para. 17), the Commission had also requested the Ad Hoc Working Group, in co-operation with the Special Committee against Apartheid, to investigate the cases of torture and murder of detainees in South Africa contained in the report drawn up by the Special Committee against Apartheid contained in document E/CN.4/1327/Add.2, and to submit a special report on this investigation to the Commission at its thirty-sixth session.

62. For its part, the Economic and Social Council, by its resolution 1979/39, adopted on 10 May 1979, had requested the Ad Hoc Working Group of Experts to continue to study allegations regarding infringements of trade union rights in South Africa, and to report thereon to the Commission and to the Economic and Social Council at such times as it may consider appropriate.

63. The Ad Hoc Working Group of Experts, consisting of six members appointed in their personal capacity by the Chairman of the thirty-fifth session of the Commission, was composed of the following experts: Mr. Keba M'Baye (Senegal),

Chairman-Rapporteur; Mr. Branimir Yankovic (Yugoslavia), Vice-Chairman; Dr. Annan Arkyin Cato (Ghana); Mr. Humberto Diaz-Casanueva (Chile); Mr. Felix Ermacora (Austria); and Mr. Mulka Govinda Reddy (India).

64. The General Assembly, by its resolution 34/24, adopted on 15 November 1979, and in particular paragraph 20 of the programme of activities annexed to that resolution, requested the Group to undertake a study in 1980 on the ways and means of implementing international instruments, such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the Convention.

65. The Commission had before it the following documents:

(a) The progress report (E/CN.4/1365) of the Ad Hoc Working Group of Experts prepared in accordance with Commission resolution 12 (XXXV) and Economic and Social Council decision 1979/34;

(b) The special report (E/CN.4/1366) prepared in accordance with Commission resolution 12 (XXXV), paragraph 17;

(c) A written statement submitted by the Afro-Asian Peoples Solidarity Organization, a non-governmental organization in category II consultative status (E/CN.4/NGO/278);

(d) A written statement submitted by the World Peace Council, a non-governmental organization in consultative status (Roster) (E/CN.4/NGO/279).

66. At the 1547th meeting of the Commission, the Chairman of the Ad Hoc Working Group of Experts, Mr. Keba M'Baye, introduced the two reports contained in documents E/CN.4/1365 and E/CN.4/1366. In presenting the progress report, he stated that no changes had occurred in South Africa and in Namibia with respect to the human rights situation. The structure of apartheid continued to be as described in the Group's reports. The attitude of the South African authorities in persisting in their illegal policy of apartheid and their illegal occupation of Namibia was in defiance of the will of the international community and constituted a challenge to mankind. In his opinion, the people subjected to the oppression of apartheid had no other recourse than violence. As regards Zimbabwe, he stressed that the international community should maintain its vigilance even though the present situation permitted some hope. In connexion with the special report, it was the view of the Group that torture by the security police was common practice and that the Government seemed to acquiesce in it and cover it up by all possible means.

67. Many speakers expressed their appreciation to the Ad Hoc Working Group and praised the reports which contained valuable information and an objective analysis. They stressed that the special report should be given the highest priority and suggested that the list of cases on murder and torture contained in the Group's report should receive a wide publicity in order to make it known to a large number of people in the world. Wide support was expressed for the recommendation made by the Ad Hoc Working Group of Experts to publish, in the greatest possible number of newspapers, the list of persons guilty of the crime of apartheid.

68. Many speakers expressed indignation at the horror and inhumanity of the policy of apartheid practised by the South African Government and noted with regret

that no sign of improvement had been reported so far despite repeated appeals by the United Nations. They stated that, as described in the report of the Working Group of Experts, South Africa continued to pursue its oppressive measures against the black people. It was stressed that the consistent and flagrant violation of human rights in South Africa and in Namibia could not be tolerated by the international community. They expressed deep concern at the reported death penalties, executions of members of liberation movements, mass arrests, torture and murder of detainees while in prison.

69. A large number of speakers expressed great concern over the removal of the African population and condemned the systematic deprivation of citizenship through bantustanization and the so-called independent homeland policy. It was said that such practice constituted a destruction of black people's identity and unity and deprived them of real self-determination.

70. Many representatives strongly condemned the South African military presence in Namibia. They stated that the illegal occupation by South Africa constituted a deliberate violation of United Nations resolutions and decisions. The racist régime of Pretoria, it was stated, had extended its abhorrent doctrine of racial segregation into Namibia, and concern was expressed about the repression and executions carried out against the freedom fighters. It was stated that South Africa carried out incursions into the territories of the neighbouring independent African States and threatened the peace and security of the region. Some speakers observed in that connexion that armed struggle by the people of Namibia was the only effective means of achieving self-determination. A number of representatives stated that their countries supported the liberation movements in Namibia and in South Africa and appealed to the international community to give moral and material support to SWAPO, the legitimate representative of the Namibian people.

71. Most speakers expressed hope and satisfaction as regards the recent political development in Zimbabwe. They welcomed the consensus reached by all parties concerned at Lancaster House, which should lead to freedom and independence of the people of Zimbabwe.

72. Several representatives stated that, if the international community had failed to eradicate the evils of apartheid in South Africa, it was because some member States, particularly Western countries and their transnational corporations, continued to supply the apartheid régime with economic and military assistance and because none of them has ratified or acceded to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

73. Other speakers stated that a peaceful solution through political pressure and dialogue should be aimed at. They expressed objection to violent measures such as armed struggle. The opinion was also expressed that the code of conduct for firms dealing with South Africa had a beneficial effect in eliminating apartheid.

74. Some speakers drew the attention of the Commission to the problem of refugees from southern Africa and appealed to the international community for assistance.

75. Referring to the trade union rights in South Africa, one speaker stated that new legislation now in force gave administrators discretionary powers to grant concessions to black trade unions or to refuse or withdraw concessions.

76. At the 1553rd meeting, on 22 February 1980, the representative of Senegal introduced a draft resolution (E/CN.4/L.1495) sponsored by Burundi, Egypt, Ghana, India, Iraq, Jordan, Morocco, Nigeria, Philippines, Senegal, Syrian Arab Republic and Yugoslavia.

77. At the 1556th meeting the draft resolution was adopted by 32 votes to none.

78. The representatives of Nigeria, Yugoslavia and Cuba stated that, had they been present at the time of the vote, they would have voted in favour.

79. For the text of the resolution, see chapter XXVI, section A, resolution 9 (XXXVI).

80. At its 1581st meeting on 14 March 1980 the Commission decided to send the following telegram 1/ to the Prime Minister designate of Zimbabwe:

"The Commission on Human Rights wishes to congratulate through you all the people of Zimbabwe for the victory that they have just achieved. The Commission has always supported the just struggle of the people of Zimbabwe for the realisation of their right to self-determination independence and an equitable place in the international community as an independent nation. The Commission takes this opportunity to convey to the whole people of Zimbabwe its best wishes for their further success and prosperity."

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1/ See chap. XXVI, sect. B, decision 17 (XXXVI).

V. THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA

81. The Commission considered agenda item 7 together with items 6, 16 and 20 (see chaps. IV, XII and XV), at its 1544th and 1547th to 1553rd meetings, held from 18 to 22 February 1980, and at its 1556th meeting on 26 February 1980.
82. The Commission had before it a written declaration submitted by the Women's International Democratic Federation (E/CN.4/NGO/281);
83. The Commission had before it the final report (E/CN.4/Sub.2/415 and Corr.1 and 2 and Add.1-6) prepared by Mr. Ahmed M. Khalifa, Special Rapporteur, pursuant to Commission resolution 9 (XXXV) and resolution 2 (XXXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities; the paper contained a revised provisional general list of banks, firms and other organizations which give assistance to the colonial and racist régimes of southern Africa.
84. The Commission heard statements by the observers for the German Democratic Republic (1548th meeting), Zaire (1550th meeting), Czechoslovakia, Hungary and Democratic Yemen (1551st meeting), the representative of the Palestine Liberation Organization (1551st meeting) and the representative of the Organization of African Unity (1552nd meeting).
85. A statement was also made, at the 1551st meeting, by the representative of Amnesty International, a non-governmental organization in category II consultative status.
86. In introducing his report at the 1544th meeting, Mr. Khalifa stressed that it might be considered as an annex to his previous report, which had already been published (E/CN.4/Sub.2/383/Rev.2). <sup>1/</sup> The first gave a general assessment of the role of assistance given to colonial and racist régimes in southern Africa. The second contained a detailed list of violators of United Nations resolutions and its goal should be their identification and exposure to the whole world community. He indicated that the list was not final; it did not contain judicial proof of its assertions and on no account was it intended to initiate judicial proceedings against those firms or organizations appearing on the lists. Responding to the argument that the list was rather arbitrary, he stated his willingness to incorporate changes or improvements in order to make it more balanced, and to include any information concerning any country of the world. In that connexion he drew attention to the replies of Governments. Some of them were constructive and had led, for example, to the deletion of one Danish firm from the list, but he was generally disappointed since only 8 out of 25 countries mentioned in the list had sent replies. His impression was that some of them, while verbally condemning violations of human rights in southern Africa gave precedence to free trade over action to eliminate such violations. He reiterated

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<sup>1/</sup> United Nations publication, Sales No. E.79.XIV.3.



his profound conviction that the maintenance of trade and other relations with southern Africa constituted support for the racist and colonial régimes and encouragement for the violation of human rights.

87. Many speakers expressed their thanks to the Special Rapporteur and congratulated him on his excellent and serious report; they agreed that the list should be published and widely disseminated through the mass media.

88. The view was expressed that the list constituted prima facie evidence of the intensification of assistance and support aimed at perpetuating the crime of apartheid. Such support and assistance strengthened the power of the white racists; it did not contribute to improvement of living standards of the indigenous population, but rather to exploitation of cheap labour and further violation of human rights.

89. Member countries of the North Atlantic Treaty Organization and Israel were described by some speakers as major accomplices of the racist and apartheid régimes. They were accused of hypocrisy because they verbally denounced violations of human rights but, in the case of southern Africa, used the pretext of free enterprise to tolerate mass and gross violations of human rights.

90. The role of transnational corporations as the main supporters of the apartheid régimes was also highlighted by some members.

91. Many speakers drew the Commission's attention to continuing military co-operation with, and nuclear build-up in, southern Africa, which endangered international peace and security. They stated that States and corporations extending such co-operation bore a grave responsibility.

92. The need for strict application of United Nations resolutions concerning a boycott and sanctions against the racist and colonial régimes was expressed.

93. Several delegations stated that their countries did not maintain any relations with those régimes.

94. Others pointed out that they did not subscribe to the belief that all forms of contact with the Government of South Africa were detrimental to the enjoyment of human rights in South Africa. Certain forms of contact in the political or economic field helped to promote change and dialogue in South Africa. Trade between private firms could not be considered as constituting official or unofficial assistance to the Government. It was understood that countries associated with the South African economy had a responsibility to the people of South Africa and they discharged that responsibility with full regard for the fundamental rights of the people concerned.

95. Those delegations stated that in their view the value of Mr. Khalifa's report was further reduced by its bias and by the fact that it failed to take into account the volume of trade between South Africa and some countries which had been active in the debate in making allegations against other countries. Commercial statistics published by international organizations showed that trade patterns between certain countries and South Africa provided evidence of important commercial and trade transactions which did not appear in the list.

96. At the 1553rd meeting on 22 February 1980, the representative of Nigeria introduced a draft resolution sponsored by Egypt, Ethiopia, Ghana, India, Nigeria, Senegal, Yugoslavia and Zambia (E/CN.4/L.1499) and a draft resolution sponsored by Algeria, Burundi, Democratic Yemen, Ethiopia, Ghana, Iraq, Jordan, Nigeria, Senegal and Zambia (E/CN.4/L.1497).

97. At the 1556th meeting, on 26 February 1980, the representative of Nigeria introduced a revised draft resolution sponsored by Algeria, Burundi, Democratic Yemen, Ethiopia, Ghana, Iraq, Jordan, Nigeria, Senegal and Zambia (E/CN.4/L.1497/Rev.1).

98. At the same meeting the representative of Nigeria requested a roll-call vote on the draft resolution E/CN.4/L.1497/Rev.1. The draft resolution was adopted by 33 votes to none, with 9 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zambia.

Abstaining: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

99. At the same meeting, a statement on the administrative and financial implications of the draft resolution E/CN.4/L.1499 was submitted to the Commission. 2/

100. The representative of the Syrian Arab Republic introduced, at the same meeting, an amendment (E/CN.4/L.1504) to draft resolution E/CN.4/L.1499.

101. The representative of the Syrian Arab Republic requested a roll-call vote on the draft amendment. It was adopted by 31 votes to 2, with 9 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland; Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Against: Germany, Federal Republic of, United States of America.

Abstaining: Australia, Canada, Denmark, France, Greece, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, Uruguay.

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2/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

102. The representative of Mongolia introduced oral amendments to the seventh preambular paragraph and the paragraph 3 of the draft resolution E/CN.4/L.1499. The amendment to the seventh preambular paragraph was adopted by 33 votes to 1, with 8 abstentions, and the amendment to paragraph 3 by 34 votes to none, with 8 abstentions.

103. Draft resolution E/CN.4/L.1499 as a whole, as amended, was adopted by 31 votes to 4, with 6 abstentions.

104. At the same meeting, statements in explanation of vote on draft resolution E/CN.4/L.1499 were made by representatives of Greece, Ivory Coast, the United Kingdom and the United States of America.

105. For the text of the resolutions see chapter XXVI, section A, resolutions 10 (XXXVI) and 11 (XXXVI).

VI. QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

106. The Commission considered agenda item 8, together with item 21 (see chap. XVI), at its 1543rd to 1547th and 1550th meetings held from 15 to 19 and on 21 February 1980.

107. By its resolution 2 (XXXI) of 10 February 1975 the Commission, considering the importance for the international community of the realization of economic, social and cultural rights, decided to keep this item on its agenda as a standing item with high priority.

108. When considering the item the Commission had before it the following documentation:

(a) The report of the Secretary-General (E/CN.4/1334) prepared in accordance with Economic and Social Council decision 229 (LXII) of 13 May 1977;

(b) The Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350);

(c) Decision 1979/30 of the Economic and Social Council concerning a seminar on the effects of the existing unjust international economic order on the economies of the developing countries;

(d) A written statement submitted by the World Association of World Federalists, a non-governmental organization in category II consultative status (E/CN.4/NGO.271);

(e) A written statement submitted by the Women's International Democratic Federation, a non-governmental organization in category I consultative status (E/CN.4/NGO.281).

109. A statement was made by the observer for the Holy See (1546th meeting).

110. The Commission also heard statements by the representatives of the following non-governmental organizations in consultative status with the Economic and Social Council: the World Confederation of Labour; and, the International Commission of Jurists (1546th meeting).

111. In introducing the item, the Director of the Division of Human Rights noted that the report of the Secretary-General (E/CN.4/1334) had attracted considerable attention in United Nations bodies and in scientific circles. He also referred to the studies requested in Commission resolution 4 (XXXV), General Assembly resolution 34/46 and Sub-Commission resolution 8 (XXXII) which appeared to

emphasize the structural nature of many human rights problems. He observed that the causes of non-observance of human rights guarantees could be both internal and external and noted two possible approaches to the preparation of the study on the regional and national dimensions of the right to development. These were: (a) to further develop the concept of the right to development as a workable concept in international law and relations; and (b) to highlight the human rights dimensions of the development process. He stated that the Commission might wish to provide further guidance for the preparation of that study.

112. The view was expressed that the practice of considering items 8 and 21 together should be reconsidered since it tended to diminish the significance of item 8, which was of vital importance.

113. The report of the Secretary-General (E/CN.4/1334) was considered by many speakers to be comprehensive and to have made a major contribution to the evolution of the concept of the right to development; a thorough discussion of the report was said to be an indispensable part of the wider-ranging debate on the legal aspects of the new international economic order. However, one delegation expressed reservations about the report and suggested that it should not be singled out for mention in the relevant resolutions since a variety of other studies were equally important. The hope was expressed that all Governments would forward comments on the report to the Secretary-General in accordance with paragraph 2 of Commission resolution 4 (XXXV).

114. A number of representatives noted that the right to development was enjoyed by the citizens of their States and others mentioned that their international co-operation programmes were inspired by such human rights ideals. It was stated that those goals should also have priority on the agenda of multilateral bodies.

115. Some delegations emphasized that full realization of economic, social and cultural rights including the right to development were dependent on such important prerequisites as maintenance of international peace and security, process of détente, cessation of arms race, elimination of colonialism and racism and establishment of the new international economic order based on equality and justice. The adverse consequences of the arms race for the enjoyment of human rights was also mentioned and it was observed that disarmament would release many resources for use in development activities. Mention was made of a long-standing proposal that permanent members of the Security Council should reduce their military budgets by 10 per cent and use the funds so saved for aid to developing countries. In that connexion, it was mentioned that, apart from philosophical and sociological discourse, little effort had been made to establish a link between war and poverty and between military expenditure and aid. Another speaker stated that the race for spheres of influence and control by the great Powers was an important obstacle to the enjoyment of human rights.

116. Frequent reference was made to the concepts contained in General Assembly resolution 32/130 and in particular to paragraph 1 (a) which affirmed that "all human rights and fundamental freedoms are indivisible and interdependent". Some delegations expressed the view that the paragraphs 1 (e) and 1 (f) of this resolution were the main points to be considered in this field. Reference was also made to the relevant parts of the Final Declaration of the Sixth Conference of Heads of State or Government of Non-Aligned Countries held in Havana in September 1979 (see annex to document A/34/542). Some members said that the question of the realization of economic, social and cultural rights lies at the

core of efforts to realize all human rights since an existence worthy of human dignity is only possible if both categories of rights are fully enjoyed. The view was also expressed that the unsatisfactory economic development of a number of States was a result of their prolonged colonial dependence, of racism, apartheid and foreign occupation as well as the retention by certain Powers and transnational corporations of economic, political and other forms of domination. Political oppression, economic exploitation and social discrimination must all be overcome and an integrated and balanced approach adopted. It was stated that man could not be politically free while at the same time being economically enslaved or culturally dominated. It was further said that the right to development embodied all rights and that the link between those rights was dialectical and not mechanical. Other speakers noted that the victims of civil and political rights violations were often those working to promote the realization of the economic, social and cultural rights of deprived groups. It was also stated that grave and persistent violations of human rights could never be dismissed on the grounds of either external circumstances or the low level of development of a country.

117. Several speakers were of the opinion that without the right to work there was no human dignity and that some countries tolerated widespread unemployment in conditions of social and economic insecurity, a situation which deprived individuals of their means of subsistence, undermined their confidence and created fears for the future. It was said that only through work could self-realization be achieved and that the right to work must be exercised in full freedom. It was stated that the socialist system had put an end to the exploitation of man by man, thus providing the basic requirements for social justice, equitable sharing of the national wealth and full employment, and had guaranteed the equality of all members of society.

118. Amongst the foundations of the right to development which were referred to by representatives were the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, a variety of declarations and conventions adopted by the United Nations, the constituent acts of the specialized agencies and the declarations and resolutions of the General Assembly relating to the establishment of a new international economic order. Reference was also made to the Proclamation of Teheran of 1968 and the Declaration on Social Progress and Development of 1979. It was said that the right to development was rooted in moral and religious as well as legal obligations and that the concept was a function of the dynamics of human rights. As to its legal underpinnings, the right to development in its international aspect was said to be rooted in the concept of international co-operation as provided in the Charter and many other instruments. The importance of the concept of solidarity both for States and individuals was emphasized by several speakers. Regret was expressed by a number of speakers that one group of developed countries sought to avoid contributing adequately to the international development effort. One speaker noted that solidarity was not a one-way concept and that just as in the "Welfare State" no one was exclusively a debtor or creditor, so too the negotiations for a new international economic order must reflect a global approach and take account of many different constraints. Thus discussions in that context should seek to avoid conflict and eschew sweeping but simplistic diagnoses. Similarly, it was said to be counterproductive to take over old grievances or to force resolutions which would generate or exacerbate tensions.

119. As to the content of the right to development the need was felt to place equal emphasis on both the material and qualitative factors necessary for self-

realization. It thus went beyond issues of economic growth to take account of the need for human solidarity and the importance of opportunities for creativity in all domains. Too long had the term "development" been exclusively used in the economic context instead of taking account of the intellectual moral and cultural dimensions of man's aspirations. Several speakers noted that, in accordance with General Assembly resolution 34/46, equality of opportunity for development was as much a prerogative of nations as of individuals within nations. The right to development was termed an embryonic concept and the question was posed as to how far it applied to individuals, to States or to both. Other speakers asked whether it was a new right, conferring rights, responsibilities and duties beyond those already existing or if it was a synthesis of existing rights. Moreover, if the concept involved the international community, States, peoples and other entities, it would be necessary to specify the corollaries of the right, although to do so in detail at this stage would be inadvisable. One speaker disagreed with the concept of a third generation of human rights which was said not to be conducive to good results.

120. Many speakers noted the need for continued and thorough study of the right to development in order to define its nature more precisely and the conditions necessary for its enjoyment. Some speakers emphasized that the potential area covered by this right was vast and as yet undefined and that there had been elements of mutual incomprehension, even of suspicion, in the discussion. They also said that the right to development could be useful as an analytical tool for fostering a dynamic approach to human rights.

121. It was stated that the process of definition of the right to development should be a gradual one and that legalistic, dogmatic and partisan approaches should be avoided. The view was expressed that experts were right to hesitate on the question of the existence of the right to development in international law since international solidarity had not yet been effectively institutionalized. It was said that the international community was still at the beginning of a long and thorny path which might eventually lead to recognition of the right to development by means of an international declaration or convention. The question was posed whether the right to development should be considered as a new principle of law based on the concept of basic fairness and justice. One speaker suggested that the right to development might be defined as the prerogative that must be recognized to each people and each individual to be able to satisfy their needs in accordance with their aspirations to the full extent that permits the equitable enjoyment of the goods and services produced by them and by the community.

122. The view was expressed that it was the duty of States to ensure enjoyment of the right to development. However, it was stated that there could be no simple equation between the objectives of human rights and the satisfaction of basic needs. Thus a strategy aimed only at satisfying basic needs would reduce the stature of the human race and distort the concept of social responsibility and of development co-operation.

123. The importance of making the promotion of respect for human rights an integral part of the development process was noted by a great number of speakers. It was also said that the freedom of States to choose their own path of development must be a guiding principle in connexion with the right to development. The view was expressed that the right to development had already had a fruitful impact on thinking about development co-operation which, it was said, had too long been dominated by strictly economic concepts. One speaker noted that there were

definite consequences for the observance of human rights when bilateral assistance was given to an oppressive régime. He was of the opinion, however, that attempts by some States to link human rights and economic issues contradicted the same States' attitude towards investments in southern Africa. It was suggested that, in order to emphasize the importance of human rights in the new international development strategy, the records, resolutions and views of the Commission should be sent to the Preparatory Committee for the New International Development Strategy and that the Commission should ensure the presence of one of its representatives at the meetings of the Committee.

124. Many speakers emphasized the importance of establishing a new international economic order to facilitate the realization of all human rights. Reference was made in this regard to paragraph 1 (f) of General Assembly resolution 32/130. It was said that the cardinal point of the right to development was to help other States and all individuals in such a way as to enable them to realize their full potential. Some delegations also referred to a number of requirements for the establishment of a new international economic order, including equitable international terms of trade, the effective enjoyment of all facets of the right of self-determination, control and regulation of the activities of transnational corporations, recognition of the right of States fully to participate in the international order and freer transfer of technology. Other speakers emphasized energy, food and population issues as matters of primary concern. The view was expressed that the just and equitable distribution of national wealth and income, the removal of inequality, the elimination of hunger and malnutrition and the provision of adequate housing requires the restructuring of societies at both the national and international levels. The provision of aid to the developing countries by the developed countries was considered by one delegation to be a matter of justice, not charity. Many speakers expressed disappointment at the lack of progress made in fora such as the fifth session of the United Nations Conference on Trade and Development, the United Nations Conference on Science and Technology for Development and the Third Conference of the United Nations Industrial Development Organization.

125. Some speakers questioned the competence of the Commission in international economic issues and the advisability of duplicating exchanges taking place elsewhere within the United Nations in such bodies as UNCTAD, UNIDO, UNDP, FAO and the ILO. A number of representatives stated their view that the right of nationalization must be exercised in accordance with the principles of international law. In response to the terminology "existing unjust international economic order" the view was expressed that, although it included injustices which needed to be remedied, the existing international economic order is not fundamentally flawed. By contrast, it was said that discussions of the obstacles posed by the existing unjust order should not automatically be labelled as "confrontationist".

126. Following the intervention made by the representative of Senegal, the Commission decided to distribute the text of his statement.

127. The important contribution made by UNESCO to the establishment of a new international economic order was noted and particular reference was made to the study by Mohammed Bedjaoui entitled Towards a New International Economic Order which was published by UNESCO. Several delegations praised the study as a revolutionary step forward in international legal thinking.



128. Many speakers referred to the proposed seminar on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that it represented for the implementation of human rights and fundamental freedoms, particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights. It was said that its importance had been noted by both the General Assembly and the Economic and Social Council. The suggestion was made that consideration be given to holding the seminar in 1981 rather than 1980 in order to facilitate thorough preparation. In response to questions posed by several speakers, the Director of the Division of Human Rights indicated that the Secretary-General had been unable to enter into firm commitments until the allocation of the necessary resources had been approved by the Fifth Committee of the General Assembly. With regard to timing, account had to be taken of the availability of facilities and the calendar of conferences. The Director stressed the need for solid preparations for the seminar in view of its complexity and high priority. He observed that a proposal to hold the seminar in June-July 1980 meant that relatively little time would be available for preparation. But, although difficulties would thus arise, the Secretariat would do its utmost to comply with the wishes of the Commission. One speaker expressed the view that the mandate of the seminar was inappropriate and that it prejudged the conclusions of the seminar.

129. The proposal in resolution 8 (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Raúl Ferrero as Special Rapporteur for a study on "The New International Economic Order and the Promotion of Human Rights" was endorsed by several speakers. However, in the view of one speaker, the proposal should not be considered until after the completion of the study on the regional and national dimensions of the right to development requested in Commission resolution 4 (XXXV).

130. With regard to the study on the regional and national dimensions of the right to development several speakers stressed the important link between the various dimensions of the right. It was said that certain conditions were essential for realization of the right at the regional and national levels including: the free choice by every people of its development model, the full participation of all people in all aspects of development and the abolition of discrimination. It was stated that full consideration of the ways in which human rights were interrelated was an essential part of the study. In the view of another speaker the study's point of departure should be the rights contained in articles 11-15 of the International Covenant on Economic, Social and Cultural Rights. Hope was also expressed that indicators of the enjoyment of human rights could be developed. Several speakers expressed concern at the potential overlapping of studies on related subjects and noted the importance of avoiding duplication.

131. Reference was made to the conclusions of the Seminar of Development and Human Rights, held at Dakar from 7 to 12 September 1978 which was organized by the International Commission of Jurists and the Senegalese Association for Juridical Studies and Research and to the conclusions of a seminar in Bogota in September 1979 on Human Rights in the Rural Areas of the Andean Region organized by the International Commission of Jurists and the Latin American Council for Law and Development. Among the conclusions of the Bogota seminar was the view that the failure to achieve development in the rural areas was essentially due to unjust social structures, and to the repression of civil and political rights which prevented political or trade union activities in the rural areas aimed at societal transformation.

132. Two draft resolutions were submitted to the Commission. At the 1547th meeting, on 19 February 1980, the representative of Senegal introduced a draft resolution (E/CN.4/L.1491) sponsored by Burundi, Egypt, Iraq, Morocco, Senegal and Yugoslavia, later joined by Ivory Coast. At the 1550th meeting the representative of Portugal, on behalf of the sponsors, read out oral amendments relating to an additional preambular paragraph, the rewording of paragraph 2, the inclusion of a new paragraph 3 and the renumbering of subsequent paragraphs.

133. At the same meeting the Director of the Division of Human Rights made a statement concerning the administrative and financial implications of draft resolution E/CN.4/L.1491. 1/

134. The Commission then adopted without a vote the draft resolution as revised.

135. At the same meeting statements in explanation of the vote on the draft resolution were made by the representatives of Federal Republic of Germany, France, the United Kingdom and the United States explained their position with regard to the resolution.

136. At the 1547th meeting the representative of Cuba introduced a draft resolution (E/CN.4/L.1492) sponsored by Algeria, Argentina, Burundi, Cuba, Ethiopia, India, Iraq, Panama and Yugoslavia. At the 1550th meeting, the co-sponsors introduced a revised text contained in document E/CN.4/L.1492/Rev.1, which Costa Rica, Nigeria, Pakistan, Peru and Syrian Arab Republic joined as co-sponsors.

137. At the same meeting, the representative of Cuba requested a roll call vote on draft resolution E/CN.4/L.1492/Rev.1. The draft resolution was adopted by 36 votes to 1, with 4 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Egypt, Ethiopia, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syria, Union of Soviet Socialist Republic, Uruguay, Yugoslavia.

Against: United States of America.

Abstaining: France, Germany, Federal Republic of, Portugal, United Kingdom of Great Britain and Northern Ireland.

138. At the same meeting statements in explanation of vote on draft resolution E/CN.4/L.1492/Rev.1 were made by the representatives of Argentina, Australia, Canada, Denmark, Federal Republic of Germany, France, Greece, Netherlands and the United States of America.

139. For the texts of the resolutions, see chapter XXVI, section A, resolutions 6 (XXXVI) and 7 (XXXVI).

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

VII. THE RIGHT OF PEOPLES TO SELF-DETERMINATION  
AND ITS APPLICATION TO PEOPLES UNDER  
COLONIAL OR ALIEN DOMINATION OR FOREIGN  
OCCUPATION

140. The Commission considered its agenda item 9 at its 1533rd to 1543rd meetings, held from 8 to 15 February 1980.

141. At its 1533rd meeting, the Director of the Division of Human Rights introduced the items. In his introductory statement, he said that the right to self-determination had been recognized as a fundamental principle of modern international law. He stressed that the exercise and the enjoyment of the right to self-determination had collective aspects as the right of peoples but at the same time the right to self-determination was of immediate relevance to individuals. Whenever the legitimate aspirations of a people were not fulfilled, violations of human rights were bound to occur. He also pointed out that the right to self-determination did not have only political implications; it also had economic, social and cultural dimensions. The various implications of those dimensions had already been examined in the study on the historical and current development of the right to self-determination and in the study on the implementation of the United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination prepared by Mr. Aureliu Cristescu and Mr. Héctor Gros Espiel respectively, both Special Rapporteurs of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He referred to the General Assembly resolution 32/130 of 16 December 1977 which emphasized the importance of the right to self-determination. He stated that there was also a relation between the right to self-determination and the right to development.

142. For its consideration of the item, the Commission had before it the following documentation:

(a) The right of people to self-determination and its application to peoples under colonial rule or alien domination or foreign occupation: Note by the Secretary-General prepared in accordance with paragraph 5 of Commission on Human Rights resolution 2 (XXXV) of 21 February 1979 (E/CN.4/1355);

(b) Letter dated 11 February 1980 addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session by the Acting Permanent Representative of the Permanent Mission of Pakistan to the United Nations Office at Geneva (E/CN.4/1390);

(c) Decision AHG/Dec.114(XVI)Rev.1 of the Assembly of Heads of State and Government of the Organization of African Unity, meeting at its Sixteenth Ordinary Session in Monrovia, Liberia, from 17 to 20 July 1979;

(d) General Assembly resolution 34/37 of 21 November 1979 entitled "Question of Western Sahara";

(e) Letter dated 27 February 1980, addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session, from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva (E/CN.4/1404);

143. The Commission heard a statement by the observer for Somalia at the 1534th meeting. It also heard statements by the observers for Afghanistan, Democratic Kampuchea and Israel at the 1537th meeting, the observers for China, Czechoslovakia, the German Democratic Republic, Hungary, Kuwait, Madagascar and Viet Nam at the 1538th meeting, observer for the Libyan Arab Jamahiriya at the 1539th meeting, the observers for Afghanistan, China, Democratic Yemen, Somalia, Sudan, Tunisia and Turkey at the 1541st meeting and the observers for Gabon, Madagascar and Zaire at the 1542nd meeting. The representative of the Palestine Liberation Organization made a statement on the item at the 1534th meeting. A statement was also made, at the 1539th meeting, by the representative of the Women's International Democratic Federation, a non-governmental organization, in category I consultative status with the Economic and Social Council.

144. During the debate on the item, references were made to the Charter of the United Nations, article 1 of the International Covenants on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Declaration on Principles of International Law Governing Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the resolutions of the General Assembly and other United Nations organs pertinent to the subject.

145. Most speakers recognized the respect for the right to self-determination as one of the fundamental principles of contemporary international law and as essential to the maintenance of international peace, co-operation and friendly relations among States. Many speakers repeatedly emphasized that the right to self-determination was the most important prerequisite for the enjoyment of other basic human rights. In that connexion a number of speakers expressed their support for the just struggle waged by people still under colonial rule, for the elimination of the last vestiges of colonialism, colonial domination, foreign occupation, racism, racial discrimination and apartheid.

146. It was said that the full realization of the right to self-determination could only be secured when peoples and nations were able freely to pursue their economic, social and cultural development.

147. Some speakers paid tribute to the work done and the activities carried out by the United Nations for the purpose of speeding up the process of decolonization in areas still under colonial or alien domination and welcomed the increasing number of States which had achieved their right to self-determination in recent years. However, many representatives deplored the fact that millions of people, in particular the peoples of Palestine, Namibia, South Africa and Zimbabwe were still living under colonial domination and were thereby denied their rights to self-determination.

148. Many speakers expressed their grave concern at the recent Soviet military invasion of Afghanistan. In their view, the unprecedented military intervention of a super-Power in a sovereign, independent and non-aligned country, the liquidation of the existing régime and the installation of a new one by force, constituted a flagrant violation of the norms of international conduct, particularly the principles of the Charter of the United Nations and of the international instruments on human rights. They considered that above all a denial, through military force, of the right of the people of Afghanistan to determine their own destiny which had

led to a series of human rights violations, including torture, persecution, killings and the use of poison gas. In their opinion Soviet military intervention in Afghanistan had led to the outflow of hundreds of thousands of refugees driven away by fear and persecution. There were now half a million Afghan refugees in Pakistan alone, placing a heavy burden upon that country. It was, therefore, urgent, they pointed out, that conditions should be created to enable the refugees to return to their homeland through the withdrawal of Soviet forces and the exercise by the people of Afghanistan of the right to self-determination which was the basis for exercising all other fundamental human rights.

149. Several delegates recalled the action taken by the United Nations Security Council, the emergency special session of the General Assembly and the recent Extraordinary Session of the Islamic Conference in Islamabad on the matter which had called for the immediate and unconditional withdrawal of foreign forces from Afghanistan, restoration of the right to self-determination of the Afghan people and denial of recognition or assistance to the present régime. The Islamic countries, assembled in Islamabad, some delegations pointed out, had been specially concerned at the Soviet military intervention, the forcible suppression of the Afghan people and the imposition of an alien ideology on a Muslim people. There was no assurance for them that the Soviet forces would not reach further out from Afghanistan. Several delegations, therefore, called upon the Commission to condemn the foreign military intervention in Afghanistan in order to assist that non-aligned country to recover its national independence and sovereignty.

150. Some delegations, on the other hand, rejected allegations which they considered false regarding the recent events in Afghanistan as well as all attempts to raise the so-called "Afghan question", that constituted unlawful interference in the internal affairs of the Afghan people and thus violated their right to self-determination and the Charter of the United Nations. The issue had been artificially stirred up to divert the attention of world public opinion from aggressive actions of the United States of America and China aimed at penetrating the region of the Gulf and the Indian Ocean and putting pressure on Iran. They stated that immediately after the April Revolution of 1978 in Afghanistan certain big Powers had started training, arming and financing counter-revolutionary gangs on the territory of Pakistan and sending them across the border. That amounted to gross interference in the internal affairs of Afghanistan and in fact was tantamount to undeclared war against the revolution and the people in Afghanistan. That country had, therefore, repeatedly requested military assistance on the basis of the provisions of its Treaty of friendship, good neighbourhood and co-operation with the Soviet Union of December 1978 and of the inherent right of each State to individual and collective self-defence according to Article 51 of the Charter. It was explained that the limited Soviet military contingents would be withdrawn from Afghanistan once the causes for the Afghan Government's request had disappeared and that aggressive and subversive actions of certain big Powers against Afghanistan aggravated the situation in that region.

151. On the other hand some speakers stated that the Soviet military intervention in Afghanistan constituted a serious threat to international peace and security. They said that it had led to a deterioration of the international political environment and was in contradiction with the policy of détente. Several delegates said that it did not stand to reason that any Government would invite foreign military intervention in order to liquidate itself and it was not legitimate for a foreign Power to intervene at a request of a régime it had itself placed in power

in a neighbouring country. In their view the assertion that Soviet intervention was undertaken in response to "armed aggression from outside" was fallacious since the only external involvement in Afghanistan was that of the Soviet Union.

152. However other speakers stated that the doubt cast on the measures taken by the Government of Afghanistan constituted flagrant interference in that country's internal affairs and was intended to distract the attention of the Commission from more important issues on its agenda. Some of the same Powers which had raised that issue persistently opposed all resolutions demanding the immediate withdrawal of Israeli forces from occupied Arab territories, respect of the right of the Palestinian people to live as a nation as well as of the right to self-determination of the peoples of Zimbabwe, Namibia and South Africa. They used the question of Afghanistan to slow down the process of international détente and to revive the cold war confrontation.

153. Certain delegations reiterated that any intervention in Afghanistan could be used as a pretext for other interventions in Arab and Moslem affairs and could endanger the security and independence of Member States of the region. They rejected the scheme by the United States to take advantage of the situation in Afghanistan to unleash a continued threat to the region and to establish itself as the sole defender of Islam and freedom in the area.

154. As regards the right to self-determination for the people of Namibia, Zimbabwe and South Africa, many representatives stated that denial of the right to self-determination to the people living in those areas continued to be a flagrant violation of human rights. Several representatives deplored the illegal occupation of Namibia by the racist régime of South Africa and the fact that the agreement reached within the Security Council for an impartial plebiscite in Namibia had been unilaterally blocked by that régime. In that respect, a number of delegations condemned Pretoria's attempt to impose an illegal régime in Namibia and to compromise the territorial integrity of that country and suggested that the Security Council should take urgent steps to impose comprehensive and mandatory measures as prescribed in Chapter VII of the Charter of the United Nations against the apartheid régime in South Africa for its failure to comply with the resolutions and decisions of the General Assembly and the Security Council regarding cessation of its illegal occupation of Namibia. Many delegations reiterated their support for struggle of the Namibian people for self-determination, led by their legitimate representative, the South West African People's Organization (SWAPO).

155. Many delegations welcomed the Lancaster House Agreement regarding majority rule and national independence for Zimbabwe. Some delegations said that there had been violations of the Agreement by the British authorities, which had been aimed in particular at undermining the position of the Patriotic Front. The British authorities had also allowed South African troops within Zimbabwe territory. On the other hand, other delegations maintained that the Lancaster House Agreement was being fairly observed. In that connexion, a number of representatives expressed the view that fair and free elections were essential to peaceful transfer of power to the majority of the people of Zimbabwe and that the Commission should call on the Administering Power to implement the Agreement faithfully.

156. It was also said that some obstacles remained to be overcome but that there was still hope of a peaceful transition to independence through free and fair elections in which all parties could freely campaign to win people's votes.

157. Many delegations condemned the continued denial by Israel of the right to self-determination to the Palestinian people. It was emphasized that peace could not be reached in the Middle East so long as the people of Palestine were prevented from exercising their basic rights to self-determination. In that connexion, several representatives paid tribute to and expressed their support for the heroic struggle of the Palestinian people and their legitimate representative, the Palestinian Liberation Organization (PLO). They expressed the view that the uprooting of the indigenous population from occupied territories, the confiscation of Arab property, the refusal to allow displaced persons to return to their homes and the changing of the demographic structure of the occupied territories through the establishment of settlers constituted the most serious violation of international law.

158. Some delegations condemned the Camp David accords and the Washington treaty and said that they should be considered null and void because they violated the right to self-determination of the Palestinian people and because they violated Article 103 of the Charter of the United Nations and article 53 of the Vienna Convention on the Law of Treaties. They added that the principle of self-determination had the character of jus cogens. One delegation stated that the people of Palestine had been systematically denied their natural rights. That had resulted from the implementation of the Balfour Declaration of 2 November 1917, by the mandatory Power to the detriment of the national rights of Arabs in Palestine and in implementation of the Basle Zionist programme of 1897. In addition, the national rights of the people of Palestine were flouted by the United Nations Partition Plan of 29 November 1947 as well as by the Camp David Accords of 17 September 1978 and the Washington Treaty between Israel and Egypt of 26 March 1979.

159. Regarding the "Camp David Framework", one delegation expressed the view that that agreement was by no means the final settlement of the Palestinian problem, but only paved the way for the Palestinians to decide their own fate. It was stated that the agreement was designed to establish transitional arrangements as a bridge between the existing situation, namely the military occupation and the final settlement of the Palestinian question. The representative of that delegation added that his country had submitted to the negotiating parties a detailed plan for the establishment of the full Palestinian self-autonomy in Gaza and the West Bank. He stated that the objective of the plan was to help the Palestinian people to win full autonomy and to create the best conditions for their participation in negotiations that were to solve the Palestinian problem in all its aspects, including the restoration of their right to self-determination. Another delegate observed that the Camp David accords were in furtherance of the peaceful resolution of conflicts and constituted a vital step in securing the legitimate rights and security of all parties in the Middle East.

160. The observer for Israel stated that the term "Palestine" had not been coined to identify any Arab people or entity; it came from the Philistines, a people of Greek ancestry, and no kin to the Arabs, who had lived in the coastal strip of Israel up to the tenth century B.C. The name Palestine as an administrative designation for the whole country was used by the Romans and reintroduced by the British after the First World War, when the League of Nations entrusted them with the mandate for Palestine with the specific purpose of reconstituting therein a national home for the Jewish people. He said that the Camp David agreements were a living reality and offered better hope for future.

161. It was stated that the fate of Palestine represented an anomaly, a radical departure from the trend of contemporary world history. The majority of nations

and peoples had come to enjoy their right to self-determination, at the very time when the Arab People of Palestine was finding itself helpless to prevent the culmination of a process of systematic colonization to which Palestine had been subjected for decades. That climatic development took the combined form of forcible dispossession of the indigenous population, their expulsion from their own country, the implantation of an alien sovereignty on their soil, and the speedy importation of aliens to occupy the land thus emptied of its rightful inhabitants. That dual tragedy, which had befallen the Arab People of Palestine in the twentieth century symbolized the dual nature of the Zionist programme which had begun to unfold itself in Palestine in the late nineteenth century.

162. In the course of the debate several members raised the question of Western Sahara. The opinion was expressed by a number of delegations that the people of Western Sahara were being prevented by foreign military occupation from exercising their right to self-determination, which was fundamental to the enjoyment of all other human rights. The view was expressed that historical pretexts should not be used as excuses for frustrating the aspirations of the Sahrawi people or denying their inalienable rights to self-determination and independence, as recognized by General Assembly resolution 34/37.

163. Some representatives expressed the hope that the question of Western Sahara might be solved through a referendum, as recommended by the Ad Hoc Committee of Heads of State set up by the Organization of African Unity.

164. On the other hand, the opinion was expressed that the path to independence was not the only solution to the right to self-determination of the people of Western Sahara. Therefore, the question of Western Sahara should not be discussed as a matter of high priority at the next session of the Commission, but should rather form the subject of negotiation between the parties concerned.

165. One member observed, however, that the peoples of Western Sahara had exercised their right to self-determination through the intermediary of their representative assembly, the Jemâa. At its meeting held on 26 February 1976, the Jemâa had decided in favour of the Agreement of Madrid.

166. Four draft resolutions on item 9 were submitted to the Commission.

167. At the 1535th meeting, the representative of Iran introduced a draft resolution (E/CN.4/L.1485) sponsored by Algeria, Cuba, Democratic Yemen, Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Morocco, Pakistan, Syrian Arab Republic, Tunisia and Yugoslavia.

168. At the 1537th meeting, the representative of Pakistan introduced a draft resolution (E/CN.4/L.1488) sponsored by Costa Rica, Iran, Malaysia,\* Morocco, Oman,\* Pakistan, Philippines, Qatar,\* Saudi Arabia,\* Somalia,\* Sudan,\* Tunisia.\*

169. At the 1539th meeting, the representative of Algeria introduced a draft resolution (E/CN.4/L.1489) sponsored by Algeria, Cuba, Democratic Yemen,\* Ghana, Libyan Arab Jamahiriya,\* Madagascar,\* Panama, the Syrian Arab Republic. The representative of Algeria orally revised the text of the draft resolution while introducing it.

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\* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.



170. At the same meeting, the representative of Cuba introduced a draft resolution (E/CN.4/L.1490) sponsored by Algeria, Cuba, Ethiopia, Iraq and the Syrian Arab Republic, subsequently joined by the Libyan Arab Jamahiriya\* and Senegal. At the 1542nd meeting, the sponsors introduced a revised text (E/CN.4/L.1490/Rev.1). At the 1543rd meeting, Cuba announced that Democratic Yemen,\* Nigeria and Yugoslavia had joined the sponsors of the revised text.

171. At its 1540th meeting, the Commission considered draft resolution E/CN.4/L.1485.

172. The representative of Costa Rica requested a separate vote on the eighth preambular paragraph and on operative paragraphs 4, 5, 6 and 7.

173. The representative of Egypt also requested a separate vote, by roll-call, on the first and eighth preambular paragraphs, paragraphs 1 and 2 jointly, and on paragraphs 3, 4, 5, 6 and 7.

174. At the same meeting, the Commission decided on the draft resolution as follows:

(a) It adopted the first preambular paragraph by 24 votes to 2, with 15 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Canada, United States of America.

Abstaining: Australia, Brazil, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Greece, Ivory Coast, Netherlands, Panama, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland, Uruguay.

(b) It adopted the eighth preambular paragraph by 23 votes to 10, with 8 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

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

Abstaining: Brazil, Colombia, Egypt, Greece, Ivory Coast, Panama, Philippines, Uruguay.

(c) It adopted operative paragraphs 1 and 2 jointly by 31 votes to 1, with 9 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Uruguay, Yugoslavia.

Against: United States of America.

Abstaining: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland.

(d) It adopted operative paragraph 3 by 40 votes to none, with 1 abstention.  
The voting was as follows:

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Egypt, Ethiopia, France, Germany, Federal Republic of, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Yugoslavia.

Against: None.

Abstaining: United States of America.

(e) It adopted operative paragraph 4 by 21 votes to 12, with 8 abstentions.  
The voting was as follows:

In favour: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ivory Coast, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Colombia, Greece, Panama, Peru, Philippines, Uruguay.

(f) It adopted operative paragraph 5 by 22 votes to 12, with 7 abstentions.  
The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ivory Coast, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Brazil, Colombia, Greece, Panama, Peru, Philippines, Uruguay.

(g) It adopted operative paragraph 6 by 20 votes to 10, with 11 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

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

Abstaining: Argentina, Brazil, Burundi, Colombia, Egypt, Greece, Ivory Coast, Panama, Peru, Philippines, Uruguay.

(h) It adopted operative paragraph 7 by 20 votes to 12, with 9 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ivory Coast, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Burundi, Colombia, Greece, Panama, Peru, Philippines, Uruguay.

(i) It adopted draft resolution E/CN.4/L.1485 as a whole by 23 votes to 8, with 10 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Cyprus, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Denmark, Germany, Federal Republic of, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Brazil, Costa Rica, Egypt, France, Greece, Ivory Coast, Panama, Philippines, Uruguay.

175. Statements in explanation of vote before the vote were made by the representatives of Costa Rica, Egypt, the Netherlands, Nigeria, Senegal and the United States of America. Statements in explanation of vote after the vote were made by the representatives of Australia, France, Greece, Ivory Coast, Peru, Portugal, Uruguay and the Union of Soviet Socialist Republics.

176. For the text of the resolution, see chapter XXVI, section A, resolution 2 (XXXVI).

177. At its 1540th meeting during the consideration of draft resolution E/CN.4/L.1488, the representative of Mongolia proposed that the Commission should adopt the following decision: "The Commission decided not to take action on the draft resolution contained in document E/CN.4/L.1488". At the same meeting, at the request of the representative of Costa Rica, the proposal was voted on by roll-call. It was rejected by 26 votes to 9, with 6 abstentions. The voting was as follows:

In favour: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, India, Mongolia, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics.

Against: Australia, Brazil, Canada, Colombia, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ghana, Greece, Iran, Ivory Coast, Jordan, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Algeria, Argentina, Burundi, Cyprus, Iraq, Yugoslavia.

178. At its 1541st meeting, draft resolution E/CN.4/L.1488, as orally revised by the representative of Pakistan, was voted on by roll-call, at the request of the representative of Pakistan. It was adopted by 27 votes to 8, with 6 abstentions. The voting was as follows:

In favour: Argentina, Australia, Brazil, Canada, Colombia, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ghana, Greece, Iran, Ivory Coast, Jordan, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Mongolia, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics.

Abstaining: Algeria, Burundi, Cyprus, India, Iraq, Yugoslavia.

179. Statements in explanation of vote before the vote were made by the representatives of Argentina, Brazil, Byelorussian Soviet Socialist Republic, the Federal Republic of Germany, India, Mongolia, Netherlands, Poland, Senegal, Union of Soviet Socialist Republics, Yugoslavia and after the voting by the representatives of Bulgaria, Ghana, Iraq, Ivory Coast, Peru, Portugal and the United States of America.

180. For the text of the resolution, see chapter XXVI, section A, resolution 3 (XXXVI).

181. At its 1542nd meeting, the Commission considered draft resolution E/CN.4/L.1489, which was further revised by the co-sponsors.

182. At the same meeting, the sponsors accepted a proposal by the representative of Australia to delete the fifth preambular paragraph of the draft resolution.

183. The representative of Morocco requested a roll-call vote on a draft resolution as a whole. The representative of Uruguay requested a separate vote by roll-call on the tenth and eleventh preambular paragraphs.

184. The representative of Pakistan orally proposed the deletion from paragraph 1 of all words after the words "self-determination and independence". He requested a separate vote by roll-call on that part of paragraph 1.

185. The representative of Costa Rica requested a separate vote by roll-call on paragraph 2.

186. At the same meeting the Commission decided on the draft resolution as follows:

(a) It adopted the tenth and eleventh preambular paragraphs jointly by a roll-call vote of 20 votes to 1, with 18 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Mongolia, Nigeria, Panama, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Senegal.

Abstaining: Australia, Brazil, Canada, Colombia, Denmark, France, Germany, Federal Republic of, Greece, Ivory Coast, Jordan, Netherlands, Pakistan, Peru, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Morocco and Iraq did not participate in the voting.

(b) It rejected the proposal to delete all the words after "self-determination and independence" in paragraph 1 by 19 votes to 3, with 16 abstentions. The voting was as follows:

In favour: Canada, Netherlands, Uruguay.

Against: Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Mongolia, Panama, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Abstaining: Argentina, Australia, Brazil, Colombia, Denmark, France, Germany, Federal Republic of, Ivory Coast, Jordan, Nigeria, Pakistan, Peru, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Morocco, Iraq and Senegal did not participate in the voting.

(c) It adopted operative paragraph 2 by a roll-call vote of 26 votes to 1, with 12 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Mongolia, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Senegal.

Abstaining: Canada, Colombia, Denmark, France, Germany, Federal Republic of, Ivory Coast, Jordan, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Morocco and Iraq did not participate in the voting.

(d) It adopted draft resolution E/CN.4/L.1489 as a whole, as revised, by a roll-call vote of 25 votes to 1, with 13 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Mongolia, Nigeria, Pakistan, Panama, Peru, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Senegal.

Abstaining: Canada, Colombia, Denmark, France, Germany, Federal Republic of, Ivory Coast, Jordan, Netherlands, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Morocco and Iraq did not participate in the voting.

187. Statements in explanation of vote after the vote were made by the representatives of Argentina, Australia, Jordan, Morocco, Netherlands, Peru, Philippines and Senegal.

188. For the text of the resolution, see chapter XXVI, section A, resolution 4 (XXXVI).

189. At its 1543rd meeting, the Commission considered draft resolution E/CN.4/L.1490/Rev.1.

190. At the same meeting, the representative of Portugal requested separate votes by roll-call on paragraphs 2, 5 and 8. The representative of Cuba requested a vote by roll-call on the draft resolution as a whole.

191. The Commission acted on the draft resolution as follows:

(a) It adopted paragraph 2 by a roll-call vote of 25 votes to 9, with 6 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Colombia, Costa Rica, Greece, Ivory Coast, Philippines, Uruguay.

(b) It adopted paragraph 5 by a roll-call vote of 26 votes to 11, with 3 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, Colombia, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Greece, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

Abstaining: Brazil, Costa Rica, Ivory Coast.

(c) It adopted paragraph 8 by a roll-call vote of 24 votes to 9, with 7 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Greece, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Brazil, Colombia, Costa Rica, Ivory Coast, Netherlands, Philippines, Uruguay.

(d) It adopted draft resolution E/CN.4/L.1490/Rev.1 as a whole, by a roll-call vote of 29 votes to 8, with 4 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iran, Iraq, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia.

Against: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Greece, Ivory Coast, Portugal, Uruguay.

192. Statements in explanation of vote before the vote were made by the representatives of Argentina, Australia, Greece, Netherlands, Portugal and the United States of America.

193. For the text of the resolution, see chapter XXVI, section A, resolution 5 (XXXVI).



- VIII. QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:
- (a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;
  - (b) QUESTION OF MISSING AND DISAPPEARED PERSONS.

194. The Commission considered agenda item 10 at its 1552nd to 1555th, 1560th, 1563rd and 1577th to 1580th meetings, held from 22 to 25 February, on 28 and 29 February 1980 and from 11 to 13 March 1980 respectively.

195. The Director of the Division of Human Rights made a statement introducing the item. With respect to the subject of torture and other cruel, inhuman and degrading treatment or punishment, he referred in particular to the work on the draft convention being elaborated by the Commission and its Working Group.

196. With respect to the question of missing and disappeared persons, he drew attention to resolution 5 B (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities recommending action by the Commission. In view of the continued and growing seriousness of the problem, the Director stressed the international community's obligation to address it on an urgent basis. In that connexion he emphasized the need to deal with cases of disappearances already known and reported as well as with any new cases of recent disappearances.

197. The Commission heard statements by the observers for Austria (1552nd meeting), Chile (1554th meeting) and Venezuela (1554th and 1563rd meetings).

198. The Commission also heard statements by the representatives of the following non-governmental organizations in consultative status with the Economic and Social Council: Amnesty International (1552nd meeting), International Commission of Jurists (1552nd meeting), International League for Human Rights (1552nd meeting), Commission of the Churches on International Affairs (World Council of Churches) (1554th meeting), Pax Romana (1554th meeting), International Federation of Human Rights (1554th meeting) and International Confederation of Free Trade Unions (1555th meeting).

199. In connexion with statements made by representatives of non-governmental organizations it was decided that they were not to attack Governments of Member States; they were, however, allowed to refer to particular situations and individual cases concerning human rights in Member States and provide information thereon.

200. The Commission had before it written statements submitted by the World Peace Council (E/CN.4/NGO/284), the Women's International Democratic Federation (E/CN.4/NGO/277), and a written statement made by the International Commission of Jurists, the International League for Human Rights and the Minority Rights Group (E/CN.4/NGO/283).

A. Torture and other cruel, inhuman or degrading treatment or punishment

201. On the recommendation of the Commission in its resolution 18 (XXXV), the Economic and Social Council, by its resolution 1979/35 of 10 May 1979, authorized the meeting of an open-ended working group for a period of one week prior to the thirty-sixth session of the Commission to complete the work on a draft convention. At its thirty-fourth session, the General Assembly, in resolution 34/167 of 17 December 1979 took note with satisfaction of the significant progress made in the drafting of a convention on torture and other cruel, inhuman or degrading treatment during the thirty-fifth session of the Commission on Human Rights, welcomed Economic and Social Council resolution 1979/35 of 10 May 1979, and requested the Commission at its thirty-sixth session to continue to give high priority to the question of completing a draft convention on torture.

202. At its 1526th meeting on 5 February 1980, the Commission on Human Rights by decision 1 (XXXVI) decided that a sessional open-ended Working Group should be established for the consideration of item 10 (a) on its agenda concerning the drafting of a convention against torture and other cruel, inhuman or degrading treatment or punishment.

203. For consideration of the subitem the Commission had before it a report prepared by the Secretary-General in accordance with its resolution 18 (XXXIV) containing a summary of the comments of Member States of the United Nations or members of the specialized agencies on the question of the Draft Convention (E/CN.4/1314 and Adds. 1-4), the report of the Working Group (E/CN.4/1367), and a note dated 6 February 1980 from the Permanent Mission of the Republic of Cuba to the United Nations Office at Geneva addressed to the Division of Human Rights (E/CN.4/1386).

204. At the 1577th meeting on 11 March, the Chairman-Rapporteur of the Working Group, Mr. Anestis Papastefanou (Greece), introduced the report of the Group (E/CN.4/1367).

205. The report of the Group as it appears in document E/CN.4/1367 reads as follows:

"...

1. On the recommendation of the Commission in its resolution 18 (XXXV), the Economic and Social Council, by its resolution 1979/35 of 10 May 1979, authorized the meeting of an open-ended Working Group for a period of one week prior to the thirty-sixth session of the Commission to complete the work on a draft convention. The General Assembly, in resolution 34/167 of 17 December 1979, welcomed this resolution.

2. At its 1526th meeting on 5 February 1980, the Commission on Human Rights by decision 1 (XXXVI) decided that a sessional open-ended Working Group should be established for the consideration of item 10 (a) on its agenda concerning the drafting of a convention against torture and other cruel, inhuman or degrading treatment or punishment.

3. At the first meeting of the pre-sessional Working Group, on 28 January 1980, Mr. A. Papastefanou (Greece) was elected by acclamation as Chairman-Rapporteur. Mr. Papastefanou continued as Chairman-Rapporteur of the Working Group established by the Commission on Human Rights at its thirty-sixth session to continue the work of the pre-sessional Working Group.

4. The pre-sessional as well as the sessional Working Groups were open to all members of the Commission on Human Rights, the composition of which, for 1980, was as follows: Algeria, Argentina, Australia, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Colombia, Costa Rica, Cuba, Cyprus, Denmark, Egypt, Ethiopia, France, Germany, Federal Republic of, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Netherlands, Niger, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay; Yugoslavia, Zambia.

5. The following States, non-members of the Commission, were represented at the Working Group by observers: Austria, Belgium, Gabon, German Democratic Republic, Holy See, Ireland, Italy, Norway, Sudan, Sweden and Switzerland.

6. The United Nations High Commissioner for Refugees was represented at the Working Group by an observer.

7. The Council of Europe and the League of Arab States were represented at the Working Group.

8. The International Committee of the Red Cross, Amnesty International, the Arab Lawyers Union, the Christian Democratic World Union, the International Commission of Jurists and the International League for Human Rights sent observers to the Working Group.

9. The Working Group had before it a number of relevant documents, including: the "Draft International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" of Sweden (E/CN.4/1285), the revised Draft Convention submitted by Sweden (E/CN.4/WG.1/WP.1), the "Draft Convention for the Prevention and Suppression of Torture" submitted by the International Association of Penal Law (E/CN.4/NGO/213), the report of the 1979 Working Group as contained in the report of the thirty-fifth session of the Commission on Human Rights (E/CN.4/1347, paras. 178-180) and the report of the Secretary-General in accordance with Commission resolution 18 (XXXIV), summarizing the observations received from Governments on the question of the Draft Convention (E/CN.4/1314 and Add. 1-4).

10. As in 1979, the basic working document for the discussions in the Working Group was the revised Draft Convention submitted by Sweden (E/CN.4/WG.1/WP.1). It will be recalled that Article 1, paragraphs 1 and 3, Article 2 and Articles 10 and 11 of this draft had been adopted by the Working Group before and during the thirty-fifth session of the Commission on Human Rights (see texts in E/CN.4/1347, para. 178).

11. The 1980 pre-sessional Working Group held 10 meetings from 28 January to 1 February 1980, at which it discussed Articles 3, 4, 5, 6, 7, 8, 9, 12, 13, 14, 15 and 16 of the revised Draft Convention. The sessional Working Group continued these discussions during meetings of one hour held on 5-8, 11, 13, 20 and 27 February 1980.

12. As a result of these debates, the Working Group adopted Articles 3 and 4, Article 5, paragraph 1 (a), Article 6, paragraphs 1, 2, 3 and 5 and Articles 8, 9, 12, 13, 14, 15 and 16.

### Article 3

13. Article 3 of the revised Swedish draft was as follows:

"No State Party shall expel, return ("refouler") or extradite a person where there are substantial grounds for believing that he would be in danger of being subjected to torture."

Remark: 'Some delegations indicated that their States might wish, at the time of signature or ratification of the Convention or accession thereto, to declare that they did not consider themselves bound by Article 3 of the Convention, in so far as that article might not be compatible with obligations towards States not Party to the Convention under extradition treaties concluded before the date of the signature of the Convention'.

14. At the Working Group's meeting of 7 March 1979, it had been proposed that the following text (E/CN.4/WG.1/WP.2 of 1 March 1979) should replace Article 3:

"1. No State Party shall expel or extradite a person to another State where substantial evidence indicates that he may be in danger of being subjected to torture.

"2. The evidence referred to in the preceding paragraph of this article includes above all situations characterized by flagrant and massive violations of human rights brought about when apartheid, racial discrimination or genocide, the suppression of national liberation movements, aggression or the occupation of foreign territory are made State policy.

"3. The provisions of this article shall not be invoked as grounds for refusing to institute proceedings against persons who have committed crimes against peace or mankind, or war crimes as defined in the relevant international instruments".

This proposal was reintroduced at the 1980 session of the Group.

15. Another proposal for paragraph 2 of Article 3 was also introduced and read as follows (HR/XXXVI/WG.10/WP.7):

"For the purpose of determining whether there is such evidence all relevant considerations shall be taken into account, including where applicable, the existence in the State concerned of a consistent pattern of gross violations of human rights, such as those resulting from a State policy of apartheid, racial discrimination or genocide, the suppression of national liberation movements or the occupation of foreign territory."

### Paragraph 1

16. After some discussions it was agreed that the words "substantial grounds" in the revised Swedish draft should be rendered in French by the words "motifs sérieux de croire".

17. In connexion with the same paragraph, the question was raised whether, in the English text, the word "would" should not be used instead of the word "may",

the latter word being considered too vague by several representatives. In the Spanish version, it would be translated by "estaría".

18. Paragraph 1 of Article 3, as amended, was adopted by consensus, together with the remark in square brackets in the revised Swedish draft. The text reads as follows:

"1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

Remark: 'Some delegations indicated that their States might wish, at the time of signature or ratification of the Convention or accession thereto, to declare that they did not consider themselves bound by Article 3 of the Convention, in so far as that article might not be compatible with obligations towards States not Party to the Convention under extradition treaties concluded before the date of the signature of the Convention'."

19. One delegation stated that its adherence to the consensus was conditional upon the Working Group's agreement to an additional sentence. The proposal was to add a subparagraph to paragraph 1 of the article in order to ensure that States under an obligation to grant extradition in virtue of a treaty could not free themselves unilaterally from that obligation and thus imperil the very institution of extradition. The text reads as follows:

"If a State which otherwise would be obliged to extradite did not do so for the reasons mentioned, it shall take the necessary measures to bring the person, whose extradition it refuses to grant, to trial."

20. While the proposal was supported by one delegate other speakers objected to it. They stated that it would conflict with other national legislation and was liable to raise insoluble problems in some legal systems, including the absence of criminal jurisdiction, lack of evidence, and interference with prosecutorial discretion. Such a clause meant that the practice followed by the Latin American countries in extradition matters should not in any way be affected by the provisions of the present convention.

21. One delegate therefore proposed the following text (HR/XXXVI/WG.10/WP.8/Add.2):

"A State Party which refuses extradition in the circumstances described in paragraph 1 shall, having regard to its national legislation, institute proceedings against the person whose extradition was refused."

22. One representative suggested that the words "having regard to its national legislation" be replaced by the words "if its national legislation so permits".

23. The proposal contained in document HR/XXXVI/WG.10/WP.8/Add.2, as revised, reads as follows:

"A State Party which refuses extradition in the circumstances described in paragraph 1 shall consider, on the basis of its national law, whether to institute criminal proceedings in that State against the person whose extradition was refused."

24. Another speaker suggested the following wording (HR/XXXVI/WG.10/WP.11):

"If a State Party, which is under a treaty obligation to extradite a person to another State, refuses to do so in the circumstances described in paragraph 1, it shall, if its national legislation so permits, institute criminal proceedings against the person whose extradition it refuses."

25. Several representatives then requested that the expression "if its national legislation so permits" should be placed in square brackets. Others requested that the proposal be withdrawn altogether.

#### Paragraph 2

26. The Working Group then moved to paragraph 2 of the proposals contained in documents E/CN.4/WG.1/WP.2 and HR/XXXVI/WG.10/WP.7.

27. One proposal was that paragraph 2 should end with the words "human rights" or that the last three lines - which seemed likely to raise problems - be placed in square brackets.

28. A number of speakers suggested the deletion of the entire paragraph or at least those three lines which, in their view, would inject unnecessary political overtones into the Convention and would in practice restrict the scope of Article 3.

29. Other representatives, however, said that the deletion of the last few lines of paragraph 2 was unjustified. In their view paragraph 2 should not only be retained in its entirety, but the words "colonialism" and "neo-colonialism" as used in the General Assembly resolutions 32/130 and 34/46, should be included therein.

30. Several delegations opposed any reference to United Nations General Assembly resolutions in the text of the Convention on the ground that it is not good legal practice to incorporate a non-binding General Assembly resolution in an international convention that imposes binding legal obligations upon States. They stated also that no list of State policies could ever be exhaustive or agreed upon by the Working Group. One delegation declared that such a list of State policies would have to include religious persecution, denial of free speech, suppression of political dissent and the free flow of information, and armed intervention in the affairs of a sovereign State.

31. The Working Group agreed to put the whole paragraph 2 in square brackets and to insert therein the proposed terms "colonialism and neo-colonialism" as follows:

For the purpose of determining whether there is such evidence all relevant considerations shall be taken into account, including, where applicable, the existence in the State concerned of a consistent pattern of gross violations of human rights, such as those resulting from a state policy of apartheid, racial discrimination or genocide, colonialism or neo-colonialism, the suppression of national liberation movements or the occupation of foreign territory."

Paragraph 3

32. As regards paragraph 3 of the proposal contained in document E/CN.4/WG.1/WP.2 of 1 March 1979, the Working Group agreed not to include it in order to reach a consensus.

Article 4

33. Article 4 of the revised Swedish Draft (E/CN.4/WG.1/WP.1) was as follows:

"1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.

"2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature."

34. As regards the concepts of "complicity or participation in torture" in Article 4, paragraph 1, doubts were expressed whether, in the legislation of all countries, these terms would cover those persons who were accessories after the fact to torture or who had in some way concealed acts of torture.

35. One representative proposed the addition of the word "encubrimiento" in Spanish. Some speakers felt that in the legal systems of their countries the term "complicity" already covered the concept of "concealment".

36. The Working Group agreed to include, in brackets, an explanatory foot-note on this matter to paragraph 1 of Article 4, and adopted by consensus the following version of Article 4:

"1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.\*

"2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

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/\*/ The term "complicity" includes "encubrimiento" in the Spanish Text/.

In the Spanish text

/Add at the end of paragraph 1: "o encubrimiento de la tortura"/.

In the French text:

/Add a foot-note reading: "le term "complicité" comprend "encubrimiento" dans le text espagnol"/.

37. Subsequently one delegate reserved his position on Article 4 because of his concern that the word "complicity" was not broad enough to cover the notion of "accessory after the fact" under his country's domestic law.

Article 5

38. Article 5 of the revised Swedish draft (HR/XXXVI/WG.10/WP.1) was as follows:

"1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction;

(b) When the alleged offender is a national of that State;

[(c) When the victim is a national of that State.]

"2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to Article 8 to any of the States mentioned in paragraph 1 of this article.

"3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law."

Paragraph 1 (a)

39. One delegation found the expression "or on board aircraft or ships registered in that State", which was proposed as an addition by several delegations, somewhat unhappily phrased.

40. While not opposing the consensus on that addition to the text, the delegation in question expressed its preference for the following form of words: "on board an aircraft registered in that State or a ship flying the flag of that State".

41. The following text of Article 5, paragraph 1 (a) was adopted by consensus:

"Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in Article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board an aircraft or ship registered in that State."

Paragraph 1 (b)

42. With respect to Article 5, paragraph 1 (b), a delegate proposed the replacement of the word "national" by the phrase "public official or employee of that State".

43. Most delegates stated that the term "national" was a widely-used concept in international law in connexion with the establishment of jurisdiction, and that they preferred this basis of jurisdiction, as formulated in the New York and Hostages Conventions.



44. Several delegates drew the attention of the Working Group to the provisions of Articles 1 and 4, and stated that there was also a need to cover those nationals who were not officials or employees but who committed acts of torture with the consent or acquiescence of public officials or other persons acting in an official capacity or who were charged with complicity or participation in torture. The proposed replacement would make the Convention less effective.

45. It was suggested by one representative that the first wording of Article 5, paragraph 1 (b) be retained and that the proposal mentioned above in paragraph 42 be inserted between brackets after the word "national".

46. Another delegate proposed that Article 5, paragraph 1, should be redrafted to read as follows (HR/XXXVI/WG.10/WP.9):

"1. Each State Party shall take such measures as may be necessary to prosecute persons who have committed the crimes mentioned in Article 4 of this Convention and who are in its territory and under its jurisdiction."

47. In the view of another representative, Article 5, paragraph 1 (b) should be drafted as follows (HR/XXXVI/WG.10/WP.10):

"(b) When the alleged offender belongs to one of the categories of individuals named under Article 1, paragraph 1 and is present in any territory under the jurisdiction of that State."

#### Paragraph 1 (c)

48. Several representatives requested the deletion of the paragraph which, in their view, opened an unduly wide scope for repression and created difficulties for establishing proof.

49. One delegate said he agreed to the retention of that paragraph - drawing attention to the existence of similar clauses in the Convention against the Taking of Hostages, as well as in the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents - but with the addition of the words "and the alleged offender is discovered in its territory." Other speakers proposed to make this provision optional.

#### Paragraph 2

50. One delegate stated that he was in favour of the deletion of Article 5, paragraph 2, which was likely to create difficulties when the facts were being established. If it was decided to retain that article, he proposed that the words "after receiving a request for extradition" should be added after the words "and it does not extradite him". This proposal was supported by several other delegates.

51. Several other representatives favoured retention of Article 5, paragraph 2, as set forth in the revised draft text. These delegates pointed out that either the omission of Article 5, paragraph 2, or the proposed amendment could create a loop-hole in the Convention, thereby creating potential safe-havens for torturers.

52. In this connexion it was stated by a delegate that his basic concern about the inclusion of paragraph 2 was that it could, in certain circumstances, jeopardize the natural rights of an accused to a fair and impartial trial and could also create, in practice, serious international political tensions. Subsequently that delegate offered to withdraw his reservation in the interest of reaching a consensus.

53. The Working Group agreed that discussion of Article 5, paragraph 1 (b) and (c) as well as of paragraphs 2 and 3 should be suspended to allow further consideration and consultation.

#### Article 6

54. Article 6 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"1. Upon being satisfied that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in Article 4 is present, shall take him into custody or take other measures to ensure his presence. The custody and other measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

"2. Such State shall immediately make a preliminary enquiry into the facts.

"3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national.

"4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in Article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

"5. Any person regarding whom proceedings are being carried out in connexion with any of the offences referred to in Article 4 shall be guaranteed fair treatment at all stages of the proceedings."

55. Several delegates pointed out that the word "preliminary" used in Article 6, paragraph 2, might give the impression that the actions described in paragraph 1 had been carried out without the necessary examination. It was suggested that paragraph 2 should be incorporated into paragraph 1. Some delegates proposed the insertion of the words "preliminary enquiry" into paragraph 1 and the substitution of the words "further" or "formal" for the word "preliminary" in paragraph 2. It was agreed that the proposed phrase "after an examination of information available to it" should be added after the word "satisfied" in paragraph 1.

56. One view was that the phrase "other measures", contained in paragraph 1, might be interpreted too widely. It was suggested that it be replaced by "other legal measures".\*/

57. Referring to a similar provision contained in the United Nations Convention against the Taking of Hostages, one representative proposed to extend the scope of paragraph 3 to stateless persons by the following phrase added after "national": "or, if he is a stateless person, to the representative of the State where he usually resides".

58. It was decided to suspend the discussion on paragraph 4 until after consideration of the question of jurisdiction in Articles 5 and 7.

59. Article 6, paragraphs 1, 2, 3 and 5, as adopted by consensus by the Working Group, reads as follows:

"1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in Article 4 is present, shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

"2. Such State shall immediately make a preliminary enquiry into the facts.

"3. Any person in custody, pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, to the representative of the State where he usually resides.

"4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in Article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

"5. Any person regarding whom proceedings are being carried out in connexion with any of the offences referred to in Article 4 shall be guaranteed fair treatment at all stages of the proceedings."

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\*/ In the French text, replace the word "légales" by the word "juridiques".

## Article 7

60. Article 7 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"The State Party in territory under whose jurisdiction a person alleged to have committed any offence referred to in Article 4 is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in any territory under its jurisdiction, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any offence or of a serious nature under the law of that State."

61. It was said that the Working Group should consider this article together with Article 5 because of their complementary nature. One delegate queried whether Article 7 did not partly duplicate Article 5, paragraph 1 (a). Other delegates, referring to previously adopted conventions such as the United Nations Convention against the Taking of Hostages, Article 8, paragraph 1, pointed out that there was a need for such an article. Thus no offender would have the opportunity to escape the consequences of his acts of torture. He would be extradited or prosecuted. The Working Group suspended its consideration of Article 7 until a later stage.

## Article 8

62. As regards Article 8 of the revised Swedish draft, most representatives, who referred to a similar provision contained in the United Nations Convention against the Taking of Hostages, were in favour of the optional version ("/may"/) in paragraph 2, in order to arrive at equality of commitment between States which granted extradition on the basis of a treaty and those which might grant it on the basis of their municipal law. One representative stated that paragraph 3 should correspond to the optional formula of paragraph 2.

63. The Working Group adopted by consensus Article 8 as contained in the revised Swedish draft (E/CN.4/WG.1/WP.1) which was as follows:

"1. The offences referred to in Article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

"2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it "/may"/ "/shall"/ consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

"3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

"4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1."

#### Article 9

64. Article 9 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of any of the offences referred to in Article 4, including the supply of all evidence at their disposal necessary for the proceedings.

"2. The provision of paragraph 1 of this article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters."

65. One delegate asked that an additional sentence be added to the end of paragraph 1 of Article 9, which reads: "The law of the state requested shall apply in all cases".

66. Several representatives felt that there was little apparent logical relationship between paragraphs 1 and 2 of this article. It was found that paragraph 2 might be interpreted in such a way as to weaken the obligation laid down in paragraph 1. Paragraph 2 should, therefore, in the view of some representatives, be deleted. Others were in favour of re-phrasing it.

67. One representative proposed that paragraph 2, as further revised, should read:

"2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them."

68. The Working Group adopted by consensus Article 9 in its revised version:

"1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of any of the offences referred to in Article 4, including the supply of all evidence at their disposal necessary for the proceedings.

"2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them."

#### Articles 12 and 13

69. Articles 12 and 13 of the revised Swedish draft (E/CN.4/WG.1/WP.1), which were considered together by the Working Group, were as follows:

"Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant is protected against ill-treatment in consequence of his complaint. Each State Party shall ensure that, even if there has been no formal complaint its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

70. A representative proposed that the order of Articles 12 and 13 be reversed. In support of this proposal he felt that the prevention and punishment of acts of torture were primarily the responsibility of the Governments of States Parties and not that of the victim, who may not be in a position to make complaints. The Working Group agreed to this proposal. It further decided to delete the phrase "even if there has been no formal complaint" contained in Article 13.

71. As regards Article 12, it was pointed out by the same representative that it was necessary to ensure the protection, not only of the complainant, but also of any witnesses, against ill-treatment in retaliation for the complaint made or testimony given. Several representatives suggested that this was necessary in order to encourage witnesses to put themselves at the disposal of the competent authorities. In this connexion, one representative proposed that the words "or intimidation", "and witnesses" and "or any evidence given" should be inserted in the last sentence of Article 12.

72. In response to the question on the scope of the phrase "territory under its jurisdiction" as contained in these articles, it was said that it was intended to cover, inter alia, territories still under colonial rule and occupied territories.

73. Articles 12 and 13 as adopted by consensus by the Working Group read as follows:

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

#### Article 14

74. Article 14 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"1. Each State Party shall ensure that the victim of an act of torture has an enforceable right to compensation. In the event of the death of

the victim as a result of an act of torture, his dependants shall be entitled to compensation.

"2. Nothing in this article shall affect any other right to compensation which may exist under national law."

75. Various suggestions were made to rephrase the first sentence of paragraph 1. In order to make it more precise, a representative proposed the insertion of the phrase "in its legal system" after the word "ensure".

76. Several representatives felt that in the special case of victims of acts of torture, there was a need to strengthen their right to compensation. They suggested that the phrase "an enforceable right to compensation" should be replaced by the words "an enforceable right to fair and adequate compensation".

77. According to some speakers, the experience of physicians had shown that there were deep physical and psychological sequelae to torture long after the acts had been perpetrated. One-time monetary compensation might not suffice to erase these sequelae and remedy the damages done. Most representatives agreed to the idea, to add the words "including the means for his rehabilitation" after the word "compensation" in paragraph 1 of Article 14.

78. Several representatives stated that they had difficulties with the term "rehabilitation", which they regarded as vague and ambivalent, as, in their view, this term might encompass a variety of meanings of a juridical, sociological and medical nature. An alternative, suggested by one representative, was to add the words "including medical measures by his physical and mental state of health". One delegate drew the attention of the Working Group to the term "rehabilitation" as used in General Assembly resolution 34/154 on the International Year of Disabled Persons of 17 December 1979 and proposed that the word "rehabilitation" should be interpreted in the way it was understood in that resolution. Several delegations opposed any reference to United Nations General Assembly resolution 34/154 in the text of the Convention for the reason that it is not good legal practice to incorporate a non-binding General Assembly resolution in an international convention that imposes binding legal obligations upon States. The Group considered it necessary to put the term "rehabilitation" in square brackets and to revert to it at a later stage of the discussion in order to reach a common understanding.

79. Some representatives felt that there was a need to extend the scope of the proviso concerning persons who, in the event of the death of the victim as a result of an act of torture, shall be entitled to compensation. Reference was made to the case of a friend or neighbour helping a tortured person and giving him financial assistance before he died. One delegate proposed that the words "or any other persons designated by national law" should be added after the word "dependants".

80. The Working Group agreed that paragraph 2 of Article 14 should be redrafted as follows:

"Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law."

81. One delegate who, in early discussions, had reserved his position on Article 14, subsequently withdrew his reservation. Therefore Article 14 as amended was adopted by consensus as follows:

"1. Each State Party shall ensure in its legal system that the victim of an act of torture be redressed and have an enforceable right to fair and adequate compensation including the means for his rehabilitation. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

"2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law."

#### Article 15

82. Article 15 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of obtaining that statement by torture."

83. With respect to Article 15, one delegate drew the attention of the Working Group to Article 12 of the Declaration on the Protection of all Persons from being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment of 9 December 1975 and stressed that there should be conformity between the meaning of the Declaration and Article 15 of the Draft Convention.

84. The Working Group adopted by consensus Article 15 as follows:

"Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made."

#### Article 16

85. Article 16 of the revised Swedish draft (E/CN.4/WG.1/WP.1) was as follows:

"This Convention shall be without prejudice to any provisions in other international instruments or in national law which prohibit cruel, inhuman and degrading treatment and punishment."

86. One delegate pointed out that Article 1, paragraph 3, adopted the previous year, had specified that that article was without prejudice to provisions of wider application relating to the subject matter of the convention. Similarly, Article 16 was a saving clause affirming the continued validity of other instruments prohibiting punishments or cruel, inhuman or degrading treatment.

87. A proposal (HR/XXXVI/WG.10/WP.5/Rev.1) was made to have the following text as paragraph 1 of Article 16:



"1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not constitute torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in Articles /3/, 10, 11, 12, 13, /14/ and /15/ shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment."

88. In the view of the authors this proposal should become paragraph 1 of Article 16, while its original version should appear in paragraph 2.

89. On the suggestion of one representative, the authors agreed to delete the words "in particular" in the French text of the proposal.

90. In support of that proposal, it was emphasized that international conventions that prohibit inhuman or degrading treatment or punishment and in particular, the International Covenant on Civil and Political Rights and the European Convention on Human Rights, were already in force. Such prohibition was necessary to prevent offenders from taking advantage of an unduly narrow interpretation of the word "torture".

91. Other delegates thought that those concepts were too vague to be applied at the criminal law and police regulation levels. Several of those delegates opposed inclusion of the phrase "cruel, inhuman or degrading treatment or punishment" in certain articles because that phrase was not defined in the convention.

92. Some delegates proposed to replace the term "to prevent" by "to prohibit" in the proposal contained in document HR/XXXVI/WG.10/WP.5/Rev.1.

93. One delegate expressed a reservation with respect to paragraph 2 of Article 16 and stated that there was no necessity for such a provision.

94. A discussion ensued concerning the scope of the proposal contained in document HR/XXXVI/WG.10/WP.5/Rev.1. Some delegates were of the opinion that no reference should be made to Articles 3, 14 and 15.

95. The following text of Article 16 was adopted by consensus:

"1. Each State Party shall undertake to prohibit in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not constitute torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in Articles /3/, 10, 11, 12, 13, /14/ and /15/ shall apply with the substitution for references to torture, of references to other forms of cruel, inhuman or degrading treatment or punishment.

"2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment."

## Procedural questions

96. All speakers stressed the necessity to complete the drafting of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by considering the remaining substantive clauses (Art. 1, para. 2; proposal relating to Art. 3, para. 1, Art. 5, para. 1 (b) and (c) and paras. 2 and 3; Art. 6, para. 4; Art. 7; Arts. 16 to 21 of the draft contained in document E/CN.4/1285) as well as the final clauses and the preamble.

97. Therefore, the Working Group agreed to propose to the Commission on Human Rights that an intersessional working group should be established before the thirty-seventh session of the Commission. Referring to the great deal of work which still had to be done, a number of delegates felt that the pre-sessional working group should meet for two weeks or 10 days before the next session of the Commission on Human Rights.

98. Other delegates were of the opinion that in view of budgetary considerations and the great progress which had been made so far, the question of whether to establish a pre-sessional or a sessional working group on torture during the thirty-seventh session, should be left to the discretion of the Commission in plenary.

99. One delegate requested that the Commission should be informed by the Secretariat whether there was any fund within the United Nations budget which could be used for financing in particular the participating of delegates of developing countries in the discussion of a pre-sessional working group if its session continued for more than one week.

100. Another delegate put the question whether it was possible to create a small group comprising representatives of the various legal systems to draw the attention of the future pre-sessional working group to possible questions of harmonization between these legal systems in connexion with the drafting of the Convention.

101. At its final meeting on 27 February 1980, the Working Group adopted its report as contained in document HR/XXXVI/WG.10/WP.14 and Add.1 to Add.3.

## Annex

### Article 1

1. For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions. a/

2. Torture is an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment. b/

3. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application relating to the subject matter of this Convention. a/

Article 2 a/

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture /However, this may be considered in mitigation of punishment if justice so requires/.

Article 3 c/

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. d/

Remark: 'Some delegations indicated that their States might wish, at the time of signature or ratification of the Convention or accession thereto, to declare that they did not consider themselves bound by article 3 of the Convention, in so far as that article might not be compatible with obligations towards States not party to the Convention under extradition treaties concluded before the date of the signature of the Convention'.

2. /For the purpose of determining whether there is such evidence all relevant considerations shall be taken into account, including, where applicable, the existence in the State concerned of a consistent pattern of gross violations of human rights, such as those resulting from a State policy of apartheid, racial discrimination or genocide, colonialism or neo-colonialism, the suppression of national liberation movements or the occupation of foreign territory./

Article 4 c/

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. \*/
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

\*/ The term 'complicity' includes 'encubrimiento' in the Spanish Text ].

In the Spanish text

] Add at the end of para. 1: 'o encubrimiento de la tortura' ].

In the French text:

] Add a foot-note reading: 'le terme "complicité" comprend "encubrimiento" dans la text espagnol' ].

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
  - (a) When the offences are committed in any territory under its jurisdiction or on board an aircraft or ship registered in that State. c/
  - (b) When the alleged offender is a ]national ] of that State; b/
  - ](c) When the victim is a national of that State. ] b/
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article. b/
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law. b/

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present, shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted. c/

2. Such State shall immediately make a preliminary enquiry into the facts. c/

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or if he is a stateless person, to the representative of the State where he usually resides. c/

(4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary enquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction). b/

5. Any person regarding whom proceedings are being carried out in connexion with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings. c/

Article 7 b/

Article 8 c/

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may shall consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional to the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9 c/

1. States Parties shall afford one another the greatest measure of assistance in connexion with criminal proceedings brought in respect of any

of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10 a/

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such persons.

Article 11 a/

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12 c/

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13 c/

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to and to have his case promptly and impartially examined by its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14 c/

1. Each State Party shall ensure in its legal system that the victim of an act of torture be redressed and have an enforceable right to fair and adequate compensation including the means for his rehabilitation. In the

event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15 c/

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16 c/

1. Each State Party shall undertake to prohibit in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not constitute torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 3/, 10, 11, 12, 13, 14/ and 15/ shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment."

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a/ Adopted in 1979.

b/ Not yet adopted.

c/ Adopted in 1980.

d/ As indicated in para. 19 of the report, there exists a proposal to be added to para. 1 of art. 3.

206. As regards the report reproduced above, the representative of India expressed some reservations concerning articles 3, 14 and 16. The representative of the United Kingdom of Great Britain and Northern Ireland proposed that the following sentence be added to paragraph 81 of the report of the Working Group: "One delegate proposed that the words 'by having' would be more appropriate than the words 'and have' in line 2 of paragraph 1 of article 14". He also supported rephrasing paragraph 92 of the report of the Working Group as follows:

"One delegate proposed that the word 'prevent' should be replaced by the word 'repress'. However some delegates proposed to replace the term 'to prevent' by 'to prohibit' in the proposal contained in document HR/XXXVI/WG.10/WP.5/Rev.1."

207. At the 1577th meeting, the representative of Denmark introduced draft resolution E/CN.4/L.1529. Several delegates expressed their satisfaction with the progress made by the Working Group and supported draft resolution E/CN.4/L.1529. The Director of the Division of Human Rights made a statement concerning financial implications. 1/

208. The Commission adopted draft resolution E/CN.4/L.1529 without a vote at its 1578th meeting on 12 March 1980.

209. For the text of the resolution see chapter XXVI, section A, resolution 34 (XXXVI).

#### B. Question of missing and disappeared persons

210. Many speakers expressed deep concern about the disappearance of large numbers of persons. It was emphasized that reports on missing and disappeared persons in various parts of the world were accumulating at an alarming rate and that many thousands of persons and their families appeared to be victims of the phenomenon. It was said that such disappearances were brought about either directly by governmental authorities or by para-military bodies frequently working in collusion with public officials. They could also, in the view of some delegations, be the result of generalized violence and armed conflict. Disappearances seemed to be accompanied by illegal arrest, detention and, frequently, torture. A specific aspect of this grave violation of human rights was the illusory character of legal remedies, since the authorities denied all knowledge of the victims' whereabouts. Many of the victims were presumed dead. The view was expressed that the phenomenon of massive disappearances of persons represented in effect, an institutionalized practice of eliminating actual or potential opposition and constituted an aggression by the State against its own citizens.

211. Most speakers stressed the need for action by the international community to deal with this problem and noted that the General Assembly had adopted resolution 34/179 on the subject by consensus. Further reference was made to General Assembly resolution 33/173 and other resolutions relevant to the plight of missing and disappeared persons. In that connexion, several speakers emphasized the important role of various non-governmental organizations which had been actively engaged in investigating cases of disappeared persons.

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.



212. The discussion focused primarily on two areas of potential action by the international community in dealing with this problem. Firstly noting that, in a number of countries, local courts had failed to assume responsibility for ordering appropriate investigations into cases of missing or disappeared persons, several speakers stressed the importance of ensuring the availability of effective legal recourse procedures. One delegation suggested that the Commission on Human Rights should elaborate guidelines in this regard. Secondly, various speakers stated that it was necessary to establish international machinery to facilitate prompt and effective action which could deal with the thousands of cases of disappeared persons. Accordingly, several delegations expressed support for the creation of an international investigatory body of independent experts, in line with the recommendation of the Sub-Commission.

213. One representative stated in that connexion that while the procedure of Economic and Social Council resolution 1503 (XLVIII) might have great value in other instances, the considerable time required to apply it, as well as other aspects, made it inappropriate for dealing with the problem of disappeared persons.

214. According to another representative, it was also necessary to take into account the fact that disappearances, in his view, were often linked with the activities of clandestine terrorist and subversive groups.

215. Some delegations expressed the opinion that, under certain conditions, a State could be made responsible under international law for cases of disappearance. Referring to the work of the International Law Commission in the field of State responsibility, and to the practice of the International Court of Justice, they stated that, for example, State responsibility could be incurred if Governments did not react promptly to reliable reports of disappearances. At the 1560th meeting, on 28 February 1980, a draft resolution (E/CN.4/L.1502) was introduced by the representative of France. At the 1563rd meeting, on 29 February 1980, the representative of Iraq introduced amendments (E/CN.4/L.1505) sponsored by Cyprus, Iraq, Senegal and Yugoslavia to the above-mentioned draft resolution. These amendments, as orally amended on the proposal of the representative of Algeria, supported by Nigeria, were accepted by the representative of France. At the same meeting, the representative of Brazil made an oral amendment to the draft resolution as amended, which was accepted by the sponsors. Costa Rica, Iran, United States of America and Venezuela subsequently announced their desire to sponsor the draft resolution.

216. The Director of the Division of Human Rights made a statement 2/ concerning the administrative and financial implications of the draft resolution.

217. Draft resolution E/CN.4/L.1502, as amended, was adopted without a vote.

218. Statements were made after the adoption of the resolution by the representatives of Argentina, Australia, Canada, Costa Rica, Cyprus, Ethiopia, Ghana, Greece, the Netherlands, Panama, Peru, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

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2/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

219. With regard to the composition and the other characteristics of the Working Group whose establishment was recommended in the resolution, several representatives suggested that the Working Group should be established on the basis of the principle of equitable geographical distribution and after consultations within the regional groups. Other representatives said that in their view that was not required. Some suggested that the procedure of the Working Group should be based on already existing rules, particularly the criteria for admissibility laid down in Sub-Commission resolution 1 (XXIV). One representative was of the view that the mandate of the Working Group should not be extended beyond one year, that the Working Group should have a session of one or two weeks, that it should operate by consensus and that it should only study situations in co-operation with States which had expressed the desire to co-operate. He stated that this procedure could not, in his view, constitute a precedent. Other representatives could not accept this interpretation. One delegation pointed out that the Working Group, according to the resolution, could receive information on various cases from the families of disappeared persons as well as from non-governmental organizations.

220. For the text of the resolution, see chapter XXVI, section A, resolution 20 (XXXVI).

221. At its 1579th meeting on 13 March 1980, the Chairman announced the composition of the working group established under that resolution as follows:

Mr. Luis A. Varela (Costa Rica)  
Mr. Kwadwo Faka Nyamekye (Ghana)  
Mr. Mohamed Redha Al Jabiri (Iraq)  
Viscount Colville (UK)  
Mr. Ivan Toševski (Yugoslavia).

IX. FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION: ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

222. The Commission considered agenda item 11, jointly with item 26 (see chap. XXI) at its 1557th, 1559th to 1563rd, 1577th and 1578th meetings held from 26 to 29 February and on 11 and 12 March 1980.

223. The Commission had before it the report (E/CN.4/1368) of the Secretary-General submitted in accordance with Commission resolution 23 (XXXV) as well as documents submitted in accordance with General Assembly resolution 34/46 (E/CN.4/CRP.1 and Add.1 and E/CN.4/CRP.2), and a written declaration submitted by the Arab Lawyers Union, a non-governmental organization in consultative status (category II) (E/CN.4/NGO/282).

224. Statements were made on this item by the observers for Austria, the German Democratic Republic, Italy and Norway.

225. At the 1557th meeting, on 26 February 1980, the item was introduced by the Director of the Division of Human Rights who outlined the background and recent decisions of the General Assembly, the Economic and Social Council, the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He recalled some of the approaches recently emphasized by policy-making organs such as the concepts contained in resolutions 32/130 and 34/46 of the General Assembly; the decisions on the importance of the realization of economic, social and cultural rights and the right to development; the decisions on the New International Economic Order and human rights; the decisions on the importance of regional, national and local institutions in the field of human rights and the Commission's resolution of 1979 on the importance of public information activities in the field of human rights.

226. He pointed out that the current programmes serviced by the Division of Human Rights as contained in the updated Medium-Term Plan for 1980-1983 (E/CN.4/CRP.1) fell into four main areas: the Decade for Action against Racism and Racial Discrimination; the implementation of international instruments and procedures; research, studies and the prevention of discrimination; and advisory services. He suggested as areas which may particularly deserve the attention of the Commission: the need for intersessional meetings of the Bureau; the need for co-ordination of the activities of the Commission and its subsidiary organs; the need for staff, resources and infrastructure by the secretariat; and the need to enhance public information activities in the field of human rights.

227. Speakers during the discussion stated that consideration of this item required the adoption of an integrated approach in a spirit of goodwill and international co-operation based on adherence to the provisions of the United Nations Charter. Some delegations felt that the direct guarantee of human rights of citizens was the primary responsibility of States and pointed out

that proposals to establish supranational posts or organs could lead to interference in the internal affairs of States contrary to the United Nations Charter, undermining international co-operation in promoting and encouraging respect for human rights and fundamental freedoms and disputing the existing system of representative bodies in this field in the United Nations.

228. Importance was attached to the fact that the Commission is the primary human rights organ within the United Nations and it was pointed out that its establishment was expressly provided for in the Charter. It was suggested that updating was needed in the role and approach of the Commission in order for it to be able to respond to current needs. The tendency for the Commission to duplicate the work of the General Assembly was remarked upon and it was regretted that some agenda items were consistently deferred until the following year. It was suggested that secondary issues should be eliminated from the Commission's agenda.

229. With regard to the future work of the Commission some representatives suggested that emphasis which takes account of a long-term work programme should be drawn up mindful of the concepts contained in General Assembly resolution 32/130 and other subsequent resolutions including resolution 34/46. It was also suggested that the Commission should take account of newly emerging rights such as the rights to peace, development, and to a healthy and ecologically balanced environment and that particular attention should continue to be given to ways and means of combating mass and flagrant violations of human rights. It was suggested that further study should be undertaken on: how far paragraph 7 of Article 2 of the Charter was applicable in the human rights field, particularly in emergency situations; the obligations of individuals under human rights instruments, with reference to problems of terrorism; the issue of conscientious objection; and human rights problems raised by scientific and technological developments. It was suggested that a list of all human rights studies being undertaken within the United Nations system should be maintained, which should be brought to the attention of any organ considering a proposal to call for a further study.

230. Several speakers drew attention to paragraph 5 of Economic and Social Council resolution 1979/36 which noted that "in certain circumstances the Commission may need to hold special sessions in order to complete unfinished business". Support was expressed for such special sessions. It was said that efforts should be made to define what might constitute such "circumstances". Reference was also made to paragraph 6 of the same resolution which requested the Commission to prepare suggestions on the possibility of convening meetings of the Bureau of the Commission in between sessions in exceptional circumstances. Some speakers also suggested regular meetings of the Bureau in between sessions. The need was noted for machinery which could respond more rapidly in urgent situations.

231. Some delegates expressed interest in the idea of preparing an annual survey of the world human rights situation which would be fair and objective and based on universal standards. There was also discussion of the advantages and drawbacks of the procedure according to Council resolution 1503 (XLVIII).

232. In connexion with the proposal for the establishment of a post of High Commissioner for Human Rights, several delegations said that the international community and particularly oppressed individuals had seen years go by without any effective action being taken. They expressed the hope that progress would be

made towards the realization of such a post. However, other speakers expressed fears that the establishment of such a post could lead to interference in the internal affairs of States and damage international co-operation. There was an exchange of views as to the relevance of provisions of the United Nations Charter in connexion with the proposal to establish the post of High Commissioner. References were also made to the importance of the good offices role of the Secretary-General in the human rights area.

233. Reference was made to the report of the Secretary-General on the existing public information activities of the secretariat in the field of human rights, including proposals for their further development (E/CN.4/1368). Some delegations observed that it would be useful to know more about the ways in which Governments made use of information on human rights. They noted the important role of the world's press in this area. It was said that information and education in the field of human rights are of vital importance for the realization of norms and standards in this field. The view was expressed that an expansion of public information activities should be undertaken. A number of delegations recognized the important role of non-governmental organizations at both the national and international levels and insisted that these organizations should be able to speak for human rights everywhere without being impeded or harassed. They suggested that greater co-operation should be developed with them. Support was also expressed by some delegations for the promotion of regional human rights machinery.

234. Several delegations paid tribute to the Division of Human Rights for the manner in which it discharged its duties. One delegation however referred to certain short-comings which, in its view, affected the work of the Division. It was noted that the recent enlargement of the Commission, the extension of the sessions of the Committee and the Sub-Commission, the entry into force of the International Covenants on Human Rights and other recent developments had added considerably to the workload of the Division. Several representatives felt that the Division's manpower and resources for meeting the tasks were inadequate. They therefore suggested that the Commission should make appropriate concrete recommendations to the Economic and Social Council and the General Assembly on reinforcement of the Division.

235. In connexion with the suggestion that consideration be given to the redesignation of the Division of Human Rights into a Centre for Human Rights it was noted that matters of the internal organization and staffing of the secretariat fell within the province of the Secretary-General. Several speakers expressed support for this redesignation and stated that it should be viewed not merely as a matter of prestige but as a means to enhance the secretariat in the field of human rights and to provide it with the staff, resources and infrastructure needed to enable it to perform its duties in a more efficacious manner. Other speakers however did not see any need for the proposed redesignation. Rather, it was felt ways should be sought to improve and to strengthen the existing administrative apparatus. One delegate, by way of example, mentioned the possibility of including the Division into the already existing Centre for Social Development and Humanitarian Affairs. He was concerned about equitable geographic distribution of the staff within the Division. Another one expressed the opinion that the distribution of its existing resources should be made in accordance with the priorities established by the General Assembly.

236. At the 1559th meeting, on 27 February 1980, the representative of Ghana introduced a draft resolution (E/CN.4/L.1506) sponsored by Denmark, Ghana, Pakistan and Zambia, later joined by Australia and Italy. At the 1561st meeting on 28 February an oral amendment proposed by the representative of Brazil was accepted by the co-sponsors. At the same meeting the Commission adopted, without a vote, the draft resolution as orally amended (E/CN.4/L.1506). Statements on the resolution were made by the representatives of Brazil, Ethiopia, the United Kingdom and the Union of Soviet Socialist Republics.

237. At the 1559th meeting the representative of Canada introduced a draft resolution (E/CN.4/L.1509) sponsored by Canada and the Federal Republic of Germany. At the 1561st meeting, on 28 February 1980, Canada announced a change of its text. Oral amendments were proposed by the representatives of Bulgaria, the Byelorussian SSR and the Syrian Arab Republic. The amendments were subsequently issued in documents E/CN.4/L.1516 (Syrian Arab Republic), E/CN.4/L.1517 (Bulgaria) and E/CN.4/L.1518 (Byelorussian SSR). At the 1563rd meeting on 29 February 1980 the representative of Canada, on behalf of the co-sponsors, introduced a revised draft resolution (E/CN.4/L.1509/Rev.1). It was adopted without a vote at the same meeting of the Commission. Statements on the resolution were made by the representatives of the Federal Republic of Germany, Syrian Arab Republic and United States of America.

238. At the 1562nd meeting, on 29 February 1980, the representative of Australia introduced a draft resolution (E/CN.4/L.1514) also sponsored by Costa Rica, India, Nigeria and Yugoslavia. The draft resolution was adopted without a vote at the 1577th meeting, on 11 March 1980.

239. At the 1577th meeting, on 11 March 1980, the representative of Australia introduced a draft resolution (E/CN.4/L.1531) also sponsored by Iraq, Netherlands and Yugoslavia, later joined by Bulgaria. At the same meeting the representative of Australia proposed an oral revision to the draft resolution (E/CN.4/L.1531) which, as orally revised, was adopted without a vote. In this connexion draft resolutions E/CN.4/L.1520 and E/CN.4/L.1512 were not pressed to the vote on the understanding that they would be placed before the Working Group envisaged in E/CN.4/L.1531.

240. Also at the 1577th meeting the representative of France in introducing a draft resolution (E/CN.4/L.1522) proposed some oral revision to the draft resolution. At the same meeting two delegations called for a separate vote on the deletion of operative paragraph 3; the proposed deletion was rejected by 21 votes to 11, with 6 abstentions. The draft resolution (E/CN.4/L.1522), as orally revised, was adopted by 32 votes to none with 10 abstentions.

241. At the 1577th meeting the representative of Syria introduced a draft resolution (E/CN.4/L.1519). In this connexion the Director of the Division of Human Rights submitted to the Commission a statement (E/CN.4/L.1538) of the financial implications of the draft resolution. 1/ The draft resolution was adopted by 38 votes to 1, with 2 abstentions.

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

242. At the 1577th meeting the representative of the United Kingdom introduced a draft resolution (E/CN.4/L.1527) also sponsored by Cyprus, Egypt, Ghana, Greece, Pakistan, Panama, Yugoslavia and Zambia. At the same meeting the representative of the United Kingdom orally revised operative paragraph 1 of the draft resolution. The draft resolution (E/CN.4/L.1527) as orally revised was then adopted without a vote. A statement on the resolution was made by the representative of the Union of Soviet Socialist Republics.

243. For the text of the resolutions, see chapter XXVI, section A, resolutions 22 (XXXVI), 23 (XXXVI), 24 (XXXVI), 25 (XXXVI), 26 (XXXVI), 27 (XXXVI) and 28 (XXXVI).

X. QUESTION OF THE VIOLATIONS OF HUMAN RIGHTS AND  
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD,  
WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER  
DEPENDENT COUNTRIES AND TERRITORIES

244. The Commission considered item 12 and its subitems at its 1564th to 1572nd closed meetings and at its 1573rd to 1577th public meetings on 3 to 7 and 10 and 11 March 1980. The item as a whole was considered at the 1573rd to 1577th public meetings, subitem 12 (a) was considered at the 1573rd public meeting and subitem (b) was considered at the 1564th to 1572nd closed meetings.

Consideration of item 12 as a whole

245. In connexion with its consideration of item 12 as a whole the Commission had before it the following documents:

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350);

Annual reports on racial discrimination submitted by the ILO and UNESCO in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI) (E/CN.4/1356 and Add.1);

Analysis of existing United Nations procedures for dealing with communications concerning violations of human rights (E/CN.4/1317);

General Assembly resolution 34/175 entitled "Effective action against mass and flagrant violations of human rights";

Report of the Secretary-General concerning the situation of human rights in Nicaragua submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities pursuant to Commission on Human Rights resolution 14 (XXXII) (E/CN.4/Sub.2/426);

Addendum to the report of the Secretary-General (E/CN.4/Sub.2/426) concerning the situation of human rights in Nicaragua (E/CN.4/1372);

Study of the human rights situation in Equatorial Guinea prepared by the Special Rapporteur appointed pursuant to resolution 15 (XXXV) of the Commission on Human Rights (E/CN.4/1371 and Corr.1);

Telegram dated 30 March 1979 addressed to the Director of the Division of Human Rights by the representative of Cuba on the Commission on Human Rights concerning Guatemala (E/CN.4/1348) (Rev.1 English only);

Letter dated 14 September 1979 from the Permanent Representative of Guatemala to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights (E/CN.4/1385);

Note by the Secretary-General concerning Guatemala (E/CN.4/1387);



Letter dated 20 February 1980 from the Permanent Mission of Guatemala to the United Nations Office at Geneva addressed to the Chairman of the thirty-sixth session of the Commission on Human Rights (E/CN.4/1399);

Letter dated 20 February 1980 from the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Chairman of the thirty-sixth session of the Commission on Human Rights (E/CN.4/1396);

Letter dated 14 February 1980 from the Permanent Representative of the Mongolian People's Republic to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights (E/CN.4/1394);

Written statement communicated by the Delegation of the United Kingdom of Great Britain and Northern Ireland concerning human rights in Northern Ireland (E/CN.4/1406);

Written information submitted by the Inter-Parliamentary Union, a non-governmental organization in category I consultative status (E/CN.4/NGO/262);

Written communication presented by the Inter-Parliamentary Union, a non-governmental organization with consultative status, category I (E/CN.4/NGO/268);

Written statement submitted by the Institute for Policy Studies, a non-governmental organization in category II consultative status (E/CN.4/NGO/288);

Draft resolution on human rights and fundamental freedoms in Western Sahara sponsored by Algeria, Benin, Burundi, Cuba, Libyan Arab Jamahiriya, Madagascar, Panama, Syrian Arab Republic and Yugoslavia (E/CN.4/L.1455/Rev.1) in accordance with decision 7 (XXXV);

Draft resolution on violations of human rights in the camps at Tindouf and the neighbouring areas sponsored by Gabon, Morocco, Senegal and Zaire (E/CN.4/L.1461) in accordance with decision 7 (XXXV).

246. In connexion with its consideration of the human rights situation in Democratic Kampuchea, the Commission had before it the following documents:

Material received by the Secretary-General pursuant to Commission decision 9 (XXXIV) concerning the human rights situation in Democratic Kampuchea (E/CN.4/Sub.2/414 and Addenda 1-10);

Analysis prepared on behalf of the Sub-Commission by its Chairman of materials concerning Democratic Kampuchea submitted to the Sub-Commission and the Commission on Human Rights under Commission decision 9 (XXXIV) (E/CN.4/1335);

Information submitted by the Government of Democratic Kampuchea: A/34/417, A/34/692, A/34/732, A/34/804, E/CN.4/1295, E/CN.4/1378, E/CN.4/1379, E/CN.4/1380, E/CN.4/1382, E/CN.4/1383, E/CN.4/1384, E/CN.4/1392, E/CN.4/1397, E/CN.4/1400, E/CN.4/1402, E/CN.4/1405;

Information submitted by the Socialist Republic of Viet Nam: E/CN.4/1388, E/CN.4/1389, E/CN.4/1401, E/CN.4/1403.

247. At the Commission's 1573rd meeting on 7 March 1980 and before opening the public debate on item 12 as a whole, the Chairman announced that the Commission

had taken decisions concerning Argentina, Bolivia, Central African Republic, Ethiopia, Indonesia, Paraguay, the Republic of Korea, Uganda and Uruguay in private session under Economic and Social Council resolution 1503 (XLVIII), and that in conformity with paragraph 8 of that resolution, the members could not refer in the public debate to those decisions, nor to any confidential material relating thereto.

248. During the debate on item 12 as a whole which took place at the Commission's 1573rd to 1577th meetings on 7, 10 and 11 March 1980, statements were made by the observers for: China, Czechoslovakia, Democratic Kampuchea, Equatorial Guinea, German Democratic Republic, Guatemala, Hungary, Israel, Italy, Ukrainian Soviet Socialist Republic, Viet Nam. The Commission also heard statements by representatives of the following non-governmental organizations in consultative status with the Economic and Social Council:

International Confederation of Free Trade Unions, International Commission of Jurists, The Anti-Slavery Society for Protection of Human Rights, International Movement for Fraternal Union Among Races and Peoples, International Federation of Human Rights, Institute for Policy Studies, Inter-Parliamentary Union, World Peace Council, Women's International Democratic Federation, International Indian Treaty Council, World Student Christian Federation, World Conference on Religion and Peace, International Union of Students.

249. In introducing the item the Director of the Division of Human Rights noted that the Commission had addressed the question of violations of human rights through debate and action. Forms of action adopted by the Commission included pronouncements, inquiries, studies, good offices and urgent or interim measures. After having reviewed the background to the specific situations before the Commission, the Director referred to a letter received from the Secretariat of the International Year of the Child, requesting guidance regarding appeals and petitions from organizations and individuals concerning alleged maltreatment of children in many areas of the world.

250. In the course of the debate on item 12 as a whole general remarks and suggestions were made concerning how the Commission could proceed more responsively and effectively in handling allegations of gross violations of human rights. Several representatives expressed satisfaction that during 1979 certain situations of mass and flagrant violations of human rights had been ended. They noted, however, that many serious situations still remained to be resolved. Some representatives expressed regret that the Commission had been unable in the past to take effective action regarding serious situations of mass and flagrant violations of human rights. Some representatives referred to the recent positive development of the Commission's capacity to deal with situations of gross violations of human rights. Some representatives stated that in addition to identifying and investigating violations of human rights the Commission should direct its efforts towards assisting Governments in the restoration of respect for human rights and fundamental freedoms and that even though changes in governments had taken place the Commission should continue to be concerned with a view to assisting in the restoration of human rights. Some representatives pointed out that lack of resources and infrastructure were obstacles to the restoration of human rights in certain situations. Representatives also pointed out the importance of co-operating with the Governments concerned in order to attain the objectives of the Commission. Several representatives stated that it was of utmost importance for the Commission to undertake its work in a way to

preserve and strengthen international peace and security and that in accordance with General Assembly resolution 32/130 the Commission should give priority to situations of mass and gross violations of human rights. The Commission should respect the principle of non-intervention in the internal affairs of States and should not take up individual cases since the study by the Commission of such cases constituted intervention in the internal affairs of States and contributed to international tension. Some representatives stated that certain individual cases could be seen as representing a pattern of violations of human rights and could be examined by the Commission. One representative stated that the Commission should express its concern in individual cases only when there was an imminent threat to life.

251. Also in the course of the debate on item 12 as a whole a number of statements were made alleging specific violations of human rights in certain countries and replies were made by the representatives of Governments concerned. These statements dealt, inter alia, with the large-scale murder of persons, torture, arbitrary arrest, detention, confinement in mental institutions, and exile, disappearance of persons, lack of fair trial, foreign occupation, violations of the right to self-determination, racial discrimination, apartheid, and inequality between men and women and the measures taken against persons who did not agree with official government positions in particular with regard to human rights. Statements were also made concerning the violation of trade union rights, the violation of the human rights of indigenous populations, minorities, religious groups, and mass exoduses of populations linked to the violation of human rights. Statements were made concerning violations of economic, social and cultural rights including social inequality, unemployment, malnutrition, illiteracy, lack of health services and adequate housing and it was stressed that these rights were in certain cases denied particularly to minorities. It was also stressed that the unjust international order resulted in the violation of human rights in different parts of the world.

252. At the 1573rd meeting the Special Rapporteur appointed in accordance with Commission resolution 15 (XXXV) to study the situation of human rights in Equatorial Guinea, Professor Fernando Volio Jiménez, introduced his report to the Commission (E/CN.4/1371). In his statement the Special Rapporteur indicated that, in the course of his mission, he had been able to verify the truth of most allegations of gross violations of human rights during the régime of former President Macías, which had been submitted to the Commission. Concerning the current situation, the Rapporteur found that the present Government had taken a number of measures to re-establish respect for human rights; however, certain basic freedoms had not yet been restored, a situation which rendered the enjoyment of human rights precarious. He referred to a variety of difficulties which he had encountered and points on which he had not received the co-operation of the Government which he had hoped and he expressed the hope that the Government would demonstrate increased interest in restoring human rights in the future. He urged the Commission to establish appropriate machinery which could be used to assist the Government in achieving full respect for human rights in the country. During the debate several representatives congratulated the Special Rapporteur on the work accomplished in his difficult mission and on the constructive recommendations made in his report which was termed excellent. They expressed support for the proposal that the Commission should keep the situation under review and devise ways to assist the Government of Equatorial Guinea to strengthen enjoyment of human rights in the country.

253. At the 1575th meeting, on 10 March 1980, the observer for Equatorial Guinea stated that the present Government of Equatorial Guinea gave priority to the restoration of human rights in its development efforts; he informed the Commission of a number of measures adopted by the Supreme Military Council in this respect. In his view, while the Rapporteur's report reflected some of the realities of the Equatorial Guinea situation, the report did in other respects not give a proper appreciation of the facts: in particular, it underestimated the commitment of his Government to the full restoration of human rights in the country. He emphasized that his country had a great need for international reconstruction assistance and would appreciate any help which the Commission on Human Rights could provide.

254. An extensive discussion took place on the subjects described in the following paragraphs during the 1573rd to 1577th meetings. An abridged record of that discussion appears in annex V to this report.

### Resolutions and decisions

#### Democratic Kampuchea

255. The Commission on Human Rights at its thirty-fifth session had decided (decision 6 (XXXV)) to postpone to its thirty-sixth session consideration of the analysis of materials concerning Democratic Kampuchea prepared by the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities pursuant to Commission decision 9 (XXXIV). At its thirty-sixth session the Commission had before it in that connexion a number of documents listed in paragraph 246 above. At the Commission's 1573rd meeting the representative of Mongolia introduced the draft resolution contained in document E/CN.4/L.1524 sponsored by Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Czechoslovakia, Democratic Yemen, Ethiopia, German Democratic Republic, Hungary, Mongolia, Poland, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics and Viet Nam. At the Commission's 1574th meeting the representative of Australia introduced the draft resolution contained in document E/CN.4/L.1532 sponsored by Australia, Canada, Pakistan, Panama, Philippines, Thailand and the United Kingdom of Great Britain and Northern Ireland. At the Commission's 1575th meeting on 10 March 1980 the representative of Australia proposed that under paragraph 1 of rule 65 of the rules of procedure of the functional commission of the Economic and Social Council priority be given in the voting to the draft resolution contained in document E/CN.4/L.1532. The Commission adopted this proposal by a vote of 22 to 9, with 9 abstentions. At the Commission's 1576th meeting and at the request of the representative of Australia, the Commission adopted by 20 votes to 9, with 6 abstentions, the draft resolution contained in document E/CN.4/L.1532. The voting was as follows:

- In favour: Canada, Colombia, Costa Rica, Denmark, Egypt, France, Germany, Federal Republic of, Ghana, Greece, Ivory Coast, Morocco, Netherlands, Nigeria, Pakistan, Panama, Philippines, Portugal, Senegal, United Kingdom of Great Britain and Northern Ireland, United States of America.
- Against: Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, India, Mongolia, Poland, Syrian Arab Republic, Union of Soviet Socialist Republics.
- Abstaining: Algeria, Argentina, Brazil, Iraq, Jordan, Yugoslavia.

256. Statements in explanation of vote were made by Australia, Bulgaria, Cuba, Egypt, Mongolia, Pakistan and USSR. The representative of Iran did not participate in the vote. The representatives of Australia, Burundi and Uruguay requested that it be recorded that their absence during the vote was accidental and that, had they been present, they would have voted for the draft resolution. A statement of financial implications 1/ was submitted to the Commission. For the text of the resolution, see chapter XXVI, section A, resolution 29 (XXXVI).

257. At that same meeting the representative of Pakistan proposed in accordance with paragraph 2 of rule 65 of the rules of procedure of the functional commissions of the Economic and Social Council that no decision be taken on the draft resolution contained in document E/CN.4/1524. This proposal was adopted by a vote of 21 to 9, with 8 abstentions.

#### Question of large-scale exoduses of persons

258. The Commission on Human Rights at its thirty-fifth session decided to postpone consideration of the question of large-scale exoduses to its thirty-sixth session and the Commission at its thirty-sixth session had before it in relation to this matter a draft resolution on the subject submitted by the representative of Canada to the thirty-fifth session of the Commission (E/CN.4/L.1452) and amendments thereto submitted by the representative of the Syrian Arab Republic (E/CN.4/L.1475). At the Commission's 1574th meeting the representative of Canada introduced a draft resolution contained in document E/CN.4/L.1530 and sponsored by Canada, Costa Rica, Pakistan, Panama, Philippines, Senegal, United States of America, which were later joined by Australia and Zambia.

259. At the Commission's 1576th meeting on 11 March 1980 the representative of Mongolia introduced document E/CN.4/L.1539 sponsored by Bulgaria, Byelorussian Soviet Socialist Republic and Mongolia, and which contained amendments to the draft resolution contained in document E/CN.4/L.1530. After a discussion the sponsors of the draft resolution contained in document E/CN.4/L.1530 accepted the amendments contained in paragraphs 1, 2, 3, 4 and 5 of document E/CN.4/L.1539. The amendment in paragraph 6 in document E/CN.4/L.1539 was rejected by 17 votes to 9, with 12 abstentions; the amendment contained in paragraph 7 of document E/CN.4/L.1539 was rejected by 19 votes to 7, with 13 abstentions; the amendment contained in paragraph 8 of document E/CN.4/L.1539 was rejected by 19 votes to 7, with 12 abstentions.

260. At that same meeting the sponsors accepted an oral amendment proposed by the Syrian Arab Republic to the effect that a reference to the fourth Geneva Convention Relating to the Protection of Civilian Persons in Time of War of 12 August 1949 be added to operative paragraph 1. The sponsors also accepted an oral amendment by Iraq removing the reference to on-site visits from operative paragraph 4. The sponsors also announced that as a result of observations by the representative of India reference to countries of first asylum would be changed to the first host countries. The draft resolution contained in document E/CN.4/L.1530 as amended was adopted by a vote of 34 to 4, with 3 abstentions. For the text of the resolution, see chapter XXVI, section A, resolution 30 (XXXVI).

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

### Human rights of United Nations staff members

261. At the Commission's 1574th meeting the representative of Portugal introduced a draft resolution sponsored by Canada, Costa Rica, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland and Uruguay and contained in document E/CN.4/L.1533. At the Commission's 1576th meeting on 11 March 1980 the representative of the Syrian Arab Republic with reference to the request to the Secretary-General contained in operative paragraph 2 of the draft resolution proposed an oral amendment replacing the words "to take such action as may be necessary" with "to use his good offices". At that same meeting this oral amendment was accepted by the sponsors and the draft resolution contained in document E/CN.4/L.1533 as amended was adopted without a vote. The representative of the USSR explained his position with regard to the resolution. For the text of the resolution, see chapter XXVI, section A, resolution 31 (XXXVI).

### Guatemala

262. The Commission on Human Rights at its thirty-fifth session in its decision 12 (XXXV) decided to send a telegram to the Government of Guatemala concerning the assassination of Dr. Alberto Fuentes Mohr in which the Commission stated it would welcome some information on the matter before the beginning of its thirty-sixth session. At its thirty-sixth session the Commission had before it in that connexion a number of documents under the symbols: E/CN.4/1348, E/CN.4/1385, E/CN.4/1387 and E/CN.4/1399. At the Commission's 1574th meeting the representative of Cuba introduced a draft resolution sponsored by Canada, Cuba, Denmark, Iraq, Netherlands and Yugoslavia contained in document E/CN.4/L.1535. At the Commission's 1576th meeting on 11 March 1980 the representative of the Federal Republic of Germany proposed an oral amendment which was accepted by the sponsors of the draft resolution under which the Commission would decide to review the situation of human rights in Guatemala at its thirty-seventh session on the basis of information received from all relevant sources. At that same meeting the representative of the United States proposed an oral amendment under which the Commission would note with satisfaction the decision of the Government of Guatemala to invite the Inter-American Commission on Human Rights to visit that country and prepare a report on the situation of human rights; the representative of Cuba stated his opposition to that amendment. At that same meeting the oral amendment proposed by the representative of the United States was adopted by 18 votes to 6 with 13 abstentions and the draft resolution contained in document E/CN.4/L.1535 as amended was adopted by 26 votes to 2 with 14 abstentions. Statements in explanation of vote were made by the representatives of Argentina, Costa Rica, Cuba and Panama. For the text of the resolution, see chapter XXVI, section A, resolution 32 (XXXVI).

### Equatorial Guinea

263. At the Commission's 1576th meeting on 11 March 1980 the representative of Canada introduced a draft resolution sponsored by Canada and contained in document E/CN.4/L.1541. At the Commission's 1577th meeting, on 11 March 1980 the representative of India submitted the following amendments to the draft resolution contained in document E/CN.4/L.1541:

(a) In the first operative paragraph, after the word "Decides", insert the words "in response to the request of the Government of Equatorial Guinea";

(b) In the second operative paragraph, delete the words "within the framework of United Nations technical assistance programmes";

(c) Change the relevant parts of the sixth operative paragraph which contained a draft decision for recommendation to the Economic and Social Council in order to bring it into line with (a) and (b).

The amendments proposed were accepted by the sponsor and by the observer for Equatorial Guinea. Following an explanation by the Director of the Division of Human Rights concerning the relationship between the advisory services in the field of human rights and the technical assistance programmes of the United Nations, the representative of Ghana proposed that the relevant sentence in operative paragraph 2 could be retained or amended to read: "within the framework of the advisory services programme of the Division of Human Rights". Another delegation indicated that the draft resolution could be adopted as amended by the representative of India, on the understanding that it would fall within the terms of General Assembly resolution 34/123 on assistance for the reconstruction, rehabilitation and development of Equatorial Guinea. Since the representative of Ghana did not insist on his proposal, the draft resolution contained in document E/CN.4/L.1541 as amended, was adopted without a vote. A statement of financial implications <sup>2/</sup> was submitted to the Commission. For the text of this resolution, see chapter XXVI, section A, resolution 33 (XXXVI).

264. Also at the Commission's 1576th meeting, the representative of Australia introduced a draft resolution (E/CN.4/L.1543) on the question of technical assistance for reconstruction in the field of human rights sponsored by Australia, Netherlands and Zambia, and, at the same time the representative of Australia stated that the sponsors did not intend to bring the draft resolution to a vote at the thirty-sixth session of the Commission.

#### Message on the question of Sakharov

265. At the Commission's 1526th meeting on 5 February 1980 in connexion with its consideration of the organization of its work the representative of France on behalf of the Western European and other States introduced a draft telegram contained in document E/CN.4/L.1483. At the Commission's 1527th meeting a proposal by the representative of Iraq that the discussion of the question of Mr. Sakharov be postponed and included under item 12 and to give it then a priority was adopted by a vote of 15 to 13, with 12 abstentions. At the Commission's 1574th meeting on 10 March 1980 in connexion with the consideration of agenda item 12 the representative of the United Kingdom introduced a draft decision contained in document E/CN.4/L.1534 and sponsored by Costa Rica; Germany, Federal Republic of; Netherlands; Panama; Portugal and the United Kingdom of Great Britain and Northern Ireland. At the Commission's 1576th meeting on 11 March 1980 upon the proposal of the Chairman, the Commission decided without a vote to defer consideration of the question in draft decision E/CN.4/L.1534 until the thirty-seventh session with a priority. The representatives of the United States and USSR explained their position with regard to the decision. For the text of the decision, see chapter XXVI, section B, decision 11 (XXXVI).

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<sup>2/</sup> A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

## Situation of human rights in Northern Ireland

266. At the Commission's 1576th meeting on 11 March 1980 the representative of the Soviet Union referred to a draft resolution contained in document E/CN.4/L.1536 sponsored by the Union of Soviet Socialist Republics. The representative of the Soviet Union stated he was withdrawing the draft resolution and would revert to it in due course. In view of the withdrawal of the draft resolution, the observer for Ireland said he understood that the Commission would not now debate or take action upon its subject-matter. In those circumstances, he withdrew his request to make a statement. In connexion with the subject the Commission also had before it a statement concerning the situation of human rights in Northern Ireland submitted by the delegation of the United Kingdom (E/CN.4/1406).

## Western Sahara and Tindouf

267. At its thirty-fifth session the Commission decided (decision 7 (XXXV)) to postpone consideration of a draft resolution on Western Sahara (E/CN.4/L.1455/Rev.1) and a draft resolution on the camps of Tindouf and the neighbouring area (E/CN.4/L.1461) to its thirty-sixth session. At the Commission's thirty-sixth session, the Chairman, during the consideration of agenda item 12 at the 1577th meeting, proposed to the Commission that it should decide not to give effect to decision 7 (XXXV) at its thirty-sixth session. The proposal was approved without a vote. For the text of the decision, see chapter XXVI, section B, decision 12 (XXXVI).

### A. Question of human rights in Cyprus

268. With regard to item 12 (a), the Commission had before it the report of the Secretary-General submitted to the Commission at its thirty-fifth session in accordance with Commission resolution 17 (XXXIV), containing information relevant to the consideration of the question with special reference to the implementations of the Commission's repeated calls for the full restoration of all human rights to the population of Cyprus, in particular to the refugees (E/CN.4/1323). The Commission also had before it the report of the Secretary-General pursuant to a Commission decision 5 (XXXV) (E/CN.4/1373) and General Assembly resolution 34/30 entitled "Question of Cyprus".

269. At the Commission's 1573rd meeting the Chairman of the Commission proposed, after consultations with the interested parties, that the item 12 (a) entitled "Question of Human Rights in Cyprus" be postponed to the next session of the Commission, with due priority at that session. The Commission adopted this proposal without a vote, it being understood that action required by previous resolutions of the Commission on this subject continue to remain operative including the request to the Secretary-General to provide a report to the Commission regarding their implementation. The observer for Turkey requested that his reservations with regard to the previous resolutions of the Commission be placed on record. For the text of the decision see chapter XXVI, section B, decision 13 (XXXVI).



B. Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-fifth session

270. The Commission considered item 12 (b) at its 1564th to 1572nd closed meetings. The Commission had before it confidential documents containing material referred to it under Economic and Social Council resolution 1503 (XLVIII) and observations thereon received from Governments, and a confidential report submitted to the Commission by its working group established by Commission decision 13 (XXXV), as well as reports prepared by the Secretary-General pursuant to Commission resolution 15 (XXXIV) concerning the implementation of the confidential decisions adopted by the Commission at its thirty-fifth session under Council resolution 1503 (XLVIII). The Commission also had before it the relevant chapter of the report of the Sub-Commission on its thirty-second session (E/CN.4/1350, chap. X).

271. Pursuant to paragraph 8 of Council resolution 1503 (XLVIII), the actions taken by the Commission during the consideration of the item in closed session are confidential until such time as the Commission may decide to make recommendations to the Economic and Social Council.

272. At its 1570th closed meeting the Commission decided to conclude its examination of a situation relating to Malawi by making recommendations to the Economic and Social Council in accordance with paragraph 8 of Economic and Social Council resolution 1503 (XLVIII). The situation, which had also been examined at the Commission's thirty-third, thirty-fourth and thirty-fifth sessions, concerned the alleged persecution of Jehovah's Witnesses in Malawi. The Commission thus concluded examination of a situation brought to its attention under Economic and Social Council resolution 1503 (XLVIII) by making recommendations relating thereto to the Economic and Social Council. For the text of the decision, see chapter XXVI, section B, decision 10 (XXXVI).

273. At its 1566th closed meeting the Commission adopted a general decision to the effect that States, in respect of which situations are being considered under Economic and Social Council resolution 1503 (XLVIII) and which are invited to send representatives to the Commission in accordance with Commission decision 5 (XXXIV), shall have the right to attend and to participate in the entire discussion of the situation in which they are concerned and to be present during the adoption of the decision taken in regard to that situation.

274. At its 1572nd closed meeting the Commission adopted a general decision that a working group of five of its members should be established to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) by the thirty-third session of the Sub-Commission and those situations which the Commission has decided to keep under review. A statement of financial administrative implications <sup>3/</sup> was submitted to the Commission. At the 1573rd meeting it was decided that the general decisions should be made public. For the text, see chapter XXVI, section B, decisions 8 (XXXVI) and 9 (XXXVI).

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<sup>3/</sup> A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

275. At the 1581st meeting the Chairman announced that, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council, and after consultations with the regional groups, the following members of the Commission have been nominated to serve in their personal capacity on the working group on situations of violations of human rights:

- Mr. Octavio Ferrer A. (Panama)
- Mr. Mohamed Redha Al Jabiri (Iraq)
- Mr. Chama L. C. Mubanga Chipoya (Zambia)
- Mr. Max van der Stoep (Netherlands)
- Mr. Ivan Toševski (Yugoslavia)

## XI. QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD

276. The Commission decided at its 1526th meeting that an informal open-ended working group should be established to consider agenda item 13 "Question of a Convention on the rights of the child".

277. The report of the working group reads as follows:

"...

1. The open-ended Working Group held meetings on 22, 25, 26, 27, 28 and 29 February and 7 March 1980. At its first meeting, Mr. Adam Lopatka (Poland) was elected Chairman-Rapporteur by acclamation. The Working Group adopted this report at its last meeting, held on 7 March 1980. By consensus decision of the Working Group, that meeting was chaired by Mr. Andrzej Olszówka (Poland).

2. The Working Group had before it the text of a draft Convention on the Rights of the Child annexed to Commission resolution 20 (XXXIV) of 8 March 1978 and the report of the Secretary-General on the views, observations and suggestions on the question submitted by Member States, competent specialized agencies, regional intergovernmental organizations and non-governmental organizations (E/CN.4/1324 and Corr.1 and Add.1-5). In addition, the Working Group had before it the text of a revised draft Convention submitted by Poland on 5 October 1979 (E/CN.4/1349). The Working Group also had before it a number of Sub-Commission documents relating to the exploitation of child labour which the Sub-Commission, by paragraph 4 of resolution 7 B (XXXII), had recommended be taken into account in drafting the appropriate articles of the Convention (E/CN.4/Sub.2/433; E/CN.4/Sub.2/434; E/CN.4/Sub.2/SR.835 and 836). Two non-governmental organizations in consultative status also submitted written statements for consideration by the Commission (E/CN.4/NGO/265 and 276).

3. At its first meeting, following the proposal of the Chairman, the Working Group took up the revised draft Convention contained in document E/CN.4/1349, which incorporated the four preambular paragraphs adopted by the Working Group the previous year, as its basic working document.

4. In the course of the general discussion at that meeting, some representatives suggested that the term 'child' should be clearly defined, and perhaps replaced by a more precise term with greater juridical significance, such as 'minor' before proceeding with the adoption of further paragraphs. It was also pointed out that, at the previous session, the Working Group had adopted the title of the Convention on the understanding that it might later decide to change it. However, other representatives expressed support for the idea of proceeding with the discussion and formulation of the rest of the preamble immediately. It was therefore decided to postpone the discussion of the definition until the Working Group considered article 1 of the draft Convention.

#### Fifth preambular paragraph

5. At its second meeting, the Working Group began its consideration of the rest of the preamble.

6. The representative of the Holy See, in accordance with other delegations, suggested that the text of the fifth preambular paragraph should be amended by inserting the words, taken from the Declaration of the Rights of the Child, 'before as well as after birth' after the words 'particular care and assistance'. A number of delegations argued in support of the amendment on the grounds that their national legislation contained provisions protecting the rights of the unborn child from the time of conception. They stated that the purpose of the amendment was not to preclude the possibility of abortion, since many countries had adopted legislation providing for abortion in certain cases, such as a threat to the health of the mother. Some delegations referred to the fact that the Declaration of the Rights of the Child of 1959 contained the sentence proposed.

7. Other delegations, however, opposed the amendment. In their view, this preambular paragraph should be indisputably neutral on issues such as abortion. They stated that the definition of 'child' should be contained in article 1 and that nothing in the preamble should prejudice or slant the definition formulated in article 1.

8. Some representatives appealed to the proponents of the amendment not to insist on it at that stage, and to accept the text contained in the draft on the understanding that the Working Group could revert to it at a later stage. The representative of Ireland suggested that the amendment could be inserted in the text in square brackets and the Working Group could make a final decision after having discussed article 1. The representative of the Holy See expressed agreement with the proposed solution, which was supported by a number of other delegations. The fifth preambular paragraph was therefore adopted with the proposed amendment in square brackets, on the understanding that the final language would be agreed upon after the adoption of article 1.

9. Subsequently, at the third meeting, the representative of Greece suggested that the words 'physical and mental' before the word 'development' at the beginning of the paragraph should be deleted since they were already contained later on in the paragraph. It was decided that the Working Group should consider this proposal when it came back to this paragraph to decide on its final formulation.

10. Debate on the amendment proposed by the Holy See was resumed at the fourth meeting, after adoption of article 1. Several delegations argued that the text inserted in square brackets should be deleted in order to ensure the neutrality of the preamble. One representative expressed the view that, since article 1 had been adopted with a neutral wording, the Convention should not appear to give a different interpretation in the preamble. It was also stated that since national legislation differed greatly on the question of abortion, the Convention could be widely ratified only if it did not take sides on the issue.

11. Other delegations, speaking in support of the amendment, stated that, in their view, the wording was sufficiently neutral since it did not specify the length of the period before birth which was covered. They again argued that all national legislations included provisions for the protection of the child before birth. One delegation considered that the proposal could be extended to cover legal protection in view of the fact that most legislations protected, for example, the inheritance rights of children who had not even yet been born.

12. A number of representatives expressed the view that, if agreement could not be reached at the current session, discussion should proceed on the rest of the Convention in the hope that the group might achieve a consensus after further consultations. One delegate pointed out that a compromise might be possible on the basis of the fact that all delegations agreed that some kind of protection and assistance before birth was necessary: in his view, the disagreement lay in the precise definition of what kind of protection and assistance should be specified in the Convention.

13. The observer of the International Union for Child Welfare, supported by some delegations, suggested that, since the seventh preambular paragraph of document E/CN.4/1349 made reference to the Declaration on the Rights of the Child of 1959, the Holy See amendment could be deleted on the understanding that the Declaration (including its third preambular paragraph containing a wording similar to the proposed amendment) remained in force under the proposed Convention. Other delegations, however, opposed returning to the original text.

14. At the same meeting, the Working Group decided on a further postponement of the issue until an acceptable compromise could be found.

15. At the fifth meeting of the Working Group, the Chairman announced that a compromise text had been elaborated following consultation. The new text would amend the beginning of the paragraph to read:

'recognizing that, as stated in the Declaration on the Rights of the Child, the child due to the needs of his physical and mental development ...'.

The rest of the original preambular paragraph would remain, without the insertion in square brackets proposed by the Holy See.

16. Further discussion ensued, in the course of which the delegate of Australia proposed that the reference to the Declaration on the Rights of the Child be made more specific by adding the words 'adopted in 1959'.

17. The delegate of the United States proposed that the words 'as stated in' be changed to 'as indicated in'; that a semi-colon be inserted after the words 'moral and social development' and that the words 'as well as legal protection' be changed to read 'and also requires legal protection'.

18. Some delegations objected to the amendment proposed by the United States, indicating that they needed time to reflect on its legal significance. Others were not satisfied by that delegation's explanation that the amendment

was necessary in order to ensure the complete neutrality of the text, and expressed concern that the draft Convention would be slanted in favour of legalizing abortion. They re-emphasized their contention that the draft Convention should ensure protection for children both before and after birth. In reply, the delegate of the United States argued that any attempt to institutionalize a particular point of view on abortion in the draft Convention would make the Convention unacceptable from the outset to countries espousing a different point of view. Accordingly, he insisted that the draft Convention must be worded in such a manner that neither proponents nor opponents of abortion can find legal support for their respective positions in the draft Convention.

19. After further discussion, a compromise text was adopted which read as follows:

'Recognizing that, as indicated in the Declaration on the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security.'

#### Sixth preambular paragraph

20. At the second meeting of the Working Group, the representative of the Netherlands proposed that the word 'happiness' be inserted immediately before the words 'love and understanding' at the end of the paragraph.

21. The Working Group then adopted the sixth preambular paragraph with the proposed amendment.

#### Seventh preambular paragraph

22. The Working Group adopted the seventh preambular paragraph without changes at its second meeting.

#### Eighth preambular paragraph

23. At the second meeting of the Working Group, the representative of the Netherlands proposed to insert the word 'individual' before the word 'freedom' in the last part of the paragraph.

24. Some delegations, however, opposed the amendment on the grounds that it detracted from the notion of freedom contained in the text. One representative stated that the text could be approved as it stood, on the understanding that the Working Group could return to it at a later stage if it was felt that the concept of individual freedom was not sufficiently covered by other articles of the draft Convention.

25. The eighth preambular paragraph was then adopted without changes on the above-mentioned understanding.

### New preambular paragraph

26. At the third meeting, the representative of the United Kingdom repropoed a new preambular paragraph which had been submitted by his delegation the year before but had not been considered owing to lack of time. The new paragraph, which he suggested should be inserted between the third and fourth preambular paragraphs of the new draft, read as follows:

'Recalling that in the Universal Declaration of Human Rights, the United Nations had proclaimed that childhood is entitled to special care and assistance,'.

27. Several delegations expressed support for this proposal. Some delegations pointed out that they did not oppose the insertion of the new paragraph although, in their view, it was somewhat repetitious of preambular paragraph five. The new paragraph was therefore adopted for insertion into the preamble as proposed. Subsequently, one delegation observed that the order of the paragraphs in the preamble could be rearranged at a later stage for the sake of logical consistency.

### Article 1

28. At its third meeting, the Working Group considered article 1 of the draft Convention. There was considerable debate concerning the initial and terminal points which define the concept of child, as contained in the article.

29. Some delegates opposed the idea that childhood begins at the moment of birth, as stated in the draft article, and indicated that this is contrary to the legislation of many countries. They argued that the concept should be extended to include the entire period from the moment of conception. Other delegates asserted that the attempt to establish a beginning point should be abandoned and that wording should be adopted which was compatible with the wide variety of domestic legislation on this subject.

30. The representative of Morocco proposed that the words 'from the moment of his birth' should be deleted from the article in order to solve the difficulty. Several delegations supported the proposed amendment.

31. The first part of the article was therefore adopted with the amendment proposed by Morocco.

32. Concerning the terminal point of the concept of child as defined in the article, some delegates pointed out that the age of 18 appeared to be quite late in light of some national legislations and that a lower age limit should be recommended. It was suggested that, since the General Assembly had set the age limit at 15 in connexion with the International Year of the Child, the same position should be adopted in the draft Convention. It was also pointed out that 14 was the age of the end of compulsory education in many countries, and the legal marriage age for girls in many parts of the world. In this view, setting the age limit of 14 would also establish a clear distinction between the concept of minor and that of child, since the former was protected under many national legislations while the latter was not.

33. Other delegates, however, opposed the lowering of the age limit to 15 because their domestic legislation embodied protective measures for children beyond that age, and they believed that the draft Convention should apply to as large an age group as possible. They argued in favour of retaining the wording of the draft article which, in any event, is qualified by the reference to national legislation.

34. The observer for the International Union for Child Welfare, a non-governmental organization in consultative status, suggested that reference to an upper age limit could be eliminated by amending the text of the article to read:

'According to the present Convention a child is every human being who has not attained the age of majority in conformity with the law of his state.'

35. A number of delegations, however, opposed the idea of making the definition depend on the concept of majority age, since this varied widely between countries and also within national legislations, according to whether the civil, penal, political or other aspects of majority were at issue. Others, while not opposing this formulation, pointed out that the original text took care of the objections raised by making reference to national legislation.

36. At the fourth meeting of the Working Group, the second part of article 1 was adopted in its original version. One representative recalled that he had expressed reservations concerning the specifying of the age of 18 in article 1 and said that his delegation might consider it necessary to refer again to this matter, including in the plenary of the Commission. Another delegation reserved its position on the number '18', stating that a person at that age is not a child.

## Article 2

37. At the fourth meeting, the Working Group considered article 2 (1) of the draft Convention. The representative of the United States of America proposed that the wording of the article should be amended to read:

'1. In accordance with the laws or practices of each Contracting State, the child shall have the right from his birth to acquire a name and a nationality.'

He pointed out that the proposed amendment would bring the draft Convention in line with article 24 of the International Covenant on Civil and Political Rights and would help to prevent difficulties under the immigration and nationality laws of various States. In particular, he maintained that the amendment would avoid any implication that the draft Convention would automatically entitle stateless children entering the territory of a State party to the nationality of that State.

38. Some delegations opposed the amendment on humanitarian grounds, in order to provide protection for stateless children. It was also argued that the wording of article 2 (1) was of a general nature, while the second paragraph would include more specific provisions.



39. On the suggestion of the Chairman, the Working Group adopted the following compromise text:

'1. The child shall have the right from his birth to a name and to acquire a nationality.'

40. At the fifth meeting, the delegation of Australia submitted the following amendment to article 2 (2):

'2. The States parties to the present Convention shall ensure that their legislation recognizes the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.'

41. The representative of Australia explained that the first part of his amendment was meant to remove the implication in the original draft that the principle in question was not already contained in most national legislations; the second, and most important, part was aimed at bringing the draft Convention as close as possible to the general principles of the Convention on the Reduction of Statelessness of 1961.

42. Discussion on the proposed amendment began at the fifth meeting of the Working Group. Some delegations expressed their opposition on the grounds that the law of their countries did not provide for automatic granting of nationality to children of foreign parents born there.

43. The Working Group, however, was unable to continue consideration of article 2 (2) because of lack of time.

#### Other provisions of the draft Convention

44. In addition, the Working Group had before it the following amendments which were not discussed by the Working Group owing to lack of time:

(a) A proposal by the representative of Australia to amend article 3 as follows:

'Replace article 3 (2) by:

The States parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and responsibilities of his parents and the stage of the child's development towards full responsibility and, to this end, shall take all necessary legislative and administrative measures.

Replace article 3 (3) by:

The States parties to the present Convention shall ensure competent supervision of persons and institutions directly responsible for the care of children.'

(b) A proposal submitted by the delegation of the United States of America to replace article 3 by the following:

'Article 3

1. In all official actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.

2. In all judicial or administrative proceedings affecting a child that has reached the age of reason, an opportunity for the views of the child to be heard as an independent party to the proceedings shall be provided, and those views shall be taken into consideration by the competent authorities.

3. Each State party to this Convention shall support special organs which shall observe and make appropriate recommendations to persons and institutions directly responsible for the care of children.

4. The States parties to this Convention undertake, through passage of appropriate legislation, to ensure such protection and care for the child as his status requires.'

(c) A proposal by the representative of Australia to amend article 4 as follows:

'Delete article 4 (2).

Insert new article 4 bis:

The States parties to the present Convention shall take all appropriate measures, individually or jointly within the framework of international co-operation, for the full and effective implementation of the rights recognized in the Convention.'

45. Several delegations expressed the view that the Working Group should ask the Commission to request the Economic and Social Council to authorize the Working Group to meet for one week prior to the next session of the Commission in order to facilitate completion of the work on the draft Convention. Several other delegations, however, opposed this view.

Annex

Paragraphs of the draft Convention on the Rights of the Child  
adopted by the Working Group

The States Parties to the Convention,

Considering that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the

dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that in the Universal Declaration of Human Rights, the United Nations had proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that, as indicated in the Declaration on the Rights of the Child adopted in 1959, the child due to the needs of his physical and mental development requires particular care and assistance with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

Recognizing that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of happiness, love and understanding,

Bearing in mind that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood,

Have agreed as follows:

#### Article 1

According to the present Convention a child is every human being to the age of 18 years unless, under the law of his State, he has attained his age of majority earlier.

## Article 2

1. The child shall have the right from his birth to a name and to acquire a nationality."

278. At its 1578th meeting, the Commission adopted without a vote the report of the Working Group (E/CN.4/L.1542) which had met under the chairmanship of Mr. Adam Lopatka (Poland) and a revised draft resolution submitted by Poland (E/CN.4/L.1513/Rev.1). In that connexion the Director of the Division of Human Rights made a statement concerning financial implications. 1/ For the text of the resolution see chapter XXVI, section A, resolution 36 (XXXVI).

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

XII. IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON  
THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF  
APARTHEID

279. The Commission considered agenda item 16 together with items 6, 7 and 20 (see chaps. IV, V, and XV) at its 1547th to 1553rd and 1556th meetings, held from 19 to 22 February, and on 26 February 1980.

280. In pursuance of article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Chairman of the Commission on Human Rights, at the thirty-fifth session, appointed a Group of three members of the Commission, consisting of the representatives of Bulgaria, Cuba and Senegal, who were also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII.

281. By its resolution 10 (XXXV) of 5 March 1979, the Commission decided, inter alia, that the Group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-sixth session of the Commission to study the reports submitted by States parties in accordance with article VII; it also urged the States parties which had not yet done so to submit their reports as soon as possible, bearing in mind the general guidelines proposed by the Group at its 1978 session (E/CN.4/1286, annex).

282. The Commission had before it, at its thirty-sixth session, the report and recommendations of the Group to the Commission (E/CN.4/1358) and a note by the Secretary-General (E/CN.4/1353) concerning reports submitted by States parties under article VII of the Convention. The following reports, transmitted to the Secretary-General by 10 States parties to the Convention, were made available to the Commission: United Arab Emirates (E/CN.4/1353/Add.1), Syrian Arab Republic (E/CN.4/1353/Add.2), Iraq (E/CN.4/1353/Add.3), German Democratic Republic (E/CN.4/1353/Add.4), India (E/CN.4/1353/Add.5), Hungary (E/CN.4/1353/Add.6), Cuba (E/CN.4/1353/Add.7), Yugoslavia (E/CN.4/1353/Add.8), Tunisia (E/CN.4/1353/Add.9) and Bulgaria (E/CN.4/1353/Add.10). The Commission also had before it a note by the Secretary-General (E/CN.4/1357) relating to the exercise of the functions set out in article X of the Convention.

283. At its 1550th meeting, the Commission heard a statement by Mr. Frank Ortiz-Rodríguez (Cuba), the Chairman/Rapporteur of the Group, who introduced the report of the Group on its third session.

284. During the general debate, several members of the Commission stressed the importance of the International Convention on the Suppression and Punishment of the Crime of Apartheid as an international instrument in support of action to eliminate all practices of segregation and racial discrimination and appealed to States parties to the Convention fully to implement its provisions. In that connexion, they noted with regret that only 54 States were so far parties to the Convention and that no State party to the Convention belonged to the group of Western European and other States; one speaker pointed out that only 23 of the 43 members of the Commission had acceded to the Convention. Those speakers,

therefore, wished to endorse the recommendation made by the Group that the Commission should appeal to all States which had not yet done so to ratify or accede to the Convention without delay.

285. Other delegations expressed reservations against this Convention which was incompatible with their legal system and was, in their view, not suited to contribute to the abolition of apartheid.

286. Referring to the report (E/CN.4/1358) of the Group to the Commission, many speakers expressed their appreciation of the work of the Group at its 1980 session and their full support for its conclusions and recommendations to the Commission. General satisfaction was also expressed at the high quality of the reports submitted by States parties in accordance with article VII of the Convention.

287. It was suggested that the Group should, in future, analyse the relationship existing between the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the Prevention and Punishment of the Crime of Genocide, in order to determine the limits between those instruments, especially with regard to article II of both Conventions, and to avoid overlap of jurisdictions. Some members were of the view that particular consideration should be given to the recommendation of the Group by which the Commission should request the Secretary-General to study the possibility of convening a diplomatic conference of States parties for the purpose of considering the modalities of the establishment of the international penal tribunal referred to in article V of the Convention.

288. Some speakers referred to the provisions of article X of the Convention. By that article, the States parties empower the Commission on Human Rights, inter alia, to prepare, on the basis of reports from competent organs of the United Nations and periodic reports from States parties, a list of individuals, organizations, institutions and representatives of States which are alleged to be responsible for the crimes enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States parties to the Convention. One speaker wished to receive clarification concerning the procedure to be followed for the preparation of that list.

289. In that connexion, it was recalled that in paragraph 17 of its resolution 12 (XXXV), the Commission had requested the Ad Hoc Working Group of Experts on southern Africa, in co-operation with the Special Committee against Apartheid, to investigate the cases of torture and murder of detainees in South Africa and to submit a special report on its investigation to the Commission at its thirty-sixth session.

290. In response to the request of the Commission, the Ad Hoc Working Group of Experts had submitted to the Commission at its thirty-sixth session a special report (E/CN.4/1366) containing the analysis made in the light of articles II and III of the Convention of the cases of torture and murder in South Africa referred to in paragraph 17 of Commission resolution 12 (XXXV).

291. Several speakers supported the recommendation of the Ad Hoc Working Group of Experts that the list of persons alleged to be guilty of the crime of apartheid within the meaning of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and in particular articles II and III

thereof, should be published in the greatest possible number of newspapers and brought to the knowledge of the public by all other information media. A delegation suggested that the list should be distributed to the States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid so that the persons listed might be brought to judgement under the pertinent articles of the Convention.

292. Several speakers expressed their satisfaction at the decision adopted by the General Assembly in paragraph 20 of the annex to its resolution 34/24, regarding a study to be undertaken in 1980 by the Ad Hoc Working Group of Experts on southern Africa on ways and means of implementing the Convention, including the establishment of the international jurisdiction envisaged by the Convention.

293. At the 1553rd meeting, on 22 February 1980, the representative of Senegal introduced a draft resolution (E/CN.4/L.1494) sponsored by Burundi, Cuba, Egypt, Ghana, India, Jordan, Morocco, Pakistan, Poland, Senegal and the Syrian Arab Republic. At the 1556th meeting, on 26 February 1980, the Commission adopted draft resolution E/CN.4/L.1494 by 30 votes to 1, with 9 abstentions.

294. Also at the 1553rd meeting on 22 February 1980 the representative of Cuba introduced another draft resolution (E/CN.4/L.1496) sponsored by Bulgaria, Cuba, Nigeria, Senegal and the Syrian Arab Republic. A statement of the financial implications of the draft resolution was brought to the attention of the Commission. 1/

295. At the 1556th meeting, the representative of Cuba requested a roll-call vote on draft resolution E/CN.4/L.1496 which, as orally revised, was adopted by 32 votes to none, with 10 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Colombia, Costa Rica, Cuba, Cyprus, Egypt, Ethiopia, Ghana, Greece, India, Iran, Iraq, Ivory Coast, Jordan, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Abstaining: Australia, Canada, Denmark, France, Germany, Federal Republic of, Netherlands, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

296. For the text of the resolutions, see chapter XXVI, section A, resolutions 12 (XXXVI) and 13 (XXXVI).

297. At the same meeting, statements in explanation of vote on draft resolution E/CN.4/L.1496 were made by the representatives of Australia, Argentina, Brazil, Federal Republic of Germany, United Kingdom and Uruguay.

298. At its 1579th meeting on 13 March 1980, the Chairman announced the composition of the Group of three members of the Commission, consisting of the representatives of Bulgaria, Cuba and Nigeria, who were also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII.

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

XIII. THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF  
HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS  
OBJECTION TO MILITARY SERVICE

299. The Commission considered agenda item 17 at its 1578th session held on 12 March 1980.

300. The Commission had before it the report of the Secretary-General (E/CN.4/1118 and Corr.1 and Add.1-3) prepared in accordance with Commission resolution 11 B (XXVII), the report of the Secretary-General containing the information received pursuant to Commission resolution 1 B (XXXII) (E/CN.4/1223 and Add.1-3), three written statements on the question of conscientious objection to military service submitted by non-governmental organizations in consultative status with the Economic and Social Council (E/CN.4/NGO/217, E/CN.4/NGO/220 and E/CN.4/NGO/286), and General Assembly resolution 34/163 of 17 December 1979 on policies and programmes relating to youth and the annex thereto containing draft additional guidelines for the improvement of the channels of communication between the United Nations and youth organizations.

301. At the 1578th meeting, on 12 March 1980, the representative of the Netherlands introduced a draft resolution (E/CN.4/L.1528) sponsored by Canada, Costa Rica, Denmark and the Netherlands. In his statement he said that one of the areas deserving more attention by competent United Nations bodies was recognition of conscientious objection to military service and the opportunity for alternative service. In line with increasing numbers of war resisters, recognition of the right to conscientious objection had grown significantly since the Second World War. Out of about 90 countries with compulsory military service, 37 made some legislative or administrative provision for conscientious objectors. Broad public support for recognition of conscientious objection appeared to be growing.

302. Some representatives proposed that the Commission postpone consideration of this item, including discussion of draft resolution E/CN.4/L.1528, to the thirty-seventh session of the Commission, due to the lack of time for a full examination of all aspects of agenda item 17. It was stated that the Commission could not deal partially with the subject, and that the question of conscientious objection should not be singled out. Furthermore, item 17 in its entirety should be debated in connexion with the approaching International Youth Year taking into account the whole question of the role of youth in the promotion and protection of human rights.

303. Other representatives felt that adoption of draft resolution E/CN.4/L.1528, being largely a procedural resolution, should not be made dependent upon a general debate on agenda item 17 since the resolution was only supposed to prepare a basis for a substantial debate at a later meeting. It was also stated that the question of the role of youth in the promotion and protection of human rights and the question of conscientious objection to military service were not necessarily linked up and had already been separated at the thirty-second session of the Commission; therefore, the latter could be considered as a separate matter under agenda item 17.



304. The representative of Senegal made a reservation to operative paragraph 3 of the draft resolution and proposed its deletion, which was accepted by the sponsors.

305. The representatives of Argentina and Greece proposed oral amendments to preambular paragraph 3 which were accepted by the sponsors.

306. At the 1578th meeting the representative of the Byelorussian SSR proposed several oral amendments to the draft resolution:

(a) An amendment consisting of using the title of item 17 also for this resolution was rejected by 16 votes to 10, with 2 abstentions.

(b) An amendment to preambular paragraph 2 was rejected by 13 votes to 11, with 14 abstentions.

(c) An amendment to operative paragraph 1 was rejected by 15 votes to 9, with 17 abstentions.

307. At the same meeting the representative of the Syrian Arab Republic introduced a new operative paragraph which was rejected by 14 votes to 8, with 9 abstentions.

308. The draft resolution, as orally amended by Senegal, Greece and Argentina was then adopted by 23 votes to 2, with 15 abstentions.

309. Explanations of vote, after the voting, were made by the representatives of Bulgaria, Canada, Greece, Iraq, Iran and the Syrian Arab Republic.

310. For the text of the resolution see chapter XXVI, section A, resolution 38 (XXXVI).

XIV. DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE  
AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF

311. The Commission considered agenda item 18 at its 1578th meeting on 12 March 1980.

312. The Commission had decided by resolution 11 (XXXIII) to continue the elaboration of the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief, and to establish an open-ended working group, which would meet three times weekly from the first week of the thirty-fourth session.

313. At its thirty-third session, the General Assembly in resolution 33/106, adopted on 16 December 1978, requested the Commission at its thirty-fifth session to give high priority to the drafting of the declaration and to strive towards its completion at that session and requested the Commission to instruct its working group to set a time-table for a full consideration of the remaining articles of the draft declaration during the thirty-fifth session. The Assembly also requested the Commission to submit to the thirty-fourth General Assembly through the Economic and Social Council, a single draft declaration and decided to include the item in the provisional agenda of its thirty-fourth session with high priority. By the same resolution the General Assembly requested the Secretary-General to make available to the Commission the provisions of existing international instruments which relate to the problem of religious intolerance (See the note (E/CN.4/L.1417) prepared by the Secretary-General in response to that request.)

314. At its thirty-fifth session, the Commission adopted resolution 20 (XXXV) of 14 March 1979. In this resolution the Commission, after taking note of the report of the working group, noted that the working group had achieved far-reaching agreement on several substantive aspects of the first articles of the draft declaration but had been unable to reach consensus; decided to adopt, on the basis of those proposals on which there was far-reaching agreement, three draft articles; requested the Secretary-General to invite UNESCO to organize a collective consultation, embracing various established schools of religious thought, on the cultural and religious basis of human rights in relation to the phenomenon of religious intolerance, and to submit the conclusions reached by this consultation to the Commission at its thirty-sixth session; and decided to continue the elaboration of the remaining articles of the draft declaration and to establish again the open-ended working group at its next session. The consideration of the item by the Commission at its thirty-fifth session is reflected in chapter XIV of its report on that session. 1/

315. At its thirty-sixth session, the Commission had before it:

(a) Reports on this subject, submitted by the Secretary-General under Commission resolution 22 (XXXIV) (E/CN.4/1305 and Add.1-3 and E/CN.4/1337);

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1/ Official Records of the Economic and Social Council, 1979, Supplement No. 6 (E/1979/36), paras. 268-282.

(b) A note prepared by the Secretariat (E/CN.4/1145);

(c) The provisions of existing international instruments made available in accordance with General Assembly resolution 33/106 (E/CN.4/L.1417);

(d) The conclusions reached by the consultation organized by UNESCO, referred to above (E/CN.4/1305/Add.1);

(e) Extracts from the Final Report of the Meeting of Experts on the Place of Human Rights in Cultural and Religious Traditions organized by the United Nations Educational, Scientific and Cultural Organization (Bangkok, 3 to 7 December 1979) communicated by UNESCO in accordance with resolution 20 (XXXV) of the Commission on Human Rights (E/CN.4/1375).

316. The Commission also had before it a written statement submitted by the International Association for Religious Freedom (E/CN.4/NGO/259), a written statement (E/CN.4/NGO/260) submitted by a number of non-governmental organizations in consultative status with the Economic and Social Council, a written statement submitted by the Bahá'í International Community (E/CN.4/NGO/263), a written statement submitted by the World Jewish Congress and the International Council of Jewish Women (E/CN.4/NGO/264) and a written statement submitted by the Christian Democratic World Union (E/CN.4/NGO/273).

317. At its 1526th meeting on 5 February 1980 the Commission established an informal, open-ended working group to continue the consideration of the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. The representative of Senegal, Mr. A. Diéye, was elected Chairman-Rapporteur.

318. At the 1578th meeting, the report of the Working Group was adopted without a vote and reads as follows:

"...

2. The informal Working Group held 8 meetings on 13, 14, 18, 20, 21, 25 February and 3 and 7 March 1980. At its first meeting on 13 February 1980, the informal Working Group unanimously elected Mr. Abdoulaye Diéye (Senegal) as its Chairman-Rapporteur.

3. It should be recalled that the informal Working Group established by the Commission on Human Rights had completed its consideration of the text of the preamble of the draft declaration at its thirty-third session a/ and by resolution 20 (XXXV) of 14 March 1979 b/ the Commission on Human Rights had adopted the first three articles of the draft declaration.

4. The Group proceeded to consider paragraph IV of the operative part of the draft declaration on the basis of article IV of the text prepared by the Working Group set up by the Commission on Human Rights at its thirtieth session (E/CN.4/1145, para. 30).

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a/ Official Records of the Economic and Social Council, Sixty-second Session, Supplement No. 6 (E/5927), para. 197.

b/ Official Records of the Economic and Social Council, Supplement No. 6 (E/1979/36, p. 127).

5. Several representatives expressed their wish to have the texts of the Draft and Preamble and the first three operative articles of the Draft Declaration as adopted in previous sessions available in all languages. The Chairman agreed to the suggestion and asked the Secretariat to circulate these texts at the next meeting.

6. One representative said that although he agreed with the text of article IV as contained in document E/CN.4/1145, paragraph 30, he would like the first paragraph to end at the word 'fields'. The text of the first paragraph would thus read:

'All States shall take effective measures to prevent and eliminate discrimination based on religion or belief, in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields.'

7. The Observer for the Holy See proposed as a text for article IV, paragraph (a) of document E/CN.4/NGO/273, which reads as follows:

'particularly in their work or profession, where they should not be deprived of better positions or promotion on the grounds of their religion or belief';

He also observed that the Ukrainian text contained in paragraph 31 (c) of document E/CN.4/1145 gave a precise definition of the areas where discrimination should be eliminated and that these areas were also well defined in article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination.

8. Several representatives expressed their support for the Moroccan proposal as contained in document E/CN.4/1145, paragraph 31 (b).

9. One representative suggested that in article IV, paragraph 1, the words 'religious intolerance' should be replaced by the words 'intolerance in the matter of religion or belief'. Another representative was of the opinion that the words 'religious intolerance' should be eliminated altogether.

10. The representative of the United Kingdom suggested the following text:

'Particular efforts shall be made to prevent discrimination based on religion or belief especially (i) in the obtaining of any work, or the joining of any profession, or in promotion in either case and (ii) in the fields of civil rights /access to/ citizenship and the enjoyment of political rights, such as the right to participate in elections, to hold public office, or in other ways to take part in the government of the country as well as in the field of labour and employment.'

11. One representative expressed the view that the second sentence of article IV, starting with the words 'to enact or rescind', were too categorical and that another wording should be found; he also thought that the terms 'religion' or 'conviction' should be more specific. Another representative expressed his disagreement with that proposal.

12. The following changes were suggested by a representative: (i) in the first paragraph of article IV (E/CN.4/1145, para. 30) substitute 'ils s'efforceront d'adopter' for 'ils devront adopter' and delete completely the words 'les préjugés donnant naissance à ...'; (ii) in the second paragraph of the same article, delete the words between brackets.

13. The Chairman suggested that the representatives should, for discussion purposes, consolidate their proposals in one text.

14. At the second meeting, the following text, as a consensus of six delegations - Cuba, France, Holy See, Philippines, United Kingdom and Madagascar - was circulated:

'Effective measures shall be taken by all States to prevent and to eliminate discrimination based on religion or belief, in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, especially in the obtaining of any employment or the joining of any profession, or in promotion in either case.

All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance based on religion or beliefs.'

15. The representative of Cuba pointed out that he preferred the wording 'or other types of belief'. He felt that the impasse could be solved by adding the words 'other beliefs in the matter of religion'. Another representative expressed support for this concept.

16. One representative felt that the text as presented was singling out work and employment, which was inappropriate, and also that the words 'theistic, non-theistic and atheistic belief' were more explicit than 'religion or beliefs'.

17. The representative of Brazil suggested that the words 'in the matter' should be added at the end of the final sentence of article IV, as proposed by a consensus of representatives.

18. At the third meeting of the Working Group, the second sentence of article IV was adopted by consensus. The text reads as follows:

'All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.'

19. The representative of the United Kingdom submitted a proposal for the first paragraph of article IV containing the various suggestions made during the discussions. The text reads as follows:

'Effective measures shall be taken by all States and particular efforts shall be made by everyone to prevent and eliminate discrimination on the grounds of religion or belief, in the recognition, exercise and

enjoyment of human rights and fundamental freedoms, in all aspects of civil, political, economic, social and cultural life, particularly where citizenship, education, employment (and, in the exercise thereof, recruitment and promotion) and housing are concerned.'

20. The USSR representative objected to the reference to individuals as this formulation had no precedent in other international instruments; he suggested the deletion of the words which come after 'particularly' in the text proposed by the United Kingdom, as they would just overburden the text.

21. The representative of the Byelorussian SSR suggested the following text for paragraph 1 of article IV:

'All States shall take effective measures to prevent and eliminate discrimination based on religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life.'

He also felt that the nature of 'religion or belief' should be explained or, perhaps, that for the time being, these words should be put between brackets.

22. The Chairman reminded him that the words 'religion or belief' had already been used in articles 1, 2 and 3, which had been adopted.

23. Some representatives reminded the Working Group that specific provisions to cover individuals were perfectly acceptable, as, for example, in the Declaration on the Elimination of Racial Discrimination and in the International Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights.

24. The USSR representative observed that the Working Group was talking about obligations to be taken by the State and he proposed the deletion of the words starting from 'and particular efforts shall be made by everyone ...'. The representative of Brazil observed that although he agreed with the USSR on this phrase he also felt that this deletion would make the article relate only to actions of governments and that it was also important to adopt provisions applicable to individuals. He suggested the following text, which consisted of the wording in document E/CN.4/1145 and reflected the observations of two representatives who had suggested the replacement of the words 'based on' by the words 'on the grounds of':

#### Article IV

'All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.'

25. The representative of the Netherlands stated that he understood the problems of some delegations regarding the insertion of obligations of both States and individuals in one article. He therefore suggested the following text for insertion as a separate article, which could be discussed at a later stage:

'All individuals, in accordance with the duties and responsibilities attributed to them by United Nations Human Rights Instruments, shall make particular efforts to prevent and eliminate discrimination on the grounds of religion or belief, in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all aspects of civil, political, economic, social and cultural life, particularly where education, employment, occupation and housing are concerned.'

26. After discussion the text suggested by the USSR mentioned in paragraph 24 above was adopted by consensus on the understanding that at a later stage, a separate article would be adopted concerning the obligations of individuals with respect to religion or belief. As finally adopted, therefore, article IV consists of the language set forth in paragraphs 18 and 24.

27. The representative of Cuba insisted that in the Spanish version of article IV the word 'conviciones' should be used in place of 'creencia' at the end of the article. It was so agreed.

28. The Chairman suggested as a point of departure for the Working Group's discussion of article V the text contained in document E/CN.4/1145, paragraph 33.

29. Two proposals were submitted by the representatives of Canada and the Byelorussian SSR for article V. The proposal submitted by the representative of Canada reads as follows:

#### Article V

1. Parents or legal guardians have the right to decide upon the religion or beliefs in which a child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or beliefs in accordance with the wishes of his parents and shall not be compelled to receive religious education inconsistent with the wishes of his parents or legal guardians.

3. In the case of a child who has been deprived of his parents their expressed or presumed wish in the matter of religion or belief shall be duly taken into account, the best interests of the child being the guiding principle.

4. The child shall be brought up with respect for freedom of religion or beliefs and a spirit of mutual tolerance.

5. When a child has reached an appropriate age, he shall have freedom of choice in all matters of religion or beliefs.

The proposal submitted by the Byelorussian SSR reads as follows:

#### Article V

1. Parents and, where applicable, legal guardians shall have the liberty to ensure in a manner consistent with the procedures followed in the State

for the application of its legislation the religious and moral education of the children in conformity with their own convictions; no person or group of persons should be compelled to receive religious instruction inconsistent with his or their conviction.

2. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.

30. The representative of Argentina suggested for paragraph 1 of article V the text contained in paragraph 33 of E/CN.4/1145 with the deletion of the last two paragraphs. The text reads as follows:

'Parents or legal guardians have the right to decide upon the religion or belief in which a child should be brought up.'

31. On the second paragraph the representative of Argentina suggested that the words 'its interest or' be deleted and the second phrase be reformulated as follows:

'The decision concerning the religion or belief in which a child should be brought up must not be injurious to his health, and must not do him physical or moral harm, nor inculcate any discrimination based on religion or beliefs.'

32. There was a discussion as to which text should be adopted as the basic text for discussion. One representative pointed out that the first sentence of article V of the Canadian proposal and the text contained in E/CN.4/1145, paragraph 33 were exactly the same. Another representative added that the proposal by the Byelorussian SSR introduced the concept of 'national legislation' into article V.

33. One observer said that there were basic differences in paragraphs 1 and 2 of article V, for paragraph 1 dealt with the freedom and the right of parents to give religious instruction of their own choice to their children and paragraph 2 dealt with the problem of religious education and he felt that it was important that any person or group should be able to refuse any instruction incompatible with their beliefs. Another representative felt that the text being discussed ignored other aspects which might affect a child such as, for example, the environment.

34. The representative of Bulgaria proposed that article V should be split in two: (a) the first part would keep the wording of the first paragraph of E/CN.4/1145, paragraph 33 and, (b) the second part would provide for the right not to give the child religious education as not to give the impression that religious education was in any way compulsory.

35. The representative of Brazil made the following proposal for paragraph 2 of article V:



## Article V

'2. No child shall be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians.'

36. The representative of the Soviet Union said he felt that the concept of religious belief should be defined. The following text was suggested by the USSR:

'The Working Group decides that the draft declaration should include a definition of the term "religion or belief" either in a separate article or in one of the agreed articles. The expression "religion or beliefs" includes theistic, non-theistic and atheistic beliefs.'

37. At the fifth meeting of the Working Group, the observer for the Holy See suggested a new paragraph to replace paragraph 1 of the text proposed by the representative of Canada (see para. 27 above). The new text reads:

'Parents have the right to organize freely in accordance with their religion or beliefs, the life of the family and in particular to decide upon the moral and religious education in which a child should be brought up.'

38. Some delegations expressed support for this proposal while others thought it failed to take into account the role of legal guardians. In this connexion one representative cited article V, subparagraph (b) of the Convention against Discrimination in Education adopted by UNESCO in 1960 which says 'parents and, where applicable, legal guardians'. Another representative felt the text failed to clarify whether it was dealing with life inside the family or outside the family.

39. It was also felt by one representative that a more concise text would be preferable while other representatives felt that the Canadian text as it stood would make all points concerning the subject clearer. The need was felt for a more precise reference to the observance of national legislation.

40. The representative of Bulgaria suggested the addition of the words 'non-religious'. The second part of the first paragraph of article V would thus read:

'to decide upon the education, moral, religious and non-religious, in which the child should be brought up, in conformity with national legislation'.

41. The discussion centred around trying to reach a compromise text that would take into account all the different suggestions made by the representatives.

42. The first compromise text reads as follows:

'Parents and, where appropriate, legal guardians, have the right to organize freely in accordance with their religion or beliefs the life of the family and in particular to decide upon the moral and religious education in which a child should be brought up.'

43. No consensus could be obtained on the above-mentioned text. The view was expressed that the words 'within the family' would be a better expression in the Spanish version of the text while another representative felt that these words would be restrictive even in Spanish.

44. Certain representatives felt that the words 'non-religious' were very difficult to accept.

45. A new compromise text read:

'Parents and, where appropriate, legal guardians have the right to organize freely, in accordance with their religion or beliefs, the life of the family and in particular to decide upon the moral and religious education in which the child should be brought up in a manner consistent with national legislation.'

46. The representative of Madagascar proposed the following text for the preambular paragraph of the draft Declaration.

'All States undertake to develop and apply a national policy which will tend to promote equality of opportunity and of treatment in the matter of education in accordance with the provisions of the first paragraph below.'

46 bis. At the last meeting of the Working Group, the representative of the International Association for Religious Freedom had occasion to call attention to his written statement presented in document E/CN.4/NGO/259.

47. At the last meeting of the Working Group a new revised text for article V was proposed by the Observer for the Holy See. The text reads as follows:

'1. The parents or, where applicable, the guardians shall have primary responsibility for organizing family life and, in particular, shall have the right to decide the religion or belief in which the child is to be raised, as well as its moral upbringing.'

48. Some representatives felt that the above-mentioned text was a new text and that they preferred the compromise text contained in paragraph 42 above, while others felt it was very important not to omit reference to the words 'within the family' and to document E/CN.4/1145.

49. The representative of Cuba proposed the following text:

'1. The parents or the legal guardians of the child have the right to organize, in accordance with their religion or belief and in the light of the moral education in which they believe the child should be brought up, within the life of the family.'

50. The representative of the United States suggested a change in the order of the words in the last line to 'the life within the family' and to place it after the word 'organize'.

51. After discussion, the text for paragraph 1 of article V, as amended, was adopted and reads as follows:

'1. The parents or as the case may be the legal guardians of the child have the right to organize the life within the family, in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.'

52. During the discussion of draft paragraph 1 of article V many delegations raised the question of reference to national legislation. A consensus was reached on this question and the members of the Working Group generally agreed that this reference would be made in another paragraph of the Declaration.

53. The following text for paragraph 2 of article V was proposed by the representative of the Byelorussian SSR:

Article V, para. 2

The child shall be protected from practices which may foster any form of discrimination on the ground of religion or beliefs. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

54. The following text suggested by the representative of the United States for article VI was circulated and was not discussed due to lack of time:

'Every person and every group or community has the right to manifest their religion or beliefs in public or in private, without being subjected to any discrimination on the grounds of religion or beliefs. This right includes, in particular:

(a) Freedom to worship, to assemble and to establish and maintain places of worship or assembly;

(b) Freedom to teach, to disseminate at home and abroad, and to learn their religion or beliefs, and also its sacred languages or traditions;

(c) Freedom to practice their religion or beliefs by establishing and maintaining charitable and educational institutions and by expressing the implications of religion or beliefs in public life;

(d) Freedom to observe the rites or customs of their religion or beliefs;

(e) Freedom to write, publish, and disseminate publications relating to their religion or beliefs;

(f) Freedom to solicit and receive financial and other contributions in support of their religion or beliefs from institutions and individuals, provided, however, that such contributions shall not be compelled by governmental or other authorities.'

55. During the discussion on the draft report of the Working Group some representatives expressed the view that they were sure that consensus had been achieved with regard to the following text contained in paragraph 36 of the draft report:

'The Working Group decides that the draft declaration should include a definition of the term "religion and belief", either in a separate article or in one of the agreed articles.'

56. Several other delegations were equally sure that although further discussion on this text had not been excluded consensus had however not been achieved. The Chairman also said that consensus had not been achieved."

319. The representative of Cuba stated that the text which had formed the basis of the consensus referred to in paragraph 51 (E/CN.4/L.1500/Add.20) was the one he had given to the secretariat during the discussion. The proposal which he had made, the original of which had been in Spanish, had already been modified and the correct text should therefore read as follows:

"The parents or, where applicable, the legal guardians of the child have the right to organize its life within the family in accordance with their religion or belief and in the light of the moral upbringing they consider it should have."

320. At the 1578th meeting, on 12 March 1980 a draft resolution was submitted by the representative of Canada (E/CN.4/L.1545) which was adopted without a vote.

321. For the text of the resolution, see chapter XXVI, section A, resolution 35 (XXXVI).

XV. STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION; IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION

322. The Commission considered agenda item 20 together with items 6, 7 and 16 (see chaps. IV, V, XII) at its 1547th to 1553rd and 1556th meetings from 19 to 22 February and on 26 February 1980. The Assistant Director of the Division of Human Rights introduced the item at the 1547th meeting.

323. The Commission had before it:

(a) A document (E/CN.4/1356 and Add.1) containing annual reports on racial discrimination submitted by ILO and UNESCO in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI);

(b) Pertinent resolutions of the General Assembly (3057 (XXVIII) and 34/24); and

(c) The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350).

324. At the 1548th meeting in the course of the debate, a statement was made by the observer for the German Democratic Republic. The Commission also heard a statement by the representative of UNESCO at its 1550th meeting.

325. All speakers strongly condemned racism, racial discrimination and apartheid. Many representatives stressed that racial discrimination was not confined to the area of southern Africa but also existed in various forms elsewhere in the world. Some speakers noted in that connexion, that in certain countries, minority groups in particular migrant workers and indigenous populations, were victims of discriminatory treatment on a large scale. They therefore emphasized the need for continuous and effective action to combat all forms of racial discrimination. In that connexion reference was made to General Assembly resolution 34/24, which sets out the Programme of activities to be undertaken during the second half of the Decade, as well as to the measures proposed by the Sub-Commission in its resolution 2 A and B (XXXII). The important role that the Commission could play in the implementation of the goals and objectives of the Decade was also stressed.

326. With regard to the studies envisaged in the above-mentioned resolutions, some representatives suggested that duplication should be avoided. The opinion was expressed that, at this juncture, the struggle against racism was not a problem of the preparation of studies but rather the willingness actively to combat racism by concrete action.

327. Some delegations expressed the opinion that political and economic relations with South Africa could be of use to improve the human rights situation there.

They could not accept any implication that zionism was a form of racism. Other delegations, however, pointed out that, as regards the respect for human rights in that country, such relations had been of no avail.

328. Several representatives mentioned the efforts made in their respective countries to combat racial discrimination. They referred to structural changes in society, measures taken in the field of education and information and measures aimed at the implementation of the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

329. At the 1556th meeting, the Chairman of the Commission informed the Commission, in connexion with resolution 7 (XXXV) adopted by the Commission on 5 March 1979, and entitled "Treatment of non-white immigrants", that the Governments of India and the United Kingdom had been exchanging information. They were continuing their consultations and hoped to be able to report a satisfactory outcome to the Commission at its thirty-seventh session.

330. At the 1553rd meeting, on 22 February 1980, the representative of Ghana introduced a draft resolution (E/CN.4/L.1498) sponsored by Algeria, Argentina, Egypt, Ghana, Nigeria, Pakistan, Senegal, Yugoslavia and Zambia.

331. At the 1556th meeting, the Assistant Director of the Division of Human Rights made a statement on the administrative and financial implications of part A, paragraph 3, of the draft resolution.

332. At the same meeting, the sponsors orally revised the fourth preambular paragraph of part A of the draft resolution by adding the words "and foreign occupation" after the words "foreign domination".

333. At the same meeting, the representative of Iraq submitted an oral amendment to part C, paragraph 1, of the draft resolution. He proposed to add the words "The Committee on the Exercise of the Inalienable Rights of the Palestinian People" after the words "Colonial Countries and Peoples".

334. The representative of the Federal Republic of Germany requested that a separate vote be taken on the different parts of the draft resolution,

335. At the same meeting, the Commission voted on the draft resolution as follows:

(a) Part A of the draft resolution, as revised, was adopted by 38 votes to none, with 2 abstentions.

(b) Part B of the draft resolution was adopted by 33 votes to 3, with 5 abstentions.

(c) The amendment submitted by Iraq to part C, operative paragraph 1, of the draft resolution was adopted by 29 votes to 5, with 6 abstentions.

(d) Part C of the draft resolution, as amended, was adopted by 29 votes to 5, with 6 abstentions.

(e) Part D of the draft resolution was adopted by 33 votes to none, with 7 abstentions.

(f) The draft resolution as a whole, as revised and as amended, was adopted by 33 votes to none, with 8 abstentions. The representative of the United States of America stated that his delegation had not participated in the vote. Statements in explanation of vote were made by the representatives of Denmark, Costa Rica, Greece, the Netherlands, Peru and the United Kingdom. 1/

336. For the text of the resolution see chapter XXVI, section A, resolutions 14 A, B, C and D (XXXVI).

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1/ A statement of the financial implications of the Commission's resolutions and decisions appears in annex III.

## XVI. STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

337. The Commission considered agenda item 21 together with item 8 (see chap. VI above) at its 1543rd to 1547th and 1550th meetings held from 15 to 19 February and on 21 February 1980.

338. In its resolution 6 (XXXV) of 2 March 1979, the Commission had requested the Secretary-General to submit to it at its thirty-sixth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and on the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in that report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Commission had before it a report by the Secretary-General (E/CN.4/1376) prepared in response to that request. Moreover, the Secretary-General, in compliance with General Assembly resolution 34/45 of 23 November 1979, made available to the members of the Commission copies of the last annual report of the Human Rights Committee<sup>1/</sup> established under the International Covenant on Civil and Political Rights.

339. The Commission heard a statement by the observer for the Holy See (1546th meeting).

340. The representatives who spoke on the item expressed their appreciation to those new States which had ratified or acceded to both Covenants and to the Optional Protocol since the last session of the Commission and regretted the fact that more than two thirds of Member States of the United Nations had not yet acceded to the Covenants. A number of representatives deplored the fact that many States members of the Commission, particularly States which often declared their strong commitment to the cause of human rights, had not acceded to the Covenants.

341. One representative informed the Commission that his Government was making progress in the adoption of constitutional measures leading to ratification of both Covenants, that he welcomed the emphasis the Commission placed on the Covenants and that his Government adhered to the principles faithfully, even without the formality of ratification. Another representative stated that Governments did not like to be pressured into acceding to international instruments such as the Covenants, since accession thereto was an act of national sovereignty, he added that effective implementation of the Universal Declaration of Human Rights could be a substitute for ratification of the Covenants.

342. Most speakers expressed their appreciation of the serious and constructive manner in which the Human Rights Committee conducted its work, the tradition of independence it had established and the meaningful and constructive dialogue it had developed with States parties, as was clearly reflected in its comprehensive annual reports.

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<sup>1/</sup> Official Records of the General Assembly, Thirty-fourth Session, Supplement No. 40 (A/34/40).



343. Satisfaction was also expressed at the adoption by the Economic and Social Council of the methods of work recommended by its Sessional Working Group for implementation of the International Covenant on Economic, Social and Cultural Rights, and that arrangements had been finalized for the consideration at the Council's first regular session in 1980, of reports submitted under the Covenant.

344. One representative of a delegation considered it unfortunate that although it had generally been recognized that both sets of rights, namely the economic, social and cultural rights and the civil and political, were interrelated and indivisible, they were nevertheless codified in two Covenants with two different bodies to monitor their implementation. He further pointed out that in accordance with article 40 of the International Covenant on Civil and Political Rights, the report of the Human Rights Committee was to be submitted to the Economic and Social Council. However, the programme of work of the Committee, which continued to meet three times a year, was such that its report could not be transmitted to the Economic and Social Council in time for it to be considered together with the reports submitted by States parties under the International Covenant on Economic, Social and Cultural Rights. That made it difficult for the Economic and Social Council which, he stressed, was the sole organ of the United Nations competent to do so, to submit to the General Assembly a comprehensive report on the situation of human rights throughout the world.

345. One delegation deplored actions of one member State which, in its opinion, constituted a violation of the human right of anyone freely to participate in cultural life, guaranteed in the Human Rights instruments and other international agreements. The threat of refusing passports to those wishing to participate in the Olympic Games should be considered undue pressure against those persons and against the International Olympic Committee.

346. In reply it was pointed out that recognition of the right freely to participate in cultural life and to engage in international contacts would be welcomed by many citizens and ethnic groups of countries which notoriously denied such rights. Actions concerning participation in the Olympic Games were a direct consequence of the invasion of Afghanistan which earlier had been condemned by the Commission as a violation of the right of the Afghan people to self-determination.

347. At the 1547th meeting, on 19 February 1980, the representative of Denmark introduced a draft resolution (E/CN.4/L.1493) sponsored by the following member States: Costa Rica, Denmark and the United Kingdom of Great Britain and Northern Ireland. The representatives of Canada, Federal Republic of Germany and Senegal informed the Commission that their countries also wished to sponsor the draft resolution.

348. At the 1550th meeting, on 21 February 1980, the representative of the Byelorussian SSR introduced the following amendment to the operative part of the draft resolution:

"6. Further emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights,".

That amendment was subsequently included in the draft resolution.

349. At the 1550th meeting, held on 21 February 1980, the draft resolution, as orally amended, was adopted without a vote.

350. For the text of the resolution, see chapter XXVI, section A, resolution 8 (XXXVI).

XVII. REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION  
AND PROTECTION OF MINORITIES ON ITS THIRTY-SECOND SESSION

351. The Commission considered agenda item 22 at its 1559th to 1563rd meetings, from 27 to 29 February 1980.

352. The Commission had before it the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350), and parts of the report on the thirty-first session of the Sub-Commission (E/CN.4/1296) concerning the question of slavery.

353. The Commission had before it the written statement submitted by the Arab Lawyers Union, a non-governmental organization in category II, consultative status (E/CN.4/NGO/285).

354. Most speakers expressed their satisfaction with and appreciation for the valuable work done by the Sub-Commission during its thirty-second session.

355. It was stated that the report of the thirty-second session of the Sub-Commission contained a series of useful recommendations for the effective protection of human rights. Their importance was highlighted by the scope of items which had been dealt with by the Sub-Commission.

356. At the same time it was regretted that in recent years the Commission had not discussed fully the reports of the Sub-Commission and it was felt that in future sufficient time should be devoted to careful discussion of the over-all work of the Sub-Commission and to analyses of its recommendations.

357. Some speakers pointed out that the setting up of working groups, the appointment of Special Rapporteurs and the undertaking of new studies within the framework of the Sub-Commission had proliferated recently. Furthermore, contrary to established United Nations practices and procedures, the Sub-Commission was addressing itself directly to Member States, the Secretary-General, international organizations and other bodies of the United Nations system without channelling its recommendations through the Commission itself. In the view of those speakers such activities were not among the tasks for which the Sub-Commission had been created and contrary to its terms of reference. The Sub-Commission should focus attention more on certain specific issues within its jurisdiction.

358. Views were divided on the proposals contained in resolution 9 (XXXII). While some speakers were in favour of those proposals, others questioned their usefulness.

359. As far as the change of the name of the Sub-Commission was concerned, some delegations argued that such a change was without any foundation, that it would broaden the mandate of the Sub-Commission and possibly lead to a duplication of efforts between the Commission and the Sub-Commission; others welcomed that suggestion because, in their view, the functions of the Sub-Commission had also changed.

360. With respect to the possible introduction of voting by secret ballot within the framework of the procedure outlined in Council resolution 1503 (XLVIII), some speakers expressed the view that it would not be consonant with the methods of voting in other United Nations bodies. Other representatives pointed out that the secret ballot would better safeguard the independence of the experts as well as the confidentiality of the procedure.

361. Doubts were expressed about the proposal to hold two sessions of the Sub-Commission. Some speakers felt that a better solution would be to have one four-week session.

362. At the 1562nd meeting, on 29 February 1980, the Commission adopted without a vote the following draft resolutions and recommendations of the Sub-Commission:

(a) Draft resolution contained in resolution 6 A (XXXI);

(b) Recommendations contained in operative paragraph 15 of resolution 6 B (XXXI);

(c) Recommendation contained in operative paragraph 17 of resolution 6 B (XXXI);

(d) Draft resolution contained in resolution 5 A (XXXII);

(e) Draft resolution contained in resolution 7 A (XXXII);

(f) Draft resolution contained in resolution 8 (XXXII).

363. As regards the resolutions and recommendation contained in subparagraphs (a), (c), (d), (e) and (f) above, statements on the administrative and financial implications were submitted to the Commission. 1/

364. The delegation of the United Kingdom then proposed the following text of a decision, which was adopted by the Commission without a vote: "The Commission on Human Rights has taken note of resolution 9 (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and decides to consider this matter further at its thirty-seventh session."

365. At its 1563rd meeting on 29 February 1980, on the proposal of the Chairman, the Commission decided, without a vote, to take note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session.

366. For the text of the resolutions and decisions, see chapter XXVI, section A, resolutions 15 (XXXVI), 16 (XXXVI), 17 (XXXVI), and 18 (XXXVI) and section B, decisions 4 (XXXVI), 5 (XXXVI), 6 (XXXVI) and 7 (XXXVI).

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1/ Statements of the financial implications of the Commission's resolutions appear in annex III.

XVIII. RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC,  
RELIGIOUS AND LINGUISTIC MINORITIES

367. The Commission considered agenda item 23 at its 1578th meeting on 12 March 1980.

368. At its thirty-sixth session the Commission had before it (a) the draft declaration proposed by Yugoslavia (E/CN.4/L.1367/Rev.1), (b) comments from Governments pursuant to Commission resolutions 14 (XXXIV) and 21 (XXXV) (E/CN.4/1298) and Add.1 to 8), (c) the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session (E/CN.4/1350, paras. 221-227 and decision 1 (XXXII)), (d) the summary records of the 850th meeting of the Sub-Commission (E/CN.4/Sub.2/SR.850) and (e) documents E/CN.4/NGO.272 and 275.

369. At its 1526th meeting on 5 February 1980 the Commission set up an open-ended Working Group to consider this matter further. The representative of Yugoslavia was elected as its Chairman-Rapporteur.

370. At the 1578th meeting the Chairman-Rapporteur introduced the report of the Working Group (E/CN.4/L.1540), together with a draft resolution submitted by the Working Group and contained in paragraph 42 of its report, and read out amendments to paragraphs 10, 11, 12, 14, 15, 18, 25, 31, 35 and 42.

371. The report of the Working Group (E/CN.4/L.1540, paras. 8 to 42) as orally revised read as follows:

"...

8. In the course of the first meeting and at the Chairman's proposal, it was agreed without objection that the Working Group would hear general statements and comments on the draft declaration, in particular from those representatives who were participating in the work of the Group for the first time. The Working Group would then examine in more detail the various provisions contained in the draft declaration.

9. The representative of Australia hoped that after a general debate there would be time for comments and specific proposals on the Yugoslav proposals regarding the draft declaration. The Working Group could then conclude its work this year by entrusting its Chairman with the task of examining the different proposals and including them in a comprehensive document which might become a negotiating document for future sessions which could be looked at in a detailed manner, article by article. He thought that work could probably not be advanced very much under existing time constraints and it might be possible to do more effective work next year, particularly if, through a resolution of the Commission, the Sub-Commission could be requested to pay detailed attention to this subject. He referred to document E/CN.4/1298/Add.8 embodying Australia's views. He stated that the idea of a Declaration was of potential benefit to minorities in many countries and pointed out that his Government would carefully examine all proposals made by Governments, international organizations, and non-governmental organizations and, in particular, the views

of the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as any further proposals by the Government of Yugoslavia. Keeping his specific comments for the next stage of the debate, he stated that it would be useful if the Secretary-General were to prepare and provide to the Commission for future work a comparative document showing the various provisions now in existence in international instruments and relating to minorities. Finally, he drew attention to a new instrument relevant to the general question of elimination of discrimination, the Lusaka Declaration of the Commonwealth on Racism and Racial Prejudice, proclaimed by Heads of Government of Commonwealth countries at their meeting in Lusaka, 1-7 August 1979.

10. The representative of Argentina stated that the preparation of the Declaration on minorities was to be viewed in connexion with article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination, to which Argentina was a party. She supported the proposals contained in resolution 2 A of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, that could not examine a consolidated text at its last session and postponed it for its 33rd session. Her delegation did not at this point have specific comments on the proposed draft declaration but she supported the proposals relating to a consolidated text which should contain revised and up-to-date proposals by Governments. The proposed comparative text would also be extremely helpful.

11. The observer for Norway stated that his Government recognized the need for greater international efforts for the protection of minorities and therefore supported the general principles included in the draft submitted by Yugoslavia. This has been reflected in statements by his Government both at the World Conference to Combat Racism and Racial Discrimination (Geneva, August 1978) and in respect of the draft declaration under consideration, in the form of comments contained in E/CN.4/1298, pages 13-15, aimed at broadening the scope of the draft Declaration so as to include indigenous populations as a separate category and to pay attention to their specific needs and rights. More recently the Governments of Norway and other Nordic countries had agreed to make special efforts in respect of indigenous peoples. They were also looking forward to the submission to the Sub-Commission of the final report on the study on indigenous populations, which they hoped would be at its next session, in September 1980. The comments submitted by Norway in connexion with the draft declaration on minorities should perhaps be taken out of that framework and kept for whatever follow-up may result from the study on indigenous populations.

12. The representative of the United Kingdom referred to the basic question whether the draft declaration was to be considered within the framework of article 27 of the International Covenant on Civil and Political Rights or, whether it should also encompass indigenous populations. This matter was not at all clear. In article 27 of the Covenant 'ethnic, religious and linguistic minorities' were mentioned while in the title of the item now under discussion the word 'national' was also included. He was not suggesting that 'national minorities' or 'indigenous populations' should not necessarily be included. He was, rather, referring to the need to determine whether or not to depart from the text of article 27 of the Covenant.

13. The representative of the Netherlands expressed support for the efforts by the Yugoslav delegation aimed at the adoption of a United Nations Declaration on Minorities. However, the draft as it stood posed certain problems which should be considered carefully. He pointed out that a limited approach to some questions could lead to a greater measure of acceptability resulting in larger support for the text. This would be achieved by keeping the Declaration closer to the terms of article 27 of the International Covenant on Civil and Political Rights. Some obligations included in the text seemed to be too far-reaching, especially inasmuch as they could apply 'regardless of the size of the minority' concerned. The Declaration should in no way inhibit efforts by the Commission, the Sub-Commission or other United Nations bodies effectively to protect the rights of minorities. He expressed support for the idea of the preparation of a consolidated text by the Chairman. He requested the Chairman to prepare this text in time for its consideration by the Sub-Commission at its next session, as the views of that body of experts was particularly valuable.

14. The representative of Greece stated that there were numerous bilateral and multilateral instruments dealing with the rights of minorities wherein the relevant historical, geographic and economic circumstances were fully taken into account. In the Working Group general texts should be considered, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights; in particular, article 27 of the Covenant, which had been drafted with considerable wisdom, and that should guide work on this matter, which should be viewed as an effort to help States in carrying out tasks and duties arising from these texts. If, however, there was a laudable and serious effort to expand horizons and make it possible to see beyond article 27 he would be prepared to follow discussions on it. There was, however, a difficulty frequently encountered in all these efforts, namely how to define the term minority. A decision should be made as to whether all kinds of minorities should be covered in the text.

15. The representative of Bulgaria supported the views of the representatives of Australia, the United Kingdom and the Netherlands, noting that the draft did not deal with indigenous populations or with the possibility of their voluntary integration with the rest of the populations. Difficulties arose from the fact that not all Governments had sent their comments on the Yugoslav draft and that the Sub-Commission had not expressed its final views on this matter. He drew attention to the interpretation of the question of the rights of persons belonging to minorities which should not be confused with the rights of peoples to self-determination. Lastly, there was the question of the scope of this matter, whether to adhere only to article 27 of the Covenant or also to include other proposals.

16. In the course of the second meeting, the observer for the Holy See stated that he thought integration and autonomy were aspects of a dynamic bilateral process in the life of persons and societies. Willingness is essential, as no social group would gain anything through forced integration. Even gradual integration should not mean destruction or pure and simple abandonment of the values of the original society but, on the contrary, the contribution of those values to the new society. Everyone should always keep the right to be true to his own culture and ethnic origin. The aim should be to attain variety in unity and unity in variety as the result of the encounter of cultures, with mutual enrichment. No renunciation of its own characteristics by any group

nor its isolation should be sought, but harmonization of diverse elements. Minorities as such had rights but they also had obligations, in a combination of forces aiming at conditions of social life conducive to the development of persons, families and groups in a fuller and easier manner.

17. The representative of the Syrian Arab Republic made four points. First, the Sub-Commission in its resolution 5 (XXX) of 31 August 1977 had recommended that the Commission should consider drafting a declaration on the rights of members of minorities within the framework of the principles set forth in article 27 of the International Covenant on Civil and Political Rights. That article only mentions three categories of minorities, namely ethnic, religious and linguistic. The draft declaration under consideration includes, in addition, 'national' minorities. Second, the title of the draft declaration referred to the rights of persons belonging to minorities but the provisions related to the rights of minorities as groups, not to the individuals forming them. This was not in conformity with the provisions of article 27 of the Covenant. Third, when the draft referred to the rights of national minorities in absolute terms, this might be interpreted as entailing the right to secede or the right to have separate, privileged groups or the development of certain groups as separate entities, thus socially harming the national unity of certain countries and endangering their territorial integrity. This would be contrary to the spirit and the wording of article 27 of the Covenant as well as to the relevant provisions of the Charter of the United Nations. Fourth, the content of article 3 of the draft declaration went beyond the concept of protection of the cultural or linguistic characteristics of minorities. The United Nations should concentrate on efforts to guarantee the human rights and fundamental freedoms of people under colonial domination, under apartheid or other racist systems, as well as those under foreign occupation. The Commission should be careful not to encourage separatism or prejudice, which were contrary to the Charter of the United Nations and to international instruments on human rights. It should be remembered that the Zionist movement had resorted and continued to resort to dubious means to create prejudice and to enhance the dismantling of societies in certain countries. The Working Group should make proposals aiming at the creation of equality of groups within societies.

18. The representative of India stated that his country had already submitted comments in writing. He added that it may not be possible or desirable to treat all minorities in the same way or to follow, in each regard, the same policies, as there could be vast differences among different minorities. Each minority had its own characteristics, its own problems in any given social or national context. It was important to ensure that no minority would be discriminated against just because it was a minority. This should be achieved by the declaration.

19. The representative of Iraq stated that if the declaration was based on article 27 of the Covenant, it should use terminology restricted to ethnic, religious and linguistic minorities; it should not include 'national' minorities. The text should safeguard the rights of minorities and not include other groupings that were different from minority groups as, for instance, indigenous populations. The purpose of the declaration should be to safeguard and develop the rights of minorities as part of the struggle against racial discrimination and not to give privileges to these people.

20. The representative of Morocco commended the efforts of Yugoslavia to secure adoption of the declaration on minorities. He had, however, a number of reservations on the draft, although he fully agreed with the need to have such a declaration. He could not agree that the declaration should apply to ethnic, religious and linguistic groups, which, even in the case of States with heterogeneous populations, may be described as national minorities closely linked to other groups in the country. In his country the national community consisted of Moroccan people belonging to the Islamic faith and to the great Arab community. The Moroccan Jewish community was the only one that could be considered as separate, but that community, while maintaining its attachment to Judaism, was also a part of the national community. It was unacceptable to speak of the rights of groups. As the representative of Iraq had said, the Working Group should only deal with the rights of individuals belonging to ethnic, religious or linguistic minorities but who form part of the single people of the country. It would be dangerous to emphasize differences between groups. Instead efforts should be made to harmonize relations between them. These rights of groups might be misinterpreted and undermine the national unity of States. Morocco reserved its position on this matter until a more suitable text, taking into account the objectives he had just outlined had been prepared.

21. The representative of the Soviet Union said his delegation would present detailed comments and proposals later on. For the present he had some preliminary comments. It would be expedient to consider the inclusion of a definition of the concept of minorities in the text of the draft declaration. A number of delegations had expressed a similar view. The concept of minorities in article 1 required clarification in order to avoid misunderstandings. He had considerable difficulties with the concept of religious minority. This concept was highly amorphous. In his country, for example, most of the population was atheist, but there were quite a number of people belonging to the Orthodox or Muslim faith. He wondered whether they should be considered as religious minorities, as this might be offensive to them: in the USSR the term minority was not used; instead reference was made to persons of certain origin or to nationalities or to smaller national groups. It should also be taken into account that another Working Group of the Commission was currently discussing the elaboration of a declaration on the elimination of all forms of intolerance and discrimination based on religion or belief. This could create problems as there was a certain degree of coincidence of purpose between that draft and the one under discussion in this Working Group.

22. The representative of Iraq proposed that in the title the term 'national' should be deleted, in order to keep the text within the purview of article 27 of the International Covenant on Civil and Political Rights.

23. The representative of Australia considered that the preamble of the draft declaration was satisfactory. He realized that there was a serious problem relating to the definition of 'minorities', 'national minorities', 'religious minorities'. There were also difficulties as regards the dividing line between a minority and a group and the status of very small groups. The size of the minorities seemed to be important as attitudes and policies towards smaller minorities might differ from those adopted as regards larger groups. He suggested that in the further work on the preamble some provisions of UNESCO's



Declaration on Race and Racial Prejudice, in particular articles 5 (1) and 1 (2), should be taken into account, as well as the Lusaka Declaration to which he had made reference earlier.

24. The representative of the Netherlands concurred with the statement of Australia regarding the preamble. While the concept of ethnic minority or religious minority posed few problems to his delegation he had difficulties with that of 'national minorities' which seemed to refer to sub-national groups or to marginal groups. The size of the minority was also important. It was difficult to consider very small groups or sects as a real minority.

25. The representative of India proposed that reference should be made, in the second preambular paragraph, to the International Covenant on Economic, Social and Cultural Rights. The development of the whole society was essential and in that context the rights of all groups within that society, including those of minorities, should be guaranteed. The ultimate goal should not be to accentuate differences but rather to harmonize all groups in an over-all national context. In all these aspects the Covenant on Economic, Social and Cultural Rights was very pertinent.

26. The representative of the Netherlands wondered whether the reference to 'national minorities' was compatible with the International Covenant on Civil and Political Rights, which did not mention this concept. The definition of the meaning of 'national' was important.

27. During the third meeting the representative of the Syrian Arab Republic stated that he wished to associate himself with the proposal of Iraq to delete the word 'national' from the title of the draft declaration as that word has not yet been defined and it did not appear in article 27 of the International Covenant on Civil and Political Rights.

28. The representative of the United States of America said that the United States Federal Constitution and the fifty State constitutions protected rights of minority groups. It nevertheless remained true that ethnic, religious and linguistic minorities sometimes suffered from discrimination. Much progress had been made over the past years. The United States delegation accepted the ideals included in the draft declaration. Presenting comments on the draft as a whole, he had two questions. One concerned the meaning of the term 'national minority'. In the United States this concept did not appear in the Constitution or in the laws. There was need to define this term. The second question concerned the meaning of the word 'promote' used in the first operative paragraph. If it meant the establishment of an environment conducive to the development of minorities he would agree, but if promotion meant a preferential status, that would create difficulties.

29. The representative of the Romani Union stated that his organization gathered together all gypsies throughout the world - a total of over 10 million people - with the main aim of combating open racial discrimination against them, which, unfortunately, continued to exist. His organization had been following with great interest the activities of the Commission and the Sub-Commission relating to respect for national minorities, and also appreciated the initiative taken by Yugoslavia.

30. The representative of the World Student Christian Federation said that the concept of 'minority rights' was insufficient to address the complex nature of the problems facing the indigenous peoples of the world. The rights of indigenous peoples could most effectively be protected by an instrument and mechanisms exclusively devoted to their situation. This was an important question of the rights of peoples. The study now in progress under the responsibility of a Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities raised hopes that it would lead to the creation of an international instrument on the rights of indigenous peoples. He urged that any action in this regard be reserved pending the publication of this study.

31. The representative of the International Indian Treaty Council believed that the inclusion of indigenous peoples in the draft declaration under discussion was misleading and wrong in its basic assumptions. The draft, and attempts to include in it the indigenous populations of the Western Hemisphere, were made with the best of intentions but in ignorance of basic facts, such as the existence today of 371 treaties between various Indian nations and the Government of the United States. These treaties acknowledge the sovereignty and territorial integrity of these Indian nations. The ultimate goal of their colonizers would be achieved by referring to indigenous peoples as minorities. The Indian people of the Western Hemisphere had distinct cultures, languages, religions and forms of government which could never be assimilated into the character of their colonizers. To classify the indigenous peoples of the Western Hemisphere as their oppressor would classify them would be a serious blow to Indian people in their struggle for self-determination and recognition of their sovereign rights as independent Indian nations.

32. The representative of Bulgaria stated that the revised text to be submitted next year by the delegation of Yugoslavia should be drafted in accordance with article 27 of the International Covenant on Civil and Political Rights avoiding any discrepancies in this connexion. In the preamble, first the rights of persons belonging to minorities were discussed but, at the end of the preamble, the rights of minorities were dealt with. It was necessary to bring the approach into line with the provisions of article 27 of the Covenant, the Charter of the United Nations and other international instruments. The declaration should call for the implementation in full equality, of rights of individuals belonging to these minorities and not for any privileges. Attention should be paid also to rights enshrined in the International Covenant of Economic, Social and Cultural Rights.

33. The representative of the Philippines said that the word minority was a difficult term to define. In normal language, minority meant a group of persons living in a community who were fewer in numbers than the other members of that community. No inferiority in quality was necessarily implied. The aim of a draft was to protect the minority vis-à-vis the majority; to prevent the majority from depriving the minority of the same rights which the majority enjoyed. In the preparation of the declaration three points should be taken into account: (1) the minority should be protected so that the majority should not oppress the minority or deprive it of the benefits given to the members of the majority; (2) the minority should be placed on an equal level so far as rights were concerned; (3) the minority should not consider itself a privileged group with special entitlements. Under these conditions all persons would be equal before the law and have equal opportunities before the law.

34. The representative of the United States of America made reference to the fact that the problems of indigenous populations were different from those of minorities as had been noted by several speakers. This was true in the United States, in part because of the existence of treaties with some of those populations. For these reasons it might perhaps be agreed not to cover indigenous peoples in the draft to be submitted next year. This would be in line with the suggestion made by Australia on page 2 of its comments (E/CN.4/1298/Add.8).

35. The representative of Greece said that after hearing the statements by other delegations he was wondering if, at this stage, a more thorough study of the whole subject would be preferable to a draft declaration. He stated that it would be important to include in next year's documents a definition of the concept of minorities. This was admittedly a difficult task. Work in connexion with this declaration next year should begin with a definition on the basis of article 27 of the International Covenant on Civil and Political Rights, the implementation of which should be among the fundamental aims of this work. It should be ensured that persons belonging to the minority had their rights protected. No attempts should be made to create new minorities or raise obstacles to integration. Legal equality had to be protected by appropriate instruments, whether national or international. Real equality meant a balance of rights and obligations. This was to be achieved within the framework of each State. Specific international instruments dealing with given particularities should not be neglected. Situations that did not really resemble each other should not be heaped together into the same basket. Striking a balance between the general and the particular was hard. The problem of differentiating 'national' from 'ethnic' minorities appeared to be difficult and should be clarified.

36. The representative of Norway agreed that it would be desirable to deal with the problems of indigenous populations separately. He requested that the amendments submitted in 1978 by Norway (E/CN.4/1298) should be held in abeyance; then might later be taken up in connexion with the study on indigenous populations in the Sub-Commission, which might decide to set up a working group to work exclusively on the question of indigenous peoples.

37. The representative of Iraq stated, in connexion with the need for a specific definition of the term minority, that in the preparatory work on article 27 of the International Covenant on Civil and Political Rights this question of definition had been avoided. This question involved socio-political concepts and therefore no precise and unanimous definition could be prepared in an international instrument. Professor Capotorti had tried to define this term in his study, and for the purposes of that study had defined it as a group which was numerically smaller than the rest of the population of the State to which it belonged and possessed cultural, physical or historical characteristics, a religion or a language which were different from those of the rest of the population. This definition had been circulated to Governments and many replies and comments had been received. In his view it was not possible to establish a precise definition in a very complex and sensitive instrument such as the one under consideration.

38. The representative of Australia made reference to the proposal of his Government (E/CN.4/1298/Add.8) which aimed at strengthening the importance

of the right to existence already included in the draft declaration, by providing for a special article aimed at providing a better opportunity fully to reject genocide and the expulsion of minorities. As regards indigenous populations, the study carried out under the responsibility of Mr. Martinez Cobo as Special Rapporteur of the Sub-Commission should be taken into account. It was essential that that study be indeed a satisfactory one from the point of view of these populations themselves. The work of this Working Group should in no way pre-empt or prejudice the very important work entrusted to Mr. Martinez Cobo. He requested the Chairman-Rapporteur to take into account the specific proposals contained in the Australian Government's comments which could not be studied at this juncture.

39. The representative of Argentina wondered what was the precise scope of the declaration under discussion, in particular whether it had been intended to include indigenous populations or not.

40. The representative of Cyprus requested the Chairman-Rapporteur to ensure that, when revising the draft, consideration is given not only to rights but also to duties. No abuse or irresponsibility should be allowed which would impede or obstruct the smooth ruling by the majority in accordance with the Constitution and legislation of the country. As was recognized by the General Assembly, as regards States, upon the proposal of the International Law Commission in connexion with the Draft Declaration on the Rights and Duties of States, minorities should also clearly understand that they not only have the same rights but also the same duties as the rest of the population. Thus, no evasion of military duties should be permitted on the ground that minority religious belief does not permit military service.

41. The representative of Yugoslavia said that he greatly appreciated the comments and suggestions made either during the discussions in the Working Group or submitted by Governments in reply to the request of the Secretary-General. When the draft declaration was submitted to the Commission, her delegation had explained the motives and purposes of its provisions, indicating that it was a working paper open to proposals and suggestions for further improvement, so as to make it acceptable to all States in its final form. At the time the draft was presented it had been made clear that it was the intention of the drafters to promote the rights of minorities based upon strict respect for the sovereignty, territorial integrity and political independence of countries in which minorities lived, as well as upon non-interference in the internal affairs of those countries. Finally, the rights of minorities should be used only for their protection and not to foster separatism but, on the contrary, to foster the unity of the countries concerned. All suggestions had been carefully noted and most of them could be accommodated in the revised text to be prepared. The Yugoslav delegation remained open to any new suggestions, whether in bilateral or other forms of contact, aimed at further improving the text of the draft declaration."

372. In its report the Working Group transmitted a draft resolution to the Commission on Human Rights.

373. At the 1578th meeting on 12 March 1980, the Commission adopted without a vote the draft resolution transmitted to it by the Working Group, as orally revised. For the text of the resolution, see chapter XXVI, section A, resolution 37 (XXXVI).

XIX. QUESTION OF INTERNATIONAL LEGAL PROTECTION OF THE  
HUMAN RIGHTS OF INDIVIDUALS WHO ARE NOT CITIZENS  
OF THE COUNTRY IN WHICH THEY LIVE.

374. The Commission considered agenda item 24 at its 1559th to 1563rd meetings, held from 27 to 29 February 1980.

375. The Commission had before it the revised draft declaration (E/CN.4/1336), prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Baroness Elles, and the report of the Secretary-General containing the comments of Governments on the text of the revised draft declaration (E/CN.4/1354 and Add.1-6).

376. The speakers on the item highly commended the work done by the Special Rapporteur of the Sub-Commission, and most of them expressed their appreciation of the revised text of the draft declaration. Some expressed the view that it should be used as a basis for future work to be done in this respect.

377. In the course of the debate, the view was expressed that the comments submitted by Governments on the text of the draft declaration indicated that there was already a marked degree of support for an instrument which would be a first step towards the improvement of the protection of human rights of individuals who are not citizens of the country in which they live. The Special Rapporteur had, in her study, explained the shortcomings of existing human rights instruments in that respect.

378. Reference was made to information furnished by Governments on problems that might be encountered in implementing some of the provisions of the draft declaration, because existing laws or the economic situation at present, did not make it possible to equate the rights of aliens to those of citizens. It was said, however, that the vast majority of favourable comments by Governments suggested that the draft declaration was largely in accord with their existing legislation. It was also pointed out that a declaration would not be legally binding.

379. Several delegations expressed the hope that the Commission on Human Rights would adopt the draft declaration and would send it expeditiously through the Economic and Social Council to the General Assembly for consideration.

380. At its 1563rd meeting, on 29 February 1980, the representative of Greece introduced a draft resolution (E/CN.4/L.1515) sponsored by Cyprus, Egypt, Greece, Senegal, United Kingdom of Great Britain and Northern Ireland and Uruguay.

381. At the same meeting the Commission adopted the draft resolution without a vote.

382. For the text of the resolution, see chapter XXVI, section A, resolution 19 (XXXVI).

XX. QUESTION OF MEASURES TO BE TAKEN AGAINST IDEOLOGIES AND PRACTICES BASED ON TERROR OR INCITEMENT TO RACIAL DISCRIMINATION OR ANY FORM OF GROUP HATRED

383. The Commission considered agenda item 25 at its 1548th, 1552nd, 1553rd and 1554th meetings, held on 20, 22, 24 and 25 February 1980.

384. In introducing the item at the 1548th meeting, the Director of the Division of Human Rights called the attention of the Commission to the fact that the General Assembly, by its resolution 2839 (XXVI) of 18 December 1971, had decided to place this question on its agenda and to keep it under continuing review. The Assembly had urged other competent organs of the United Nations to do likewise. The Commission was reminded that, in compliance with the above-mentioned resolution, the item had been included in the agenda of the twenty-eighth session of the Commission and that the item had since been postponed by the Commission. The Commission was further reminded that consideration of the item by the General Assembly would be deferred until such time as the discussion of it had been concluded in the Commission.

385. The Commission heard statements by two representatives at its 1552nd meeting. During their interventions, representatives expressed concern over the resurgence of the ideology of fascism in certain countries and the establishment and activities of a number of fascist and neo-fascist organizations. They recalled the atrocities inflicted on the international community by fascism, particularly during the period of the Second World War, and the threat it, like apartheid and Zionism, currently constituted for human rights and, ultimately, international peace. They expressed the hope that the Commission on Human Rights, at its next session, would examine measures that might be envisaged against such ideologies and practices as nazism and neo-fascism which, it was said, incite to racial discrimination and group hatred. In that connexion, an appeal was made to those States which had not yet done so to accede to the existing international instruments that are directed, to a certain extent, against fascism. It was felt that perhaps some thought might be given to the preparation of a special document, which could be used by the international community in dealing with this problem.

386. A representative, speaking in exercise of the right of reply (1553rd meeting), refuted allegations that fascist ideology existed in his country. He pointed out that in recent years elections in his country had shown an overwhelming rejection of such ideology.

387. Another representative sought, at the 1554th meeting, to stimulate the interest of the Commission in the question of what he termed institutionalized discrimination based on sexual preference. He referred to what he felt was discriminatory treatment directed against homosexuals. In that connexion, he referred to discriminatory legislation and practice regarding immigration into a particular country.

388. The representative of that country stated, in reply, that the question of the rights of homosexuals was one that many jurisdictions in his country had

dealt with in a constructive and progressive manner. He referred to the attempts made by non-governmental organizations to have existing discriminatory laws and regulations against such persons rescinded. He stated that it was beneficial to discuss such issues in the Commission and thus encourage countries to advance in human rights matters. He further informed the Commission that the views expressed on the question in the Commission would be brought to the attention of the appropriate bodies in his country. He hoped to be able to report further progress on the question at the next session of the Commission.

XXI. ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

389. The Commission considered item 26 at its 1557th and 1559th meetings held on 26 and 27 February 1980.

390. The Commission had before it the following documents:

(a) Reports of the Secretary-General on the programme of advisory services in the field of human rights for the years 1978 and 1979 respectively, (E/CN.4/1330 and E/CN.4/1377).

(b) Report of the seminar on the establishment of regional commissions on human rights with special reference to Africa (ST/HR/SER.A/3).

391. At its 1557th meeting, on 26 February 1980, the Director of the Division of Human Rights, in introducing the item recalled that in 1978 the Commission had expressed its concern over the inadequate financing of the advisory services programme and had reiterated certain targets for this programme. He drew attention to the serious strains that continue in financing the programme.

392. He stated that the 1978 report (E/CN.4/1330) contained information about the 1978 Geneva seminar on local and national institutions for the promotion and protection of human rights. The 1979 report (E/CN.4/1377) gave information, inter alia, about the 1979 Monrovia seminar on the establishment of regional commissions on human rights with special reference to Africa. The seminar had adopted the Monrovia proposal for the setting-up of an African Commission on Human Rights as well as other conclusions and recommendations. He informed the Commission that in 1980, a symposium would be held at The Hague from 14 to 25 April on the role of the police in the protection of human rights.

393. A seminar would also be organized in 1980 to consider the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represented for the implementation of human rights and fundamental freedoms (resolution 6 (XXXVI) had been adopted in this connexion).

394. Speaking about fellowships, Mr. van Boven said that the Secretary-General would attempt to grant annually 25 awards in compliance with the request of the Economic and Social Council. Due to lack of funds, it was unlikely that a training course could be organized in 1980. Training, education and information were essential elements for the promotion and protection of human rights.

395. A number of representatives regretted that resources were still inadequate, taking into account the importance and practical usefulness of its component services. One delegation observed that the resources of the Division of Human Rights should be distributed in accordance with the priorities established by the General Assembly, in order to ensure the necessary provisions for this specific subprogramme. Others pointed to the need for increased staff for the Division of Human Rights in general in order to enable it to fulfil all its tasks satisfactorily. It was observed that only through information and education of public opinion could the idea of human rights and fundamental freedoms be promoted.



396. Some suggestions were made in respect of the programme. The exchange of information and the services of experts should be made available on a wider scale. More seminars should be organized under the programme, including a further seminar on regional human rights machinery in an area where none existed. The number of fellowships should be increased if possible and the subjects covered should include economic and social questions including the new international economic order. Non-governmental bodies in consultative status with the Economic and Social Council should be able to make use of the services available under the programme.

## XXII. COMMUNICATIONS CONCERNING HUMAN RIGHTS

397. The Secretary-General distributed to the members of the Commission confidential lists of communications (E/CN.4/CCR/79/1-12), replies of Governments (E/CN.4/GR.79/1-2, E/CN.4/GR.79/3 and Add.1, E/CN.4/GR.79/4-7, E/CN.4/GR.79/8 and Add.1-2 and E/CN.4/GR.79/9-12) and a confidential document of a statistical nature (E/CN.4/CCR/Stat.21).

## XXIII. CONSIDERATION OF THE DRAFT PROVISIONAL AGENDA FOR THE THIRTY-SEVENTH SESSION OF THE COMMISSION

398. The Commission considered agenda item 28 at its 1580th meeting, on 14 March 1980. In accordance with paragraph 3 of the Economic and Social Council resolution 1894 (LVII), a note by the Secretary-General (E/CN.4/L.1547) contained a draft provisional agenda for the thirty-seventh session of the Commission, indicating the documents to be submitted under each item and the legislative authority for their preparation, was before the Commission. The Commission took note of that draft provisional agenda at the same meeting.

399. For the text of the decision, see chapter XXVI, section B, decision 19 (XXXVI).

400. The text of the draft provisional agenda for the thirty-seventh session reads as follows:

1. Election of officers
2. Adoption of the agenda
3. Organization of the work of the session

Legislative authority: relevant resolutions and decisions of the General Assembly, the Economic and Social Council and the Commission.

4. Question of the violation of human rights in the occupied Arab territories, including Palestine

Legislative authority: Commission resolution 1 A (XXXVI)

Documentation:

(a) Report by the Secretary-General containing information concerning detainees, such as their number, identity, place and duration of detention (para. 9 of the resolution);

(b) Report to the Secretary-General containing information submitted by Israel on the implementation of paragraphs 1, 6, 7 and 8 of the resolution (para. 12 of the resolution);

(c) Report by the Secretary-General on the measures taken to bring the resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity (para. 13 of the resolution);

(d) List of United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of the occupied Arab territories, including Palestine (para. 14 of the resolution).

5. Question of human rights in Chile

Legislative authority: Commission resolution 21 (XXXVI)

Documentation:

(a) Report to the Commission by the Chilean authorities on the concrete steps taken by that Government that would enable the Commission to consider terminating the mandate of the Special Rapporteur (para. 4 of the resolution);

(b) Report of the Special Rapporteur on further developments in the situation of human rights in Chile (paras. 7 and 8 of the resolution).

6. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts

Legislative authority: Commission resolution 12 (XXXV) and 9 (XXXVI)

Documentation:

(a) Report of working group (para. 16 of resolution 12 (XXXV));

(b) Report of the Ad Hoc Working Group of Experts on the results of the enquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights (para. 5 of resolution 9 (XXXVI)).

7. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa

Legislative authority: Commission resolution 11 (XXXVI)

Documentation:

Updated version of the report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (para. 9 of the resolution).

8. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

- (a) Problems related to the right to enjoy an adequate standard of living; the right to development;
- (b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms.

Legislative authority: Economic and Social Council decision 1979/29, Commission resolutions 4 (XXXV) and 6 (XXXVI)

Documentation:

(a) Study by the Secretary-General of the regional and national dimensions of the right to development as a human right, paying special attention to the obstacles encountered by the developing countries in their efforts to secure the enjoyment of human rights;

(b) Report of the seminar on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms, particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights (para. 6 of resolution 6 (XXXVI)).

9. The right of peoples to self-determination and its application to people under colonial or alien domination or foreign occupation

Legislative authority: Commission resolution 5 (XXXVI)

Documentation:

List of reports, studies and publications prepared by the Special Unit on Palestinian Rights, established by General Assembly resolution 32/40 B (resolution 2 (XXXVI), para. 9).

10. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:

- (a) Torture and other cruel, inhuman or degrading treatment or punishment;
- (b) Question of missing and disappeared persons.

Legislative authority: Commission resolution 20 (XXXVI)

Documentation:

(a) Report of the Working Group of Experts containing its conclusions and recommendations on questions relevant to enforced or involuntary disappearances of persons (para. 7 of the resolution);

(b) General recommendations of the Sub-Commission on the means for eliminating enforced or involuntary disappearances of persons (para. 8 of the resolution);

(c) Relevant materials relating to the draft convention on torture and other cruel, inhuman or degrading treatment or punishment (resolution 34 (XXXVI), subject to approval by the Economic and Social Council).

11. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms

Legislative authority: Commission resolution 28 (XXXVI)

Documentation:

(a) Report of the Secretary-General on the views of Governments on the possibility of the creation of an intersessional role for the Commission's Bureau and on the possible need for convening emergency sessions of the Commission (para. 4 of the resolution);

(b) Report of the Secretary-General containing available information on intersessional roles performed by the Bureaux of other bodies in the United Nations system; information on the means available, including financial implications, for the convening of intersessional meetings of the Bureau as well as of emergency sessions of the Commission; and any other information relevant to the subject (para. 5 of the resolution);

(c) Note by the Secretary-General on the action taken by the Economic and Social Council with regard to the Commission's request of re-introduction of summary records (para. 2 of resolution 25 (XXXVI));

(d) Report of the Secretary-General on the measures taken to implement a world-wide programme for dissemination of international instruments on human rights and to enhance public information activities in the field of human rights (paras. 3 and 6 of resolution 24 (XXXVI)).

12. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus

(b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolution 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-fifth session

Legislative authority: Economic and Social Council resolution 1102 (XL).

Documentation:

(a) Annual supplement to document E/4226 (E/CN.4/923/Add.13), listing decisions taken by United Nations bodies during 1980 relevant to the question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories.

Legislative authority: General Assembly resolution 2785 (XXVI).

Documentation:

(b) Information which may be submitted by the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

Legislative authority: Commission decision 13 (XXXVI)

Documentation:

(c) Report of the Secretary-General on the question of human rights in Cyprus.

Legislative authority: Commission resolution 30 (XXXVI)

Documentation:

(d) Summary of the main findings and recommendations by the Secretary-General on large-scale exoduses (para. 5).

Legislative authority: Commission resolution 29 (XXXVI)

Documentation:

(e) Materials and documentation prepared by the Sub-Commission on the human rights situation in Democratic Kampuchea (para. 10 of the resolution).

Legislative authority: Commission decision 11 (XXXVI)

Legislative authority: Commission resolution 32 (XXXVI)

Documentation:

(f) Report of the Secretary-General on the results of his contacts with the Government of Guatemala (para. 4 of the resolution).

Legislative authority: Commission resolution 33 (XXXVI), subject to approval by the Economic and Social Council.

Documentation:

(g) Report of an expert on the situation in Equatorial Guinea (para. 4 of the resolution).

Legislative authority: Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) and Commission on Human Rights decision 13 (XXXV) subject to approval of the Economic and Social Council.

Documentation:

(h) Confidential documents, including those of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and its Working Group on Communications and the report of the Working Group established by the Commission at its thirty-fifth session.

13. Question of a Convention on the Rights of the Child

Legislative authority: Commission resolution 36 (XXXVI)

Documentation:

Report of the Working Group.

14. Measures to improve the situation and ensure the human rights and dignity of all migrant workers

Consideration of this item was deferred to the thirty-seventh session.

Legislative authority: Commission decision 16 (XXXVI)

Report by the Secretary-General concerning the model agreements and agreements on the various aspects of inter-State relations in so far as they concern migrant workers, which have been formulated by United Nations bodies, the specialized agencies and the other world-wide and regional intergovernmental organizations and competent non-governmental organizations, and the countries of origin and host countries of migrant workers (Commission resolution 25 (XXXV)).

15. Human rights and scientific and technological developments

Consideration of this item was deferred to the thirty-seventh session.

Legislative authority: Commission decision 16 (XXXVI)

16. Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid

Legislative authority: Commission resolutions 12 and 13 (XXXVI)

Documentation:

(a) Reports submitted by States parties to the Convention under article VII of the Convention (para. 3 of resolution 13 (XXXVI));

(b) Information provided by competent United Nations organizations relevant to the periodic compilation of the list of individuals, organizations, institutions and representatives of States alleged to be responsible for crimes

enumerated in article II of the Convention, as well as those against whom legal proceedings have been undertaken by States parties to the Convention, and

(c) Information provided by competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction (paras. 6 and 10 of resolution 12 (XXXVI));

(d) Report of the group established in accordance with article IX of the Convention (para. 6 of resolution 13 (XXXVI));

(e) Study by the Ad Hoc Working Group of Experts on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention (para. 7 of resolution 12 (XXXVI)).

17. The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service

Legislative authority: Commission resolution 38 (XXXVI)

Documentation:

Report of the Secretary-General on the information provided by Member States (para. 2 of the resolution).

18. Draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief

Legislative authority: Commission resolution 35 (XXXVI)

Documentation:

Report of the Working Group.

19. Periodic reports on human rights

(a) Periodic reports on freedom of information

(b) Periodic reports on civil and political rights and question of the rights of everyone to leave any country, including his own, and to return to his country (Economic and Social Council resolution 1788 (LIV)).

Consideration of this item was deferred to the thirty-seventh session.

Legislative authority: Commission decision 16 (XXXVI).



20. (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination
- (b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination

Legislative authority: Commission resolution 14 (XXXVI)

Documentation:

Report of the Secretary-General on specific proposals with regard to the preparation of the study referred to in paragraph 18 of the Programme of activities adopted by the General Assembly in its resolution 34/24.

21. Status of the International Covenants on Human Rights

Legislative authority: Commission resolution 8 (XXXVI)

Documentation:

Report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, including information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights (para. 10).

22. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session

Legislative authority: Commission decision 7 (XXXVI)

Documentation:

Report of the Sub-Commission at its thirty-third session.

23. Rights of persons belonging to national, ethnic, religious and linguistic minorities

Legislative authority: Commission resolution 37 (XXXVI)

Documentation:

(a) Consolidated text of the draft declaration;

(b) Compilation prepared by the Secretary-General;

(c) Document containing views of the Sub-Commission on the revised draft declaration (para. 3 of the resolution).

24. Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred

25. Advisory services in the field of human rights

Legislative authority: General Assembly resolution 926 (X), Economic and Social Council resolutions 684 (XXVI) and 1008 (XXXVII).

Documentation:

Report of the Secretary-General on the Programme of Advisory Services in the field of human rights.

26. Communications concerning human rights

Legislative authority: Economic and Social Council resolution 728F (XXVIII) and Commission resolutions 14 (XV) and 51 (XV).

Documentation:

Confidential and non-confidential lists of communications and documents containing the replies of Governments to communications furnished to them and a confidential document of a statistical nature.

27. Draft provisional agenda for the thirty-eighth session of the Commission

Legislative authority: Economic and Social Council resolution 1894 (LVII).

Documentation:

Note by the Secretary-General containing the draft provisional agenda for the thirty-eighth session of the Commission, together with information concerning documentation relating thereto.

28. Report to the Economic and Social Council on the thirty-seventh session of the Commission

Legislative authority: rule 38 of the rules of procedure of the functional commissions.

#### XXIV. POSTPONEMENT OF ITEMS ON THE AGENDA

401. At its 1578th meeting, on 12 March 1980, the Commission decided, without a vote, to postpone to its thirty-seventh session consideration of agenda items 14, 15 and 19.

402. For the text of the decision, see chapter XXVI, section B, decision 16 (XXXVI).

#### XXV. ADOPTION OF THE REPORT

403. At its 1579th to its 1581st meetings on 13 and 14 March 1980, the Commission considered its draft report on the work of its thirty-sixth session. The draft report, as amended during the course of the discussion, was adopted unanimously at its 1581st meeting on 14 March 1980.

XXVI. RESOLUTIONS AND DECISIONS ADOPTED BY THE  
COMMISSION AT ITS THIRTY-SIXTH SESSION

A. Resolutions

1 (XXXVI). Question of the violation of human rights in  
the occupied Arab territories, including  
Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling General Assembly resolutions, 32/5 of 28 October 1977, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 32/90 and 32/91 of 13 December 1977, 32/122 of 16 December 1977, 32/161 and 32/171 of 19 December 1977, 33/113 of 18 December 1978 and 34/90 of 12 December 1979,

Taking into account that the General Assembly has, in resolution 31/20 of 24 November 1976, recalled its resolution 3376 (XXX) of 10 November 1975, in which it expressed grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty,

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted,

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

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1/ Adopted at the 1538th meeting, on 13 February 1980, by a roll-call vote of 28 to 3, with 8 abstentions. See chap. II.

Recalling Security Council resolution 452 (1979) of 20 July 1979 which strongly deplores the failure of Israel to abide by Security Council resolutions 237 (1967) of 14 June 1967, 252 (1968) of 21 May 1968 and 298 (1971) of 25 September 1971 and the consensus statement by the President of the Security Council on 11 November 1976 and Security Council resolution 446 (1979) of 22 March 1979 and General Assembly resolutions 2253 (ES-V) and 2254 (ES-V) of 4 and 14 July 1967, 32/5 of 28 October 1977 and 33/113 of 18 December 1978,

Taking note of the reports of United Nations organs, specialized agencies, in particular of the reports of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, and international humanitarian organizations on the situation of the occupied Arab territories and their inhabitants,

Deeply alarmed by the conclusions of the Special Committee to investigate Israeli practices affecting the human rights of the population of occupied territories contained in paragraphs 367 and 368 of its report 2/ to the United Nations General Assembly which contains inter alia the following conclusions:

"√.√ Israel's policy in the occupied territories is based on the so-called 'homeland' doctrine which envisages a mono-religious (Jewish) State established on territory that includes those territories occupied by Israel in June 1967. In was this doctrine that was announced as the basis for decision of the Government of Israel to authorize purchase of land in the occupied territories by Israeli citizens and corporations.

...

In general it may be stated that, to the extent that the inhabitants of the occupied territories do not form part of the religious group in whose name the Government of Israel claims the right to establish itself, these inhabitants have no rights vis-à-vis the governing authorities (in this case the Government of Israel as a military occupation authority) whenever the exercise of the rights happens to run counter to the 'homeland' policy."

Reaffirming the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the occupied Arab territories,

1. Calls upon Israel to take immediate steps for the return of the Palestinians and the other displaced inhabitants of the occupied Arab territories to their homes and property;

2. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront to humanity;

3. Condemns the following Israeli policies and practices:

(a) the annexation of parts of the occupied territories;

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2/ A/34/631.

(b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

(c) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(d) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other and most recently the expropriation of the Arab electric company of Jerusalem;

(e) The destruction and demolition of Arab houses;

(f) Mass arrests, administrative detention and ill-treatment of the Arab population and the torture of persons under detention;

(g) The pillaging of archaeological and cultural property;

(h) The interference with religious freedoms and practices as well as with family rights and customs;

(i) The continuous interference with and obstruction of the educational and scholastic activities and the brutal suppression of all forms of students opinion, expression and manifestation;

(j) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

(k) The arming of the settlers in occupied territories to commit acts of violence against the Arab civilians;

4. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settlers' colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories;

5. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

6. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 3, 4 and 5 above;

7. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

8. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war;

9. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-seventh session;

10. Condemns once more the massive, deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

11. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War in accordance with article 1 of that Convention, and upon international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any of the other policies and practices referred to in the present resolution;

12. Calls upon Israel to report, through the Secretary-General, to the Commission at its thirty-seventh session on the implementation of paragraphs 1, 6, 7 and 8 above;

13. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and in particular the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, the regional intergovernmental organizations and the international humanitarian organizations, and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-seventh session;

14. Decides to place on the provisional agenda of the thirty-seventh session as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine", and requests the Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of those territories.

B 3/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXV) of 21 February 1979 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, and resolution 34/90 B of 12 December 1979,

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3/ Adopted at the 1538th meeting, on 13 February 1980, by a roll-call vote of 28 to 1, with 10 abstentions. See chap. II.

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recalling resolution 10, on the application of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in the occupied territories in the Middle East, of the XXIIIrd International Conference of the Red Cross held in Bucharest in October 1977,

Recognizing that the failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, poses a grave threat to world peace and security,

Taking into account that States parties to the Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's refusal to apply fully and effectively the Geneva Convention relative to the Protection of Civilian Persons in Time of War in all its provisions to all the Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in all the Arab territories occupied since 1967, including Jerusalem;
5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;
6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.



2 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 4/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978 and 34/65 B of 29 November 1979,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 3 (XXXI) of 11 February 1975, 6 (XXXI) of 21 February 1975, 2 (XXXIV) and 3 (XXXIV) of 14 February 1978 and 2 (XXXV) of 21 February 1979,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 5/

Bearing in mind further General Assembly resolution 32/40 B, of 2 December 1977, on the International Day of Solidarity with the Palestinian People,

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Recalling General Assembly resolution 34/65 B, of 29 November 1979, which reaffirms the declaration contained in paragraph 4 of its resolution 33/28 A of 7 December 1978, that the validity of agreements purporting to solve the problem of Palestine requires that they be within the framework of the United Nations and its Charter and its resolutions on the basis of the full attainment and exercise of the inalienable rights of the Palestinian people, including the right of return and the right to national independence and sovereignty in Palestine, and with the participation of the Palestine Liberation Organization,

Taking note of paragraphs 52 to 55 of the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

1. Affirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;

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4/ Adopted at the 1540th meeting, on 14 February 1980, by a roll-call vote of 23 to 8 with 10 abstentions. See chap. VII.

5/ Official records of the General Assembly, Thirty-fourth Session, Supplement No. 35, A/34/35.

2. Reaffirms the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;
3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
4. Notes with concern that the Camp David accords have been concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;
5. Rejects those provisions of the accords which ignore, infringe upon, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right to self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories and other Arab territories occupied by Israel since 1967;
6. Strongly condemns all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter and the resolutions adopted in the various international forums on the Palestinian issue;
7. Declares that the Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;
8. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;
9. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

3 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation - Denial of the right to self-determination and other fundamental human rights of the people of Afghanistan as a consequence of the Soviet military intervention in Afghanistan and its ensuing effects 6/

The Commission on Human Rights,

Recalling that one of the fundamental purposes of the Charter of the United Nations is "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples",

Noting that the exercise of the right of self-determination has enabled the vast majority of the peoples under colonial and alien domination and foreign occupation to achieve their national independence,

Reiterating the determination of Member States to reject all forms and types of foreign occupation and expansion and the race for spheres of influence, thereby strengthening the sovereignty and independence of States and the exercise of the right of peoples to self-determination,

Expressing its deep concern at the dangerous escalation of tension, intensification of rivalry and increased recourse to military intervention and interference in the internal affairs of States, which are detrimental to the interests of all nations,

Seriously concerned over the Soviet armed intervention in Afghanistan and the effect of this on the right of the Muslim people of Afghanistan to exercise their right to determine their political future,

Affirming that the Soviet occupation of Afghanistan constitutes a violation of that country's independence, aggression against the liberty of its people and a flagrant violation of all international covenants and norms, as well as a serious threat to peace and security in the region and throughout the world,

Considering that the continuing presence of the Soviet troops in Afghanistan, its attempt to impose a fait accompli and the military operations of those troops against the Afghan people flout international covenants and norms and blatantly violate human rights,

Fully aware of the immense financial burden borne by neighbouring countries of Afghanistan, in particular the Islamic Republic of Pakistan which has provided asylum to hundreds of thousands of Afghan people, old men, women and children, driven away by the Soviet military occupation,

Recalling resolution ES-6/2 of 14 January 1980 of the sixth emergency S special session of the General Assembly which deplored the armed intervention in Afghanistan and called for the withdrawal of foreign troops from that country,

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6/ Adopted at the 1541st meeting, on 14 February 1980, by a roll-call vote of 27 to 8, with 6 abstentions. See chap. VII.

Noting the resolution adopted by the first extraordinary session of the Islamic Conference of Foreign Ministers on the Soviet military intervention in Afghanistan,

1. Condemns the Soviet military aggression against the Afghan people, denounces and deplures it as a flagrant violation of international laws, covenants, and norms, primarily the Charter of the United Nations, and calls upon all peoples and Governments throughout the world to persist in condemning this aggression and denouncing it as an aggression against human rights and a violation of the freedoms of peoples;

2. Demands the immediate and unconditional withdrawal of all Soviet troops stationed on Afghan territories;

3. Reiterates that Soviet troops should refrain from acts of oppression and tyranny against the Afghan people until the complete withdrawal of Soviet forces from Afghan territory;

4. Calls upon all Member States to refrain from providing assistance to the present imposed régime of Afghanistan;

5. Urges all States and people throughout the world to provide generous assistance and succour to the refugees from Afghanistan who have been driven away from their homes;

6. Recommends that all Member States affirm their solidarity with the Afghan people in their just struggle to safeguard their faith, national independence and territorial integrity and to recover their right to determine their destiny, and to provide all possible assistance to them for this purpose;

7. Solemnly declares its complete solidarity with the countries neighbouring Afghanistan against any threat to their security and well being and calls upon all States resolutely to support and extend all possible co-operation to these countries in their efforts fully to safeguard their sovereignty, national independence and territorial integrity.

4 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 7/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments relating to human rights,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in resolution 1514 (XV) of 14 December 1960,

Conscious of its responsibility to promote and encourage observance of the human rights and fundamental freedoms of all,

Bearing in mind the profound concern of the United Nations, the Organization of African Unity and the non-aligned countries regarding the decolonization of Western Sahara and the right of the people of that Territory to self-determination and independence,

Considering the relevant resolutions of the General Assembly on the question of Western Sahara and more particularly resolution 34/37 of 21 November 1979,

Emphasizing the importance of the reports prepared by the Special Rapporteurs of the Sub-Commission on Prevention of Discrimination and Protection of Minorities concerning, respectively, "The historical and current development of the right to self-determination" 8/ and "The right to self-determination - Implementation of United Nations resolutions", 9/

Recalling decision AHG/DEC.114 (XVI) Rev.1 taken by the Sixteenth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held at Monrovia from 17 to 20 July 1979,

Taking into account the work of the ad hoc Committee of Heads of State of the Organization of African Unity, which met at Monrovia from 4 to 5 December 1979,

Greatly concerned at the occupation of Western Sahara by Morocco and the violations of human rights and fundamental freedoms resulting from that occupation,

1. Takes note with satisfaction of the recommendations of the Organization of African Unity and the General Assembly of the United Nations concerning exercise by the people of Western Sahara of the right to self-determination and

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7/ Adopted at the 1542nd meeting, on 15 February 1980, by a roll-call vote of 25 to 1, with 13 abstentions. See chap. VII.

8/ E/CN.4/Sub.2/404, vols. I-III.

9/ United Nations publication, Sales No. E.79.XIV.5.

independence, the sole means of putting an end to the violation of the fundamental rights of the Sarrawi people resulting from the foreign occupation of its territory and of restoring the dignity of that people;

2. Decides to follow closely the developments in this situation in the light of the recommendations of the Organization of African Unity and the General Assembly of the United Nations and to consider the question of Western Sahara within the framework of the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its thirty-seventh session, as a matter of high priority.

5 (XXXVI). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 10/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling further General Assembly resolutions 2649 (XXV) of 30 November 1970, 2955 (XXVII) of 12 December 1972, 3070 (XXVIII) of 30 November 1973, 3236 (XXIX) of 22 November 1974, 3246 (XXIX) of 29 November 1974, 3382 (XXX) of 10 November 1975, 33/24 of 29 November 1978,

Recalling also its resolutions 3 (XXXI) of 11 February 1975, 9 (XXXIII) of 5 March 1976, 3 (XXIV) of 14 February 1978 and 2 (XXXV) and 3 (XXXV) of 21 February 1979,

Reaffirming the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperative for the enjoyment of human rights,

Reiterating its profound indignation at the continued and flagrant violations of human rights of the peoples still under colonial and foreign domination and alien subjugation or foreign occupation, the perpetuation of the racist minority régime in South Africa, its illegal occupation of Namibia and persistent attempts to dismember the territory of Namibia, and the denial of the inalienable national rights of the Palestinian people,

1. Calls upon all States to implement fully and faithfully the resolutions of the United Nations concerning the exercise of the right to self-determination by peoples under colonial or alien domination and foreign occupation;

2. Reaffirms the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle;

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10/ Adopted at the 1543rd meeting, on 15 February 1980 by a roll-call vote of 29 to 8, with 4 abstentions. See chap. VII.

3. Reaffirms the inalienable right of the peoples of Namibia, Zimbabwe, South Africa and the Palestinian people and of all peoples under alien and colonial domination, to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;

4. Emphasises once again that the practice of using mercenaries against national liberation movements and sovereign States constitutes a criminal act and that the mercenaries themselves are criminals, and calls upon Governments to enact legislation declaring the recruitment, financing and training of mercenaries in their territory, and their transit through it, to be punishable offences and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General;

5. Condemns in particular the policy of those States which, in disregard of United Nations resolutions, continue to maintain political, economic, military and other relations with the racist régimes in southern Africa and elsewhere, thus supporting, protecting and encouraging them to persist in their suppression of the aspirations of peoples for self-determination and independence;

6. Strongly condemns the ever-increasing massacres of innocent and defenceless people, including women and children, by the racist minority régimes of southern Africa in their desperate attempts to suppress the legitimate demands of the people;

7. Reiterates its demand for the immediate and unconditional release of all people detained or imprisoned as a result of their struggle for self-determination and independence, full respect for their fundamental rights and the observance of article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

8. Requests the Government of the United Kingdom of Great Britain and Northern Ireland to take without any delay all necessary measures to guarantee free and fair elections in Southern Rhodesia, which would bring this territory to genuine independence acceptable to the people of Zimbabwe in accordance with the purposes of General Assembly resolution 1514 (XV) of 14 December 1960, as required by the Security Council in its resolution 463 (1980) of 2 February 1980;

9. Reiterates its appreciation for the material and other forms of assistance and support which the peoples under colonial domination and foreign occupation receive from friendly Governments in their struggle to achieve their right to self-determination and independence;

10. Decides to continue to give the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-seventh session.

6 (XXXVI). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 11/

The Commission on Human Rights,

Recalling that among the purposes and principles of the Charter of the United Nations is the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling further that the Charter expresses the determination of peoples to promote social progress and better standards of life in larger freedom,

Bearing in mind that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying their freedom without fear or want can be achieved only if conditions are created in which everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Further bearing in mind General Assembly resolution 3201 (S-VI) of 1 May 1974 on the Declaration on the Establishment of a New International Economic Order, and resolution 3281 (XXIX) of 12 December 1974 on the Charter of Economic Rights and Duties of States,

Recalling its resolutions 4 (XXXIII) of 21 February 1977 and 5 (XXXV) of 2 March 1979,

Noting with interest that the Heads of State or Government of Non-Aligned Countries, at their Sixth Conference held at Havana from 3 to 9 September 1979, set as one of the essential objectives of the non-aligned movement "the early establishment of the New International Economic Order with a view to accelerating the development of developing countries, eliminating the inequality between developed and developing countries and eradicating poverty, hunger, sickness and illiteracy in the developing countries", and called on the United Nations to continue working towards the comprehensive achievement of human rights, in order to ensure the dignity of human beings,

Taking into account especially General Assembly resolutions 32/130 of 16 December 1977, 34/46 of 23 November 1979 and 34/211 of 19 December 1979,

1. Recognizes the need to create, at the national and international levels, conditions for the full promotion and protection of the human rights of individuals and peoples;

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11/ Adopted at the 1550th meeting, on 21 February 1980, by a roll-call vote of 36 to 1 with 4 abstentions. See chap. VI.



2. Once again reiterates that the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations;

3. Further reaffirms the inalienable right of all nations to pursue freely their economic and social development and to exercise full and complete sovereignty over all their natural resources;

4. Recognizes that, in order to guarantee fully human rights and complete personal dignity, it is necessary to guarantee the right to work, education, health and proper nourishment through the adoption of national and international measures, including the establishment of the New International Economic Order;

5. Once again declares that the denial of the right to self-determination of peoples, foreign occupation, colonialism, apartheid, racism and racial discrimination constitute an impediment to social and economic progress;

6. Requests the Secretary-General to arrange for the seminar scheduled, within the framework of the advisory services programme, on the effect of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms, particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights, to be held at a place where there are suitable facilities for it, or at United Nations Headquarters, between the end of June and early July 1980, the items mentioned in the annex to this resolution being accorded priority on its programme;

7. Decides that, as from its thirty-seventh session, the wording of this item should be expanded to read as follows:

"Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

- (a) Problems related to the right to enjoy an adequate standard of living; the right to development;
- (b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms."

#### ANNEX

#### Items referred to in paragraph 6 above

1. The effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms.

2. The right to development as a human right. Equality of opportunity to achieve it. The right to development as a right of individuals and nations.

3. The search for formulas for international co-operation which help in eliminating the existing unjust international economic order and permit the enjoyment of human rights and fundamental freedoms by all, without distinction as to race, sex, language or religion.

7 (XXXVI). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 12/

The Commission on Human Rights,

Guided by the Charter of the United Nations and particularly Articles 55 and 56,

Taking into account General Assembly resolution 34/152 of 17 December 1979, on the world social situation,

Recalling its resolution 2 (XXXI) of 10 February 1975, in which it decided to keep on its agenda as a standing item the question of the realization of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems relating to human rights in developing countries,

Recalling its resolution 4 (XXXVIII) of 21 February 1977,

Recalling also its resolution 5 (XXXV) of 2 March 1979 and its recommendation in paragraph 6 of its resolution 4 (XXXV) of 2 March 1979 approved by Economic and Social Council decision 1979/29 of 10 May 1979 inviting the Secretary-General, in co-operation with the United Nations Educational, Scientific and Cultural Organization and other competent specialized agencies, to follow up the study 13/ undertaken in pursuance of paragraph 4 of Commission resolution 4 (XXXVIII) of 21 February 1977 with a study of the "regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of that right" and to make this study available for consideration by the Commission on Human Rights at its thirty-seventh session,

1. Renews its invitation to the competent economic and social organs of the United Nations to take account of the study 14/ carried out by the

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12/ Adopted at the 1550th meeting, on 21 February 1980, without a vote. See chap. VI.

13/ E/CN.4/1334.

14/ Ibid.

Secretary-General pursuant to resolution 4 (XXXIII) of 21 February 1977 in their respective activities and fields and, in particular, invites the Preparatory Committee for the New International Development Strategy to pay due attention to the integration of human rights in the development process;

2. Requests the Secretary-General, in the study he is invited to undertake pursuant to paragraph 6 of Commission resolution 4 (XXXV) of 2 March 1979 and Economic and Social Council decision 1979/29 of 10 May 1979, to elaborate, with due regard to previous studies, in particular document E/CN.4/1334, on the conditions required for the effective enjoyment by all peoples and all individuals of the right to development, paying special attention to the effects on development of the following:

- (a) Recognition of the duty to achieve and strengthen solidarity;
- (b) Establishment of peace and development of friendly relations among nations;
- (c) Control and constant improvement of the environment;
- (d) Establishment of a new international economic order;
- (e) Fair trading;
- (f) Equitable sharing of the common heritage of mankind;
- (g) The unimpeded exercise of the right of peoples to self-determination and hence their inalienable right to their natural wealth and resources;
- (h) Just and sincere co-operation among all nations;
- (i) Free choice by every people of its model for development;
- (j) Participation by the masses in the definition and application of the development policy;
- (k) Non-discrimination of any kind in the exercise of the right to development;
- (l) Existence of effective safeguards against arbitrary action and in favour of respect for human rights, in the interests of peoples, minorities and individuals;
- (m) Conclusion of regional agreements for optimum exploitation of wealth, and effective enjoyment of human rights in the framework of real co-operation;

3. Also requests the Secretary-General in preparing this study to take into account the views expressed in the debate under this item and any written views Governments may submit to him subsequently;

4. Further requests the Secretary-General to furnish all the assistance necessary to enable the study undertaken to be completed in a thoroughly satisfactory manner;

5. Stresses once again the duty of all States jointly and severally to create the necessary conditions for realization of the right to development;

6. Invites States which have not yet done so to ratify the International Covenant on Economic, Social and Cultural Rights and to carry out the commitments undertaken by them under the provisions of that Covenant.

8 (XXXVI). Status of the International Covenants on Human Rights 15/

The Commission on Human Rights,

Mindful that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the heart of the International Bill of Human Rights,

Recalling its resolution 6 (XXXV) of 2 March 1979 and General Assembly resolution 34/45 of 23 November 1979,

Bearing in mind its resolution 23 (XXXV) of 14 March 1979 concerning the development of public information activities in the field of human rights, and General Assembly resolution 34/45 of 23 November 1979 which includes the question of improving the publicity for the work of the Human Rights Committee,

Having considered the report 16/ of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights,

Noting with appreciation that, following the appeals of the General Assembly and the Commission, more Member States have acceded to the International Covenants on Human Rights;

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as reflected in its report,

1. Reaffirms the importance of the International Covenants on Human Rights as major parts of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;

2. Welcomes the information that the Economic and Social Council has now finalized arrangements for the consideration of reports submitted under the provisions of the International Covenant on Economic, Social and Cultural Rights, and expresses the hope that the Council will take steps to consider these reports as soon as possible;

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15/ Adopted at the 1550th meeting, on 21 February 1980, without a vote. See chap. XVI.

16/ E/CN.4/1329.

3. Urges all States which have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights;

4. Welcomes the entry into force on 28 March 1979 of article 41 of the International Covenant on Civil and Political Rights and invites the States parties to the Covenant which have not yet done so to consider making the declaration provided for in article 41;

5. Appreciates that the Human Rights Committee continues to strive for uniform standards in the implementation of the provisions of the International Covenant on Civil and Political Rights and of the Optional Protocol thereto and emphasizes the importance of the strictest compliance by States parties with their obligations under the Covenant;

6. Further emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights;

7. Draws the attention of States not yet parties to the Covenants to the reporting possibilities provided under Economic and Social Council resolution 1074 C (XXXIX) of 28 July 1965 as amended by resolutions 1988 (LX) of 11 May 1976 and 1978/20 of 5 May 1978;

8. Takes note of paragraph 12 of resolution 34/45 of 23 November 1979 in which the General Assembly urges the Secretary-General to take all possible steps to ensure that the Division of Human Rights of the Secretariat is able to assist effectively the Human Rights Committee and the Economic and Social Council in the implementation of their respective functions under the International Covenants on Human Rights, taking into account General Assembly resolutions 3534 (XXX) of 17 December 1975 and 31/93 of 14 December 1976;

9. Encourages all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights and to disseminate them and make them known as widely as possible in their territories;

10. Requests the Secretary-General to submit to the Commission on Human Rights at its thirty-seventh session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in this report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights.

9 (XXXVI). Violations of human rights in southern Africa:  
report of the Ad Hoc Working Group of Experts 17/

The Commission on Human Rights,

Recalling its resolution 2 (XXIII), by which it set up the Ad Hoc Working Group of Experts, and its resolutions 21 (XXV), 7 (XXVII), 19 (XXIX), 5 (XXXI), 6 (XXXIII) and 12 (XXXV), by which it extended and broadened the terms of reference of that Group,

Having examined the progress report of the Ad Hoc Working Group of Experts 18/ submitted in accordance with Commission on Human Rights resolution 12 (XXXV),

1. Congratulates the Ad Hoc Working Group of Experts on the excellent work accomplished and warmly thanks it;
2. Expresses its profound indignation regarding the situation prevailing in South Africa;
3. Denounces the so-called declaration of independence of the Transkei, Bophuthatswana and Venda, as well as of any other bantustan which the South African régime might establish, as a serious infringement of the principle of the right of peoples to self-determination;
4. Reaffirms the inalienable right of the people of Namibia to self-determination and independence and their right to enjoy all the rights recognized in the Universal Declaration of Human Rights, and declares that this right can be legally exercised only in accordance with directives given by the competent organs of the United Nations;
5. Requests the Ad Hoc Working Group of Experts to continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights, and to bring the results of those inquiries to the attention of the Commission on Human Rights;
6. Requests the Ad Hoc Working Group of Experts to continue to study the policies and practices which violate human rights in South Africa, in Namibia and, as appropriate, in Zimbabwe, and immediately to bring to the attention of the Chairman of the Commission on Human Rights particularly serious violations of human rights of which it learns during that study, so that he may take whatever action he deems appropriate;
7. Requests the Secretary-General to transmit this resolution to the General Assembly, the Security Council and the Special Committee against Apartheid;
8. Requests the Secretary-General to prepare a one-page summary of the findings of the Ad Hoc Working Group of Experts and to publish it in the world's leading newspapers, together with the Commission's condemnation of the violations of human rights in South Africa.

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17/ Adopted at the 1556th meeting, on 26 February 1980, by 32 votes to none. See chap. IV.

18/ E/CN.4/1365.

10 (XXXVI). The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa 19/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Reaffirming the responsibility of the United Nations in support of the struggle of the people of Zimbabwe for the exercise of their inalienable rights to self-determination and independence,

Bearing in mind Security Council resolution 463 (1980) of 2 February 1980,

1. Takes note of the agreement reached at Lancaster House, London, (United Kingdom) in December 1979, on the future of Zimbabwe;

2. Affirms that the purpose of that agreement is to enable the people of Zimbabwe to exercise their inalienable right to self-determination and independence and to enjoy those other fundamental rights which had been denied them by the racist minority régime in Southern Rhodesia;

3. Calls upon all parties to comply with the Lancaster House Agreement;

4. Calls upon the Administering Authority, the Government of the United Kingdom of Great Britain and Northern Ireland, to implement the agreement impartially and in strict compliance with its terms;

5. Also calls upon the Government of the United Kingdom to ensure that the forthcoming general elections in Zimbabwe are free and fair and that no political party is handicapped;

6. Urges the international community not to accord any recognition to any institution set up in Zimbabwe which is not the direct outcome of free and fair elections in Zimbabwe;

7. Demands that the apartheid régime of South Africa, which has played such a diabolical role in the violation of the rights of the people of Zimbabwe, should be prevented from further meddling in the affairs of Zimbabwe.

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19/ Adopted at the 1556th meeting, on 26 February 1980, by a roll-call vote of 33 to none, with 9 abstentions. See chap. V.

11 (XXXVI). The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa 20/

The Commission on Human Rights,

Reaffirming that any political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa strengthen those régimes and obstruct the efforts aimed at the elimination of colonialism, apartheid and racial discrimination in southern Africa;

Recognizing that utmost priority must be accorded to international action to secure the full implementation of the international instruments as well as resolutions of the United Nations for the eradication of racism and apartheid and for the liberation of the people of southern Africa from racist and colonial régimes,

Recalling its resolutions 3 (XXX), 6 (XXXII), 7 (XXXIII), 6 (XXXIV) and 9 (XXXV) as well as General Assembly resolution 33/23 of 29 November 1978,

Further recalling General Assembly resolution 34/93 in particular resolution 34/93 C of 12 December 1979 regarding the organization in 1980, in co-operation with the Organization of African Unity, of an international conference on sanctions against South Africa,

Taking note of resolution 3 (XXXII) of 5 September 1979 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the revised report 21/ prepared by Mr. Ahmed Khalifa, Special Rapporteur of the Sub-Commission on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa which contains a general provisional list of banks, transnational corporations and other organizations giving assistance to the racist and colonial régimes of southern Africa,

Deeply concerned at the fact that foreign interests continue to support and give all forms of assistance, including the delivery of nuclear supplies and equipment, to the racist régime of South Africa,

Deeply alarmed at recent reports that South Africa with Israeli co-operation has detonated a nuclear explosive device,

Conscious of the continuing need to mobilize world public opinion against the political, military, economic and other forms of assistance given to the racist régimes of southern Africa,

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20/ Adopted at the 1556th meeting, on 26 February 1980, by 31 votes to 4, with 6 abstentions. See chap. V.

21/ E/CN.4/Sub.2/425, Corr.1 and 2 and Add.1-6.



1. Expresses its appreciation to the Special Rapporteur for his revised report containing the general provisional list of banks, transnational corporations and other organizations assisting the racist régimes in southern Africa;

2. Expresses also its full support for the international conference on sanctions against South Africa to be organized by the United Nations in co-operation with the Organization of African Unity;

3. Requests all States which have not yet done so to take effective measures to end the supply of funds and other forms of assistance, including military and nuclear supplies and equipment, to the racist régimes which use such assistance to repress the peoples of southern Africa and their national liberation movements;

4. Calls upon the Governments of the countries where the banks, transnational corporations and other organizations named and listed in the revised report are based, to take effective action to put a stop to their trading, manufacturing and investing activities in the territories of the racist and colonial régimes of southern Africa;

5. Requests the Economic and Social Council that the revised report 22/ be appended to the original report 23/ by the Special Rapporteur and that it be printed and disseminated on the widest scale;

6. Requests also the Economic and Social Council to forward the revised report to the General Assembly;

7. Calls upon all States, relevant specialized agencies, non-governmental and other organizations to give wide publicity to the report;

8. Requests the Sub-Commission to mandate Mr. Ahmed Khalifa, Special Rapporteur, to continue to update the list every year and submit through the Sub-Commission the updated report to the Commission;

9. Decides to consider at its thirty-seventh session the next report, within the framework of its item on adverse consequences for the enjoyment of human rights, of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa.

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22/ Ibid.

23/ United Nations publication, Sales No. E.79.XIV.3.

12 (XXXVI). Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid 24/

The Commission on Human Rights,

Recalling General Assembly resolutions 34/24 and 34/27 of 15 November 1979,

Recalling further its resolution 2 (XXIII), by which it set up the Ad Hoc Working Group of Experts, and its resolutions 21 (XXV), 7 (XXVII), 19 (XXIX), 5 (XXXI), 6 (XXXIII) and 12 (XXXV) by which it extended and broadened the terms of reference of that Group,

Recalling also article I of the International Convention on the Suppression and Punishment of the Crime of Apartheid which declares that apartheid is a crime against humanity,

Having considered the special report 25/ of the Ad Hoc Working Group of Experts drawn up pursuant to paragraph 17 of Commission on Human Rights resolution 12 (XXXV) of 6 March 1979,

Convinced of the need to redouble its efforts to carry out its functions under the International Convention on the Suppression and Punishment of the Crime of Apartheid,

1. Takes note of the special report prepared by the Ad Hoc Working Group of Experts pursuant to paragraph 17 of Commission resolution 12 (XXXV);
2. Expresses its appreciation to the Ad Hoc Working Group of Experts for the objectivity and clarity of the work accomplished;
3. Appeals once again to those countries that have not yet done so to accede to the Convention on the Suppression and Punishment of the Crime of Apartheid without delay;
4. Cormends those States that have submitted their reports;
5. Urges the States parties to adopt the measures prescribed by the Convention, particularly those referred to in its articles IV and V;
6. Requests the Ad Hoc Working Group of Experts to continue, in co-operation with the Special Committee against Apartheid as appropriate, its compilation of the list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention on the Suppression and Punishment of the Crime of Apartheid and of individuals, organizations, institutions, and representatives of States against whom or which legal proceedings have been undertaken;

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24/ Adopted at the 1556th meeting, on 26 February 1980, by 30 votes to 1, with 9 abstentions. See chap. XII.

25/ E/CN.4/1366.

7. Further requests the Ad Hoc Working Group of Experts, in co-operation with the Special Committee against Apartheid and in accordance with paragraph 20 of the annex to resolution 34/24 adopted by the General Assembly on 15 November 1979, to undertake a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention;

8. Requests the Secretary-General to arrange for the publication, in the largest possible number of newspapers, of an account of each case in the list of persons allegedly guilty of the crime of apartheid under the International Convention on the Suppression and Punishment of the Crime of Apartheid, stating the individuals involved, the victim, the culpable deed and its legal definition, and to bring such accounts to the attention of the public by all other communication media;

9. Welcomes the active campaign by the Special Committee against Apartheid in co-operation with the Commission, to give effect to the provisions of the Convention, in response to the Commission's request, under article X of the Convention;

10. Reiterates the request addressed to competent United Nations organs in paragraphs 6 and 7 of its resolution 10 (XXXV);

11. Decides to maintain on its agenda as a standing item the question entitled "Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid".

13 (XXXVI). Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid 26/

The Commission on Human Rights,

Recalling its resolutions 7 (XXXIV) of 22 February 1978 and 10 (XXXV) of 5 March 1979,

Recalling its resolution 7 (XXXIV) in which it called on States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to submit, in accordance with article VII of the Convention, their first report not later than two years after becoming parties to the Convention and their periodic reports at two-yearly intervals,

Having considered the report 27/ of the group of three members of the Commission appointed under article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid,

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26/ Adopted at the 1556th meeting, on 26 February 1980, by a roll-call vote of 32 to none, with 10 abstentions. See chap. XII.

27/ E/CN.4/1358.

Reaffirming its conviction that wider ratification of the Convention will contribute significantly to the eradication of the crime of apartheid,

1. Takes note with appreciation of the report of the group of three members of the Commission, and in particular the recommendations contained in it;

2. Emphatically renews its appeal to those countries that have not yet done so to accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid without delay;

3. Commends those States parties that have submitted their reports, and in particular those that have submitted a second report, and urges the States parties which have not yet done so to submit their report as soon as possible;

4. Requests the Secretary-General to renew his invitation to the States parties to the Convention which have not yet done so to suggest ways and means for the establishment of the international penal tribunal referred to in article V of the Convention, and to transmit such suggestions to the Ad Hoc Working Group of Experts responsible for investigating violations of human rights in southern Africa in order that it may undertake a study on the establishment of the aforesaid international penal tribunal, in accordance with the mandate entrusted to it under resolution 12 (XXXVI) of the Commission on Human Rights;

5. Again urges the States parties to the Convention to take into consideration, when submitting their reports, the guidelines 28/ laid down by the group of three members of the Commission in 1978 for the submission of the reports;

6. Decides that the group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-seventh session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

14 (XXXVI). Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination 29/

A 30/

The Commission on Human Rights,

Recalling that in its resolution 3057 (XXVIII) of 2 November 1973 and in the Programme for the Decade for Action to Combat Racism and Racial Discrimination annexed thereto, the General Assembly called for a continuing effort by all peoples, Governments and institutions to eradicate racism, racial discrimination and apartheid,

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28/ E/CN.4/1286.

29/ Adopted at the 1556th meeting, on 26 February 1980, by 33 votes to none, with 8 abstentions. See chap. XV.

30/ Adopted at the 1556th meeting, on 26 February 1980, by 38 votes to none, with 2 abstentions. See chap. XV.

Firmly convinced of the importance of the attainment of the objectives of the Decade,

Taking note that in conformity with paragraph 11 of the annex to General Assembly resolution 34/24 of 15 November 1979, regional seminars should be organized on an annual basis at the level of the regional commissions on specific subjects,

Taking into account that violations of human rights, denial of the right of peoples under colonial or foreign domination and foreign occupation to self-determination, economic and political oppression, social injustice and cultural contempt are among the root causes of discrimination,

Having considered the report 31/ of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session,

1. Takes note of resolutions 2 A and B (XXXII) of the Sub-Commission; 32/
2. Recommends to the Economic and Social Council while evaluating the activities undertaken to implement the goals and objectives of the Decade for Action to Combat Racism and Racial Discrimination:
  - (a) To consider in particular the impact of these activities on the situation of specific groups such as migrant workers, immigrant communities, indigenous populations and persons belonging to ethnic minorities;
  - (b) To give special attention to the question of co-ordination and co-operation within the United Nations system with a view to ensuring an integrated approach in dealing with problems of racial discrimination;
3. Recommends further to the Economic and Social Council the adoption of the following draft resolution:

/For the text see chap. I, sect. A, draft resolution I/

B 33/

The Commission on Human Rights,

Bearing in mind the four-year programme of activities to be undertaken during the second half of the Decade, adopted by the General Assembly in its resolution 34/24 of 15 November 1979,

1. Decides to organize a seminar in 1981, in accordance with paragraph 18 of the programme of activities, with a view to studying the formulation of effective measures to prevent transnational corporations and other established interests from collaborating with the racist régimes of southern Africa;

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31/ E/CN.4/1350.

32/ Ibid., chap. XVI, sect. A.

33/ Adopted at the 1556th meeting, on 26 February 1980, by 33 votes to 3, with 5 abstentions. See chap. XV.

2. Requests the Chairman of the Commission on Human Rights, in co-operation with the Special Committee against Apartheid, to make the necessary arrangements for the organization of the seminar and to inform the Commission at its thirty-seventh session on the steps taken;

3. Requests the Secretary-General to give the Chairman of the Commission all the assistance that he may require in his work.

C 34/

The Commission on Human Rights

Bearing in mind the four-year programme of activities to be undertaken during the second half of the Decade, adopted by the General Assembly in its resolution 34/24 of 15 November 1979,

1. Requests the Secretary-General to consult the Commission on Transnational Corporations, the Special Committee against Apartheid, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the United Nations Council for Namibia with a view to determining the modalities under which the study referred to in paragraph 18 of the programme of activities should be carried out;

2. Further requests the Secretary-General to report to the Commission at its thirty-seventh session on specific proposals as regards the preparation of the study and the outline thereof.

D 35/

The Commission on Human Rights

Recalling General Assembly resolution 3377 (XXX) of 10 November 1975 and resolution 8 (XXXIV) of the Commission of 22 February 1978,

Recalling also resolution 3 (XXX) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of 31 August 1977, in which the Sub-Commission requested the Secretary-General to prepare a preliminary document that sets forth information from all available sources on how various United Nations instruments, including declarations and resolutions, have been used in national courts, administrative tribunals and domestic forums, including legislative forums, with suggestions for their effective future use in the specific field of racial discrimination,

Bearing in mind the programme of activities adopted by the General Assembly in its resolution 34/24 of 15 November 1979,

Requests the Sub-Commission to prepare a study on ways and means of ensuring the implementation of the United Nations resolutions on apartheid, racism and racial discrimination and submit it together with its conclusions to the Commission at its thirty-eighth session.

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34/ Adopted at the 1556th meeting, on 26 February 1980, by 29 votes to 5, with 6 abstentions. See chap. XV.

35/ Adopted at the 1556th meeting, on 26 February 1980, by 33 votes to none, with 7 abstentions. See chap. XV.

- 15 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 36/

The Commission on Human Rights

1. Recommends to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Benjamin Whitaker with the further extension and updating of the Report of Slavery 37/ in the light of the comments made in the Sub-Commission at its thirty-first session;
2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work, including all relevant information from reliable sources;
3. Requests the Special Rapporteur to submit his report to the Sub-Commission at its thirty-fourth session.

- 16 (XXXVI). Question of the human rights of persons subjected to any form of detention or imprisonment 38/

The Commission on Human Rights

1. Recommends to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. L. M. Singhvi with the preparation of a report on the independence and impartiality of judiciary, jurors and assessors and the independence of lawyers, to the end that there shall be no discrimination in the administration of justice and that human rights and fundamental freedoms may be maintained and safeguarded, in the light of the comments made in the Sub-Commission at its thirty-second session;
2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work;
3. Requests the Special Rapporteur to submit his report to the Sub-Commission at its thirty-third session.

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36/ Adopted at the 1562nd meeting, on 29 February 1980, without a vote. See chap. XVII.

37/ United Nations publication, Sales No. 67.XIV.2.

38/ Adopted at the 1562nd meeting, on 29 February 1980, without a vote. See chap. XVII.

The Commission on Human Rights

1. Recommends to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to entrust Mr. Abdelwahab Bouhdiba with the preparation of a report on the exploitation of child labour, taking into account all the economic, social, cultural and psychological dimensions of the problem, in the light of the comments made in the Sub-Commission at its thirty-second session, reports prepared by the International Labour Organisation on this subject and other relevant reports;
2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work, including all relevant information from reliable sources;
3. Requests the Special Rapporteur to submit his report to the Sub-Commission at its thirty-fourth session.

18 (XXXVI). The new international economic order and the promotion of human rights 40/

The Commission on Human Rights

1. Recommends to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint Mr. Raúl Ferrero as Special Rapporteur, with the mandate of preparing a study on: "The new international economic order and the promotion of human rights". The Special Rapporteur, in elaborating his study, should take into account the conclusions of the seminar to be held in 1980 within the framework of the advisory services programme on the basis of paragraph 8, resolution 5 (XXXV) of the Commission on Human Rights and should examine the effect, if any, that the new international economic order has on the implementation of some human rights and fundamental freedoms, as well as taking into account the comments made at the thirty-second session of the Sub-Commission and the relevant existing documents prepared by the competent organs of the United Nations system. The Special Rapporteur should also collect and analyse from a human rights perspective recommendations and guidelines contained in resolutions and reports adopted by organs of the United Nations system in particular the regional commissions, in relation to the new international economic order;
2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in his work;

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39/ Adopted at the 1562nd meeting, on 29 February 1980, without a vote. See chap. XVII.

40/ Adopted at the 1562nd meeting, on 29 February 1980, without a vote. See chap. XVII.



3. Authorizes the Special Rapporteur to represent the Sub-Commission at the seminar to be held in 1980 within the framework of the advisory services programme on the basis of operative paragraph 8, resolution 5 (XXXV), of the Commission on Human Rights;

4. Requests the Special Rapporteur to submit his preliminary report to the Sub-Commission at its thirty-third session and his final report to the Sub-Commission at its thirty-fifth session.

19 (XXXVI). Question of international legal protection of the human rights of individuals who are not citizens of the country in which they live 41/

The Commission on Human Rights,

Recalling its resolutions 8 (XXIX) and 11 (XXX) and Economic and Social Council resolutions 1790 (LIV) of 18 May 1973 and 1871 (LVI) of 17 May 1974 concerning the question of international legal protection of the human rights of individuals who are not citizens of the country in which they live,

Noting resolution 9 (XXXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, which transmitted to the Commission the study 42/ and the draft declaration 43/ on the human rights of individuals who are not citizens of the country in which they live, prepared by the Baroness Elles, Special Rapporteur, as amended in the light of suggestions made in the Sub-Commission,

Recalling also its resolution 16 (XXXV) of 14 March 1979 in which it requested the Economic and Social Council to consider the text of the draft declaration of the Sub-Commission with a view to submitting it to the General Assembly for its consideration,

Bearing in mind that the Economic and Social Council, in its decision 1979/36 of 10 May 1979, decided to print and disseminate as widely as possible the study prepared by the Special Rapporteur of the Sub-Commission, and also to transmit the draft declaration to member States for their comments and to the Commission on Human Rights at its thirty-sixth session so that it might consider it, in conjunction with comments received, with a view to transmitting a report on the subject to the Council at its first regular session in 1980,

Having considered once again the draft declaration on the human rights of individuals who are not citizens of the country in which they live, together with comments 44/ received from member States,

1. Reiterates its deep appreciation to the Special Rapporteur, the Baroness Elles, for her work;

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41/ Adopted at the 1563rd meeting, on 29 February 1980, without a vote. See chap. XIX.

42/ E/CN.4/Sub.2/392 and Corr.1.

43/ E/CN.4/1336.

44/ E/CN.4/1354 and Add.1-6.

2. Welcomes the decision of the Economic and Social Council to print and widely disseminate the study prepared by the Special Rapporteur;

3. Recommends to the Economic and Social Council the adoption of the following draft resolution:

/For the text see chap. I, sect. A, draft resolution II.7

20 (XXXVI). Question of missing and disappeared persons 45/

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, which requested the Commission on Human Rights to consider the question of missing or disappeared persons with a view to making appropriate recommendations,

Taking into account resolution 1979/38 of 10 May 1979 of the Economic and Social Council, which requested the Commission to consider the question as a matter of priority, and resolution 5 B (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Convinced of the need to take appropriate action, in consultation with the Governments concerned, to promote the implementation of the provisions of General Assembly resolution 33/173 and other United Nations resolutions relevant to the plight of missing and disappeared persons,

1. Decides to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons;

2. Requests the Chairman of the Commission to appoint the members of the group;

3. Decides that the working group, in carrying out its mandate, shall seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources;

4. Requests the Secretary-General to appeal to all Governments to co-operate with and assist the working group in the performance of its tasks and to furnish all information required;

5. Further requests the Secretary-General to provide the working group with all necessary assistance, in particular staff and resources they require in order to perform their functions in an effective and expeditious manner;

6. Invites the working group, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it and to carry out its work with discretion;

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45/ Adopted at the 1563rd meeting, on 29 February 1980, without a vote. See chap. VIII.

7. Requests the working group to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations;

8. Further requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue studying the most effective means for eliminating enforced or involuntary disappearances of persons, with a view to making general recommendations to the Commission at its thirty-seventh session.

9. Decides to consider this question again at its thirty-seventh session under a subitem entitled "Question of Missing and Disappeared Persons".

21 (XXXVI). Question of human rights in Chile 46/

The Commission on Human Rights,

Noting that all Governments have an obligation to respect and promote human rights in accordance with their responsibilities under various international instruments,

Recognizing that mass and flagrant violations of human rights are a matter of special concern to the international community,

Conscious of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all, and determined to remain vigilant with regard to violations of human rights wherever they occur,

Recalling its resolution 11 (XXXV) of 6 March 1979 providing for the appointment of a Special Rapporteur on the situation of human rights in Chile, and of experts to study the question of the fate of missing persons in Chile,

Recalling also General Assembly resolution 34/179 of 17 December 1979, requesting the Commission at its thirty-sixth session to study thoroughly the report of the Special Rapporteur and the report of the Expert on the Question of the Fate of Missing and Disappeared Persons, and inviting the Commission to extend the mandate of the Special Rapporteur and to continue consideration of the most effective ways of clarifying the whereabouts and fate of the missing persons,

Expressing its regret that the Chilean authorities refused to co-operate with the Special Rapporteur and the Expert on the Question of the Fate of Missing and Disappeared Persons,

Deeply concerned about the conclusions of the Special Rapporteur that generally the situation of human rights has not improved, and in a number of areas has even deteriorated,

Expressing deep concern that the whereabouts of the numerous persons who have disappeared since 1973 are still unknown and that this has caused grief and often hardship to their relatives,

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46/ Adopted at the 1563rd meeting, on 29 February 1980, by a roll-call vote of 29 to 3, with 10 abstentions. See chap. III.

Noting with particular concern that the Chilean authorities have failed to take urgent and effective measures as requested by the General Assembly in several resolutions to investigate and clarify the fate of persons accurately reported to have disappeared for political reasons,

Convinced that it cannot consider terminating the mandate of the Special Rapporteur until a number of concrete steps have been taken by the Chilean authorities towards restoring full enjoyment of human rights and fundamental freedoms in that country,

1. Commends the Special Rapporteur and the Expert on the Question of the Fate of Missing and Disappeared Persons for their work;

2. Reiterates its indignation at the fact that violations of human rights still take place in Chile, and concludes that on the basis of both reports 47/ its continued vigilance in that respect is warranted;

3. Expresses its grave concern that there has been a deterioration in a number of areas, as clearly shown in the conclusions of the report; 48/

4. Strongly urges the Chilean authorities to respect and promote human rights in accordance with their obligations under various international instruments and, in particular, to take the following concrete steps that would enable the Commission to consider terminating the mandate of the Special Rapporteur and to report to the General Assembly at its thirty-fifth session and to the Commission on Human Rights at its thirty-seventh session on the implementation of these steps:

(a) Restore democratic institutions and constitutional safeguards with the object of terminating the state of emergency, which has facilitated the violation of human rights;

(b) Take effective measures to prevent torture and other forms of inhuman or degrading treatment and to prosecute and punish those responsible for such practices;

(c) Restore fully freedom of expression and information and of assembly and association;

(d) Restore fully trade union rights, especially the freedom to form trade unions which can operate freely without government control and can exercise fully the right to strike;

(e) Allow Chilean citizens freely to enter and leave the country, and provide the possibility for those who have been deprived of Chilean nationality for political reasons to regain it;

(f) Restore fully the right of amparo;

(g) Restore the rights, in particular the economic, social and cultural rights, of the indigenous population;

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47/ A/34/583 and Add.1; E/CN.4/1362, E/CN.4/1363, E/CN.4/1381.

48/ A/34/583; E/CN.4/1362.

5. Urges the Chilean authorities to investigate and clarify the fate of persons reported to have disappeared for political reasons, to inform relatives of the outcome of the investigation and to institute criminal proceedings against those responsible for such disappearances and punish those found guilty;

6. Urges the Chilean authorities scrupulously to respect the duty of their judiciary to employ fully and without restriction its constitutional power under habeas corpus and amparo in order to protect individuals from arbitrary arrest and detention thereby preventing cases of disappearances;

7. Decides to extend the mandate of the Special Rapporteur for another year and requests him to report on further developments in the situation of human rights in Chile to the General Assembly at its thirty-fifth session and to the Commission on Human Rights at its thirty-seventh session;

8. Requests the Special Rapporteur also to deal in his report with the problem of disappeared persons in Chile;

9. Again urges the Chilean authorities to co-operate fully with the Special Rapporteur;

10. Recommends to the Economic and Social Council to make arrangements for the provision of adequate financial resources and staff for the implementation of the present resolution;

11. Decides to consider at its thirty-seventh session as a matter of high priority the question of human rights in Chile.

22 (XXXVI). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms 49/

The Commission on Human Rights,

Recalling its resolution 22 (XXXV) of 14 March 1979 as well as Economic and Social Council resolution 1979/36 of 10 May 1979 on the further promotion and encouragement of human rights and fundamental freedoms,

Bearing in mind previous resolutions of the General Assembly, the Economic and Social Council and the Commission on the need for adequate infrastructure, staff and resources for carrying out the human rights programme of the United Nations,

Mindful of General Assembly decision 34/417 and resolution 34/47 of 23 November 1979 on the services of the Secretariat concerned with human rights,

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49/ Adopted at the 1560th meeting, on 28 February 1980, without a vote.  
See chap. IX.

Joins in the request of the General Assembly to the Secretary-General to consider, if he deems it appropriate, the redesignation of the Division of Human Rights, and in its invitation to the Secretary-General to ensure that adequate financial and other resources are allocated to the sector in the Secretariat concerned with human rights so as to enable it to discharge its functions.

23 (XXXVI). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms 50/

The Commission on Human Rights,

Recalling that the Universal Declaration on Human Rights was adopted by the General Assembly for the purpose of ensuring that every individual and every organ of society, keeping the Declaration constantly in mind, shall strive by teaching and education to promote respect for the rights and freedoms contained therein,

Noting that the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the Covenants,

Recalling also that the Economic and Social Council and the Commission on Human Rights have repeatedly and consistently emphasized the importance of the role of individuals and organs of society in the promotion and protection of human rights,

Bearing in mind its resolution 23 (XXXV) of 14 March 1979 in which it expressed the belief that progress in the promotion of respect for and protection of human rights is assisted by a favourable world public opinion, and that a prerequisite for such development is a high level of knowledge, understanding and acceptance of the requirements of the Charter of the United Nations, of the Universal Declaration of Human Rights and of the relevant covenants and conventions,

Bearing in mind also the International Convention on the Elimination of all Forms of Racial Discrimination,

1. Re-emphasizes the call of the Universal Declaration of Human Rights to all individuals and all organs of society to strive by teaching and education to promote respect for the rights and freedoms contained in the Universal Declaration of Human Rights in accordance with the provisions of the Charter of the United Nations;

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50/ Adopted at the 1563rd meeting, on 29 February 1980, without a vote. See chap. IX.

2. Appeals to all Governments to encourage and support individuals and organs of society exercising their rights and responsibilities to promote the effective observance of human rights without prejudice to articles 29 and 30 of the Universal Declaration of Human Rights;

3. Emphasizes that in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined in the Charter of the United Nations, the Universal Declaration of Human Rights and the Covenants on Human Rights and other relevant instruments, and that unlawful limitations or persecution of anyone exercising his human rights and fundamental freedoms is at variance with the obligations of States under these instruments to work for the full and effective enjoyment of human rights and fundamental freedoms;

4. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue to examine the question of the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights and to report to the Commission on its conclusions and recommendations;

5. Decides to pay due attention to the above-mentioned aspects of the question during its examination at its thirty-seventh session of the question of ways and means for further promoting and protecting human rights, including the programme and working methods of the Commission with a view to promoting and encouraging respect for human rights and fundamental freedoms for all.

24 (XXXVI). Development of public information activities in the field of human rights 51/

The Commission on Human Rights,

Recalling its resolution 23 (XXXV) of 14 March 1979 on the development of public information activities in the field of human rights,

Recommends the following draft resolution for adoption by the Economic and Social Council:

/For the text see chap. I, sect. A, draft resolution III/

25 (XXXVI). Reinstatement of summary records 52/

The Commission on Human Rights,

Having been informed of Economic and Social Council resolution 1979/69 of 2 August 1979, on control and limitation of documentation, by which the Council suspended for an experimental period of two years the provision of summary records for the Commission,

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51/ Adopted at the 1577th meeting, on 11 March 1980, without a vote. See chap. IX.

52/ Adopted at the 1577th meeting, on 11 March 1980, by 38 votes to 1, with 2 abstentions. See chap. IX.

Recalling its resolution 2 (XXV) of 21 February 1969 in which it recommended to the Economic and Social Council that the summary records of the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities be maintained,

Recalling further its decision 2 (XXXVI) of 6 February 1980 by which it informed the President of the Economic and Social Council that the Commission had examined the implications of the suspension of summary records and had been unable to find any manner in which it could carry out its work without summary records without causing serious prejudice to its work,

Mindful of the fact that the deliberations of the Commission involve issues of great concern to Member States and to the international community,

Having experienced at its thirty-sixth session that Member States insist on having their positions recorded in annexes to the Commission's report,

Believing that the work of the Commission would be greatly assisted by the reinstatement of summary records,

1. Urgently requests the Economic and Social Council to take the necessary measures so that summary records are reintroduced for the Commission on Human Rights and for the Sub-Commission on Prevention of Discrimination and Protection of Minorities, commencing with the thirty-seventh session of the Commission and the thirty-third session of the Sub-Commission;

2. Requests the Secretary-General to report to the Commission at its thirty-seventh session on the action taken by the Economic and Social Council upon the request of the Commission.

26 (XXXVI). Individualization of prosecution and penalties, and repercussions of violations of human rights on families 53/

The Commission on Human Rights,

Mindful of the provisions of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

Considering that everyone has the right to security of person,

Considering that all are equal before the law and are entitled without distinction to equal protection of the law, all are entitled to equal protection against any discrimination which would violate the Universal Declaration,

Deeply concerned by the fact that some persons are victims of discrimination reflected in persecution and other infringements of their rights and freedoms, solely on account of their connexion, particularly family connexion, with a suspect, an accused person or a person who has been convicted,

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53/ Adopted at the 1577th meeting, on 11 March 1980, by 32 votes to none, with 10 abstentions. See chap. IX.



1. Reaffirms all the relevant principles governing the fundamental safeguards of the individual set forth, in particular, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights;

2. Calls upon Governments to see to the strict application of those provisions, so that no one can be prosecuted or persecuted merely because of his connexion, particularly family connexion, with a suspect, an accused person or a person who has been convicted;

3. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study this question at one of its next sessions and submit general recommendations to the Commission for its consideration.

27 (XXXVI). Good offices role of the Secretary-General in the field of human rights 54/

The Commission on Human Rights,

Bearing in mind General Assembly resolution 34/175 of 17 December 1979 on the need for effective action by the United Nations against mass and flagrant violations of human rights, which, inter alia, stressed the important role that the Secretary-General can play in such situations,

Recalling that the Economic and Social Council in its resolution 1979/36 of 10 May 1979 expressed its appreciation to the Secretary-General for his efforts to continue rendering the good offices envisaged in the Charter of the United Nations in the field of human rights,

Welcoming the statement of the Secretary-General in his Report on the Work of the Organization 55/ submitted to the General Assembly at its thirty-fourth session that he has continued to exert his best endeavours on behalf of human rights whenever he considers that his actions may be of assistance to the persons or groups concerned,

1. Requests the Secretary-General to continue and intensify the good offices envisaged in the Charter of the United Nations in the field of human rights;

2. Invites the Secretary-General to consider attending and addressing the opening meeting of the Commission at its thirty-seventh session.

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54/ Adopted at the 1577th meeting, on 11 March 1980, without a vote. See chap. IX.

55/ Official Records of the General Assembly, thirty-fourth session, Supplement No. 1 (A/34/1).

28 (XXXVI). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms 56/

The Commission on Human Rights,

Taking into account General Assembly resolutions 32/130 of 16 December 1977, 33/104 and 33/105 of 16 December 1978 on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Recalling its resolution 22 (XXXV) of 14 March 1979 which contained appropriate recommendations, approved by the Economic and Social Council in its resolution 1979/36 of 10 May 1979, and noted with satisfaction by the General Assembly,

Recalling also General Assembly resolution 34/49 of 23 November 1979 in regard to national institutions for the promotion and protection of human rights,

Recalling that the Commission on Human Rights has been requested to prepare suggestions on the possibility of convening meetings of the Bureau of the Commission in intersessional periods in exceptional circumstances,

Noting that in its resolution 22 (XXXV) the Commission foresaw the possibility of setting up a sessional working group at its thirty-seventh session to make appropriate proposals for the co-ordination of specific human rights activities and programmes within the United Nations system,

Referring to General Assembly resolutions 34/46 and 34/48 of 23 November 1979, as well as 34/175 of 17 December 1979,

Desiring to pursue its ongoing work on the over-all analysis with a view to the further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Bearing in mind that in this regard the Commission has already taken comprehensive and far-reaching steps, the significance of which deserves to be evaluated in the course of its ongoing work,

1. Decides to continue at its thirty-seventh session its ongoing work on the over-all analysis of further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

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56/ Adopted at the 1577th meeting, on 11 March 1980, without a vote.  
See chap. IX.

2. Decides further to establish at the very beginning of its thirty-seventh session an open-ended sessional working group to continue the over-all analysis as decided in paragraph 1 above and also to consider the question of the co-ordination of specific human rights activities within the United Nations system as well as to elaborate appropriate recommendations with respect to the over-all analysis for consideration by the Commission at its thirty-seventh session;

3. Deems it necessary, while carrying out its task, to pay attention to the preparation of a broadly balanced long-term programme of work, in conformity with the Charter of the United Nations, the Universal Declaration of Human Rights, and relevant international instruments, taking into account the concepts enumerated in General Assembly resolution 32/130;

4. Requests the Secretary-General to seek the views of Governments on the possibility of the creation of an intersessional role for the Commission's Bureau and on the possible need for convening emergency sessions of the Commission in order to consider responding to reports of mass and flagrant violations of human rights of an urgent nature, taking into consideration General Assembly resolution 32/130, and to report thereon to the Commission at its thirty-seventh session;

5. Requests the Secretary-General to submit to the Commission at its thirty-seventh session:

(a) Available information on intersessional roles performed by the Bureaux of other bodies in the United Nations system;

(b) Information on the means available, including financial implications, for the convening of intersessional meetings of the Bureau as well as of emergency sessions of the Commission;

(c) Any other information relevant to the subject;

6. Further requests the Secretary-General to place before the working group referred to in paragraph 2 above the reports of the working groups established with regard to the present item at its thirty-fourth and thirty-fifth sessions, along with any other information relevant to this item;

7. Decides to consider this item again at its thirty-seventh session;

8. Requests the Secretary-General to bring the present resolution to the attention of the General Assembly at its thirty-fifth session.

The Commission on Human Rights,

Recalling its decision 9 (XXXIV) concerning the human rights situation in Democratic Kampuchea,

Bearing in mind resolution 11 (XXXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of 15 September 1978 which recommended that the Commission give this matter highest priority, and also resolution 4 B (XXXII) of the Sub-Commission,

Having considered the analysis 58/ of the Chairman of the Sub-Commission of materials and information furnished in accordance with Commission decision 9 (XXXIV) of 8 March 1978 relating to the human rights situation in Democratic Kampuchea,

Recalling also General Assembly resolution 34/175 of 17 December 1979 in which the Commission is urged to take timely and effective action in cases of mass and flagrant violations of human rights,

Noting with deep concern that in January 1979 Democratic Kampuchea was invaded by foreign forces, leading to further human suffering including a large-scale exodus of refugees,

Recalling further General Assembly resolution 34/22 of 14 November 1979 on the situation in Kampuchea which called on the parties to the conflict to cease all hostilities forthwith and for the immediate withdrawal of all foreign forces from Kampuchea,

Seriously concerned that Kampuchea is still under foreign occupation and that the conflict continues, thus preventing the people of Kampuchea from exercising their right to self-determination,

1. Expresses its appreciation for the efficient manner in which the Sub-Commission under its dedicated Chairman discharged its responsibilities, and endorses its report;

2. Condemns all the gross and flagrant violations of human rights which have occurred in Kampuchea;

3. Condemns further the invasion and occupation of parts of Kampuchea by foreign forces and the violations of human rights which have ensued;

4. Calls on the parties to the present conflict in Kampuchea to cease all hostilities forthwith and for the immediate withdrawal of all foreign forces from Kampuchea;

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57/ Adopted at the 1576th meeting, on 11 March 1980, by a roll-call vote of 20 to 9, with 6 abstentions. See chap. X.

58/ E/CN.4/1335.

5. Urges the parties to observe fully the fundamental principles of human rights and pending cessation of the hostilities, in particular to:

(a) Cease all attacks against the civilian population of the war-affected areas;

(b) Ensure the safety of displaced persons and refugees;

(c) Ensure the adequate supply and distribution of food and medical care to the civilian population, and non-interference with all activities which are essential for the survival of the civilian population;

(d) Spare the lives of those enemy combatants who surrender or are captured and treat them humanely;

6. Commends the humanitarian efforts of the International Committee of the Red Cross, of various agencies of the United Nations system and of national and international non-governmental organizations in bringing emergency supplies to the people of Kampuchea;

7. Calls on the parties to co-operate fully with the relief agencies;

8. Commends the efforts of the United Nations High Commissioner for Refugees and neighbouring countries, particularly the Kingdom of Thailand, in providing relief and assistance to large numbers of Kampuchean who have been forced to flee and urges Governments and non-governmental organizations to continue generously to co-operate in the provision of this relief and assistance;

9. Recommends that the people of Kampuchea be granted their fundamental freedoms and human rights including the right to decide their own future through free and fair elections without outside interference, subversion or coercion;

10. Decides to keep the human rights situation in Kampuchea under review as a matter of priority, and to this end requests a member of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities to review at the thirty-third session of the Sub-Commission any further material on the subject which may become available and to submit it together with appropriate recommendations to the Commission at its thirty-seventh session.

30 (XXXVI). Human rights and massive exoduses 59/

The Commission on Human Rights,

Mindful of its mandate under the Charter of the United Nations to promote and encourage respect for human rights and for fundamental freedoms for all,

Disturbed by the scale and magnitude of exoduses of populations involving hundreds of thousands of men, women and children in many regions of the world,

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59/ Adopted at the 1576th meeting, on 11 March 1980, by 34 votes to 4, with 3 abstentions. See chap. X.

Conscious of the human sufferings that result from such large-scale exoduses,

Noting with serious concern the continuing great distress of refugees and displaced persons in various regions of the world,

Noting the immense burden imposed on the first host countries and territories which receive the victims of these sudden and massive movements of population,

Concerned by indications that such large exoduses of persons and groups are frequently the result of violations of human rights,

Considering the responsibility of the international community to render protection and assistance to victims of such exoduses and to share in the burden being imposed on first host countries,

Considering further the responsibility of the international community to help in alleviating the conditions which cause these exoduses,

Noting the active role played by the United Nations High Commissioner for Refugees in providing assistance to refugees and displaced persons and the purely humanitarian nature of his activities,

1. Calls upon all States to promote and encourage respect for human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations and with the relevant international instruments, particularly the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949;

2. Further calls upon all States, intergovernmental and humanitarian organizations and in particular the United Nations High Commissioner for Refugees to provide relief and assistance to refugees and displaced persons in various parts of the world and to share in the burden imposed upon the first host countries by large-scale exoduses;

3. Urges those States which are the source of the exodus or the place of refuge of persons and groups involved in large-scale exoduses to co-operate fully among themselves and with other States, intergovernmental and humanitarian organizations, on the basis of the principles of the Charter of the United Nations, in rendering protection and assistance to victims, in searching for enduring solutions for these situations, and in helping to prevent and eliminate conditions which may precipitate such exoduses;

4. Requests the Secretary-General, in cases where any such large-scale exoduses become a matter of international concern and solidarity to consider establishing direct contacts with appropriate Governments, to assess the relationships between the situation and full enjoyment of human rights and to make concrete recommendations for ameliorating such situations;

5. Requests the Secretary-General, where warranted, to submit to the next session of the Commission, or General Assembly as appropriate, a summary of his findings and recommendations to assist Governments in restoring full enjoyment of human rights;

6. Decides to consider at its thirty-seventh session the question "Human Rights and Massive Exoduses" when considering item 12 of the agenda.

31 (XXXVI). The human rights of United Nations staff members 60/

The Commission on Human Rights,

Recalling the provisions of Articles 100, 101, 103, 104 and 105 of the Charter of the United Nations, and the Convention on the Privileges and Immunities of the United Nations,

Concerned at reports of infringements of the human rights of United Nations staff members and the abrogation of rights conveyed under the Convention on the Privileges and Immunities of the United Nations,

1. Appeals to Member States of the United Nations to respect their obligations under the Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Convention on the Privileges and Immunities of the United Nations;

2. Requests the Secretary-General to use his good offices to ensure the full enjoyment of human rights by United Nations staff members and the enjoyment of rights conveyed under the Convention on the Privileges and Immunities of the United Nations.

32 (XXXVI). The situation of human rights and fundamental freedoms in Guatemala 61/

The Commission on Human Rights,

Bearing in mind the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling its decision 12 (XXXV) of 14 March 1979 concerning the assassination in Guatemala of Dr. Alberto Fuentes Mohr,

Noting the response 62/ of the Government of Guatemala to Commission decision 12 (XXXV),

Taking into account the fact that since the adoption of its decision 12 (XXXV) of 14 March 1979 there have been serious reports of further events of a similar nature which testify to the climate of insecurity and unrest afflicting the people of Guatemala,

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60/ Adopted at the 1576th meeting, on 11 March 1980, without a vote. See chap. X.

61/ Adopted at the 1576th meeting, on 11 March 1980, by 26 votes to 2, with 14 abstentions. See chap. X.

62/ E/CN.4/1387.

Considering that in addition the reported actions of the Guatemalan authorities in putting down demonstrations of popular discontent indicate a deterioration of the situation and lack of due respect for human rights and fundamental freedoms and have contributed to the occurrence of events which have disturbed and concerned international public opinion,

1. Expresses its profound concern at the situation of human rights and fundamental freedoms in Guatemala;

2. Urges the Government of Guatemala to take the necessary measures to ensure full respect for the human rights and fundamental freedoms of the people of Guatemala;

3. Takes note with satisfaction of the decision adopted by the Government of Guatemala to invite the Inter-American Commission on Human Rights to visit the country and to prepare a report on the situation of human rights;

4. Decides to keep the situation of human rights and fundamental freedoms in Guatemala under review at its thirty-seventh session on the basis of information received from all relevant sources and, to that end, requests the Secretary-General to bring this resolution to the attention of the Government of Guatemala and report on the results of this contact to the Commission at that session.

33 (XXXVI). The situation of human rights in Equatorial Guinea 63/

The Commission on Human Rights,

Recalling its resolution 15 (XXXV) of 13 March 1979 in which it recommended that a Special Rapporteur be appointed to make a thorough study of the situation of human rights in Equatorial Guinea,

Considering the important changes that have occurred in the country since 3 August 1979, which indicate a desire on the part of the new régime to restore and guarantee enjoyment of human rights in Equatorial Guinea,

Noting that a change of government has taken place in Equatorial Guinea since the adoption of the above-mentioned resolution,

Bearing in mind its responsibilities for co-ordination in the human rights field conferred by Economic and Social Council resolution 1979/36 of 10 May 1979,

Mindful of the developmental measures to be considered by concerned bodies in the United Nations system as a result of General Assembly resolution 34/123 of 14 December 1979, and of the need to take due account of human rights concerns in the adoption and implementation of such measures,

Taking note with appreciation of the report 64/ submitted by the Special Rapporteur on the situation of human rights in Equatorial Guinea,

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63/ Adopted at the 1577th meeting, on 11 March 1980, without a vote. See chap. X.

64/ E/CN.4/1371 and Corr.1.



Noting with appreciation the interest of the Government of Equatorial Guinea in the co-operation of the United Nations in order to ensure the effective enjoyment of fundamental rights by the citizens of Equatorial Guinea,

1. Decides, in response to the request of the Government of Equatorial Guinea, to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea, in particular with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms, keeping in mind the recommendations of the Special Rapporteur and the economical, political and social realities of that country;

2. Requests the Secretary-General, in consultation with the expert, to provide the assistance necessary to help the Government of Equatorial Guinea take the action necessary for the full restoration of human rights and fundamental freedoms in that country;

3. Invites the Government of Equatorial Guinea to extend its co-operation to the expert in the implementation of his mandate;

4. Requests the expert to submit a report on the implementation of this resolution to the Commission for consideration at its thirty-seventh session;

5. Invites all States, specialized agencies and other organs associated with the United Nations system, humanitarian organizations and non-governmental organizations to extend their help and assistance to Equatorial Guinea with a view to helping that country in its desire fully to restore human rights and fundamental freedoms;

6. Recommends the following draft decision for adoption by the Economic and Social Council:

/For the text see chap. I, sect. B, draft decision 15.7

34 (XXXVI). Draft convention on torture and other cruel, inhuman or degrading treatment or punishment 65/

The Commission on Human Rights,

Having in mind General Assembly resolution 32/62 of 8 December 1977, by which the Commission was requested to draw up a draft convention on torture and other cruel, inhuman or degrading treatment or punishment, and resolution 1979/35 of 10 May 1979, by which the Economic and Social Council authorized an open-ended working group of the Commission on Human Rights to meet for a period of one week prior to the thirty-sixth session of the Commission to complete the work on a draft convention on torture and other cruel, inhuman or degrading treatment or punishment,

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65/ Adopted at the 1578th meeting, on 12 March 1980, without a vote. See chap. VIII.

Recalling that such a draft convention has been discussed in a working group prior to and during the thirty-sixth session of the Commission but that it was not found possible to complete the work during that session,

Noting with satisfaction the progress made by the open-ended working group on the draft convention during the thirty-sixth session,

Desiring to make arrangements to expedite the work on the draft convention with a view to its early adoption,

1. Recognizes that it is advisable to continue the work on the draft convention in a working group which should meet before the thirty-seventh session of the Commission;

2. Decides to accord high priority to the consideration of this question at its thirty-seventh session;

3. Recommends that the Economic and Social Council should adopt the following resolution:

/For the text see chap. I, sect. A, draft resolution V.7

35 (XXXVI). Draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief 66/

The Commission on Human Rights,

Bearing in mind General Assembly resolution 34/43 of 23 November 1979,

Taking into account the report 67/ of the Secretary-General under Commission resolution 22 (XXXIV) and the suggestions and proposals 68/ of the Meeting of Experts on the Place of Human Rights in Cultural and Religious Traditions organized by the United Nations Educational, Scientific and Cultural Organization and held at Bangkok,

Approving the report of the Working Group established at the thirty-sixth session of the Commission on Human Rights to elaborate further the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief,

1. Recognizes that some progress was made by the Working Group during the thirty-sixth session but that a substantial amount of work remains to be done in order to complete the draft declaration;

2. Decides to continue at its thirty-seventh session, as a matter of highest priority, its work on the draft declaration on the elimination of all forms of

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66/ Adopted at the 1578th meeting, on 12 March 1980, without a vote. See chap. XIV.

67/ E/CN.4/1305 and Add.1-3 and E/CN.4/1337.

68/ E/CN.4/1375.

intolerance and of discrimination based on religion or belief and to complete the formulation of the declaration at that session for transmission to the General Assembly through the Economic and Social Council;

3. Decides also to establish again the open-ended Working Group at its thirty-seventh session and to allot more time to the Working Group during the thirty-seventh session in order that it may complete its task at that session.

36 (XXXVI). Question of a convention on the rights of the child 69/

The Commission on Human Rights,

Having in mind the draft convention 70/ on the rights of the child submitted by Poland on 7 February 1978 and the new amended version of the draft 71/ submitted on 5 October 1979,

Taking into account the report 72/ of the Secretary-General on the views, observations and suggestions on the question of the convention on the rights of the child submitted by Member States, competent specialized agencies, regional intergovernmental organizations and non-governmental organizations, which served as a basis for the amended draft convention,

Noting the progress in the further elaboration of the final draft of the convention on the rights of the child made by the Working Group set up at the thirty-sixth session of the Commission on Human Rights,

Recalling Economic and Social Council resolution 1978/18 of 5 May 1978 and General Assembly resolution 33/166 of 20 December 1978, as well as General Assembly resolution 34/4 of 18 October 1979 by which the Assembly had borne in mind the question of a convention on the rights of the child,

Convinced that, in connexion with the International Year of the Child which was celebrated during the year 1979, it would be desirable to adopt an international convention on the rights of the child,

1. Decides to continue at its thirty-seventh session, as a matter of priority, its work on a draft convention on the rights of the child with a view to completing the elaboration of the convention at that session for transmission to the General Assembly through the Economic and Social Council;

2. Requests the Economic and Social Council to authorize a one-week session of an open-ended working group prior to the thirty-seventh session of the Commission on Human Rights to facilitate completion of the work on a draft convention on the rights of the child.

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69/ Adopted at the 1578th meeting, on 12 March 1980, without a vote. See chap. XI.

70/ Annex to resolution 20 (XXXIV) of the Commission on Human Rights.

71/ E/CN.4/1349.

72/ E/CN.4/1324 and Corr.1 and Add.1-5.

37 (XXXVI). Rights of persons belonging to national, ethnic, religious and linguistic minorities 73/

The Commission on Human Rights,

Recalling its resolutions 14 (XXXIV) of 6 March 1978 and 21 (XXXV) of 14 March 1979,

Having taken cognizance of the report of the Working Group,

1. Requests the Chairman-Rapporteur of the Working Group, Mr. Toševski to prepare a revised and consolidated text of the draft declaration 74/ on the rights of persons belonging to national, ethnic, religious and linguistic minorities, taking into account all views expressed orally and in writing in connexion with the present draft as a basis for future work of the Commission and to transmit the revised draft to the Secretary-General in time for consideration by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session;

2. Requests the Secretary-General to prepare a document incorporating all provisions relevant to the rights of persons belonging to national, ethnic, religious or linguistic minorities as contained in international instruments in time for the submission to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session;

3. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to make a thorough and detailed examination of the revised draft declaration on the rights of persons belonging to national, ethnic, religious or linguistic minorities as referred to in paragraph 1 above and to submit its views on this revised draft to the Commission on Human Rights at its thirty-seventh session, taking into account all relevant documents, including the document mentioned in paragraph 2, above;

4. Decides to consider at its thirty-seventh session the item entitled "Rights of persons belonging to national, ethnic, religious and linguistic minorities".

38 (XXXVI). The question of conscientious objection to military service 75/

The Commission on Human Rights,

Recalling articles 3 and 18 of the Universal Declaration of Human Rights, which proclaimed the right to life, liberty and the security of person and the right to freedom of thought, conscience and religion,

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73/ Adopted at the 1578th meeting, on 12 March 1980, without a vote. See chap. XVIII.

74/ E/CN.4/L.1367/Rev.1.

75/ Adopted at the 1578th meeting, on 12 March 1980, by 23 votes to 2, with 15 abstentions. See chap. XIII.

Bearing in mind General Assembly resolution 33/165 of 20 December 1978, which recognized the right of all persons to refuse service in military or police forces used to enforce apartheid,

Noting the need for studies regarding internationally recognized principles, applicable to circumstances under which military service may be objected to on the grounds of conscience,

Mindful that the report of the Secretary-General, prepared in pursuance of Commission on Human Rights resolution 11 B (XXVII) of 19 March 1971 and relating to conscientious objection to military service and alternative service, may be in need of updating in order fully to reflect the present state of affairs,

1. Requests the Secretary-General to seek once again from Member States up-to-date information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service, together with any comments they may wish to transmit on the matter;

2. Further requests the Secretary-General to report on the information provided by Member States to the Commission at its thirty-seventh session with a view to further consideration of this question at that session.

## B. Decisions

### 1 (XXXVI). Organization of work 76/

(a) The Commission decided that informal open-ended working groups should be established for the consideration of agenda items 10 (a), 13, 18 and 23.

(b) The Commission also decided to invite the following persons to participate in its meetings:

- (i) In connexion with item 5: Mr. Abdoulaye Dieye, Special Rapporteur of the Commission on the situation of human rights in Chile; and, Mr. Felix Ermacora, expert on the question of the fate of missing and disappeared persons in Chile (Commission resolution 11 (XXXV));
- (ii) In connexion with item 7: Mr. Ahmed Khalifa, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, for the study on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa (Sub-Commission resolution 2 (XXXI));
- (iii) In connexion with item 12: Mr. Fernando Volio-Jimenez, Special Rapporteur of the Commission for the study of the human rights situation in Equatorial Guinea (Commission resolution 15 (XXXV));
- (iv) In connexion with item 12 (b): Mr. Beverly Carter, who has been nominated by the Working Group on Communications established in accordance with Economic and Social Council resolution 1503 (XLVIII), in the absence of Mr. Pirzada, Chairman-Rapporteur of that Working Group (Commission decision 3 (XXXIV));
- (v) In connexion with item 12: representatives of those States in respect of which situations are being considered under Economic and Social Council resolution 1503 (XLVIII) (Commission decisions 5 (XXXIV) and 14 (XXXV)).

### 2 (XXXVI). Telegram to the President of the Economic and Social Council 77/

The Commission decided to send the following telegram to the President of the Economic and Social Council:

"THE COMMISSION ON HUMAN RIGHTS AT ITS THIRTY-SIXTH SESSION HAS DISCUSSED ECOSOC RESOLUTION 1979/69 ON CONTROL OF DOCUMENTATION BY WHICH THE COUNCIL SUSPENDED FOR TWO YEARS THE PROVISION OF SUMMARY RECORDS FOR THE COMMISSION. THE COMMISSION HAS EXAMINED THE IMPLICATIONS OF THIS QUESTION AT ITS OPENING MEETINGS AND HAS BEEN UNABLE TO FIND ANY MANNER IN WHICH IT COULD CARRY ON ITS

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76/ Adopted at the 1526th meeting, on 5 February 1980. See chap. XXVII.

77/ Adopted at the 1528th meeting, on 6 February 1980. See chap. XXVII.

WORK WITHOUT SUMMARY RECORDS WITHOUT CAUSING SERIOUS PREJUDICE TO ITS WORK. THE COMMISSION THEREFORE URGENTLY REQUESTS THE COUNCIL THROUGH YOU TO RE-INTRODUCE SUMMARY RECORDS FOR THE COMMISSION WITH IMMEDIATE EFFECT TO ENABLE IT TO CONTINUE AND CONCLUDE ITS WORK AT THE SESSION WITHOUT FURTHER DIFFICULTIES."

3 (XXXVI). Records of discussions 78/

The Commission decided, within the framework of Economic and Social Council resolution 1979/69 of 2 August 1979, to have records of its discussions on agenda items 4, 6, 7, 9, 10, 11, 12, 16 and 20, and that such records should be reproduced in six annexes - one on agenda item 4, one on agenda items 6, 7, 16 and 20, one on agenda item 9, one on agenda item 10, one on agenda item 11 and one on agenda item 12 - to its report.

4 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Updating of the list of experts under Economic and Social Council resolution 1330 (XLIV) of 31 May 1968 79/

The Commission, having noted resolution 6 B (XXXI) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided to request the Secretary-General to update the list of experts (E/CN.4/1299 and Add.1-4) established under Economic and Social Council resolution 1330 (XLIV) of 31 May 1968.

5 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Extension of the period of work of the Working Group on Slavery

The Commission, having noted resolution 6 B (XXXI) 80/ of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided to extend the period of work of the Working Group on Slavery to five working days immediately before the session of the Sub-Commission.

6 (XXXVI). Consideration of the future work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities 81/

The Commission, having noted resolution 9 (XXXII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided to consider this matter further at its thirty-seventh session.

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78/ Adopted at the 1536th meeting, on 12 February 1980. See chap. XXVII.

79/ Adopted at the 1562nd meeting, on 29 February 1980. See chap. XVII.

80/ Idem.

81/ Idem.

7 (XXXVI). Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session 82/

The Commission decided to take note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session.

8 (XXXVI). General decisions concerning the establishment of a working group of the Commission to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) and situations which the Commission has decided to keep under review 83/

The Commission decided, subject to the approval of the Economic and Social Council, to set up a working group composed of five of its members to meet for one week prior to its thirty-seventh session to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 and those situations which the Commission has decided to keep under review.

9 (XXXVI). Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolution 1503 (XLVIII) 84/

The Commission, having regard to paragraph (a) of decision 5 (XXXIV) of the Commission on Human Rights under which States in respect of which situations are being considered under Economic and Social Council resolution 1503 (XLVIII) are invited to send representatives to address the Commission and to answer any questions put by members of the Commission, decided that such States shall have the right to attend and to participate in the entire discussion of the situation in which they are concerned, and to be present during the adoption of the final decision taken in regard to that situation.

10 (XXXVI). Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolution 1503 (XLVIII) 85/

The Commission on Human Rights,

Having examined, at its thirty-third, thirty-fourth, thirty-fifth and thirty-sixth sessions, a situation concerning the alleged persecution of Jehovah's

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82/ Idem.

83/ Adopted at the 1573rd (closed) meeting, on 7 March 1980. See chap. X.

84/ Idem.

85/ Idem.



Witnesses in Malawi, referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities under Economic and Social Council resolution 1503 (XLVIII);

Deploring that, in spite of the Commission's repeated requests, no observations have been received from the Government of Malawi to clarify the matter, or in any way to repudiate the grave allegations directed against it,

Considering, however, that since the events complained of are said to have occurred between 1972 and 1975 and as no further allegations indicating the continuation of the situation have reached the Commission within the framework of Council resolution 1503 (XLVIII) since the Commission's thirty-third session in 1977, there are reasons to believe that the situation no longer persists,

Acting under paragraph 8 of Council resolution 1503 (XLVIII),

1. Decides to conclude its examination by recommending to the Economic and Social Council the adoption of the following draft resolution:

/For the text see chap. I, sect. A, draft resolution IV./

11 (XXXVI). Message on the question of Sakharov 86/

The Commission decided to defer the consideration of the question in draft decision E/CN.4/L.1534 until its thirty-seventh session, including it among its priority items.

12 (XXXVI). Decision 7 (XXXV) of the Commission on Human Rights 87/

The Commission decided not to take any action, at its thirty-sixth session, on its decision 7 (XXXV).

13 (XXXVI). Question of human rights in Cyprus 88/

The Commission decided that the debate under item 12 (a) entitled "Question of Human Rights in Cyprus" be postponed to the next session of the Commission, with due priority at that session, it being understood that action required by previous resolutions of the Commission on this subject continue to remain operative including the request to the Secretary-General to provide a report to the Commission regarding their implementation.

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86/ Adopted at the 1576th meeting, on 11 March 1980. See chap. X.

87/ Adopted at the 1577th meeting, on 11 March 1980. See chap. X.

88/ Adopted at the 1573rd meeting, on 7 March 1980. See chap. X.

14 (XXXVI). Postponment of the session of the Ad Hoc Committee on Periodic Reports 89/

The Commission on Human Rights decided to recommend to the Economic and Social Council that the session of the Ad Hoc Committee on Periodic Reports scheduled to meet prior to the Commission's thirty-seventh session be postponed to meet prior to the thirty-eighth session of the Commission.

15 (XXXVI). Meeting services for the Commission on Human Rights 90/

The Commission on Human Rights, in view of its heavy schedule of work and the need to meet the requirements of its sessional working groups during its thirty-seventh session, recommends to the Economic and Social Council that it authorize three hours of additional meeting service per day during the Commission's thirty-seventh session.

16 (XXXVI). Postponement of items on the agenda to the thirty-seventh session of the Commission 91/

The Commission decided to postpone to its thirty-seventh session consideration of the following items of its agenda:

Measures to improve the situation and ensure the human rights and dignity of all migrant workers /14/;

Human rights and scientific and technological developments /15/;

Periodic reports on human rights /19/:

(a) Periodic reports on freedom of information;

(b) Periodic reports on civil and political rights and question of the right of everyone to leave any country, including his own, and to return to his country (Economic and Social Council resolution 1788 (LIV)).

17 (XXXVI). Telegram to Mr. Robert G. Mugabe, Prime Minister designate of Zimbabwe 92/

The Commission decided to send the following telegram to Mr. Robert G. Mugabe, Prime Minister designate of Zimbabwe:

"The Commission on Human Rights wishes to congratulate through you all the people of Zimbabwe for the victory that they have just achieved.

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89/ Adopted at the 1578th meeting, on 12 March 1980. See chap. XXVII.

90/ Idem.

91/ Adopted at the 1578th meeting, on 12 March 1980. See chap. XXIV.

92/ Adopted at the 1581st meeting, on 14 March 1980. See chap. XXVII.

The Commission has always supported the just struggle of the people of Zimbabwe for the realization of their right to self-determination, independence and an equitable place in the international community as an independent nation.

The Commission takes this opportunity to convey to the whole people of Zimbabwe its best wishes for their further success and prosperity."

18 (XXXVI). Invitation to H.R.H. Crown Prince Hassan Bin Talal of Jordan 93/

The Commission decided to send a letter to H.R.H. Crown Prince Hassan Bin Talal of Jordan inviting him to address the Commission at its thirty-seventh session.

19 (XXXVI). Draft provisional agenda for the thirty-seventh session 94/

The Commission took note of the draft provisional agenda for the thirty-seventh session.

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93/ Adopted at the 1581st meeting, on 14 March 1980. See chap. XXVII.

94/ Adopted at the 1580th meeting, on 14 March 1980. See chap. XXIII.

## XXVII. ORGANIZATION OF THE THIRTY-SIXTH SESSION

### A. Opening and duration of the session

404. The commission on Human Rights held its thirty-sixth session at the United Nations Office at Geneva from 4 February to 14 March 1980.

405. The session was opened (1525th meeting) by Mr. Yvon Beaulne (Canada), Chairman of the Commission at its thirty-fifth session, who made a statement in the course of which he welcomed the new members of the Commission: Algeria, Argentina, Byelorussian Soviet Socialist Republic, Costa Rica, Denmark, Ethiopia, Ghana, Greece, Jordan, Mongolia, Netherlands, Philippines, United Kingdom of Great Britain and Northern Ireland, and Zambia. The Director-General of the United Nations Office at Geneva welcomed the participants of the session on behalf of the Secretary-General. The Director of the Division of Human Rights then made a statement, concerning a number of human rights matters.

### B. Attendance

406. According to resolution 1979/36 of the Economic and Social Council the membership of the Commission on Human Rights was increased to 43 members. The session was attended by representatives of 42 State members. On 26 February 1980, the Government of Benin informed the Commission that it was unable to attend the present session. The session was also attended by observers from other States Members of the United Nations, by observers from two non-member States and by representatives of United Nations bodies, specialized agencies, regional intergovernmental organizations, national liberation movements and non-governmental organizations. At the 1528th meeting some delegations stated that they did not recognize the Government of Democratic Kampuchea. It was recalled, however, that the representative of Democratic Kampuchea attended the session in accordance with General Assembly resolution 34/2 A. An attendance list is given in annex I below.

### C. Election of officers

407. At its 1525th and 1526th meetings, on 4 and 5 February 1980, the Commission elected the following officers by acclamation:

Chairman:	Mr. Waleed M. Sadi	(Jordan)
Vice-Chairmen: <u>1/</u>	Mr. Carlos Calero-Rodrigues	(Brazil)
	Mr. Terence Nsanze	(Burundi)
	Mr. Lev I. Maximov	(Byelorussian SSR)
Rapporteur:	Mr. Claus Vollers	(Federal Republic of Germany)

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1/ The Vice-Chairmen are listed in the English alphabetical order of the names of the countries they represent.

#### D. Agenda

408. The Commission had before it the provisional agenda for the thirty-sixth session (E/CN.4/1351) 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 Commission at its thirty-fifth session in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII).

409. At the 1526th meeting, the Commission considered and adopted the provisional agenda. The agenda as adopted is given in annex II below.

#### E. Organization of work

410. With regard to the order of consideration of the items on its agenda, the Commission at its 1526th meeting, on 5 February 1980, bearing in mind the time allotted to this session, the respective priority of the various items and the availability of the relevant documentation, accepted a recommendation by its officers to the effect that the following items should be considered jointly: items 8 and 21; items 6, 7, 16 and 20; items 10 and 10 (b); items 11 and 26; items 12 and 27; items 28 and 29. The Commission further agreed to the following order in its consideration of the items on its agenda: 4, 9, 8 and 21; 6, 7, 16 and 20; 25; 10 and 10 (b); 5; 11 and 26; 22; 24; 12 and 27; 19; 14; 15; 17; 28 and 29. At the 1578th meeting on 12 March 1980 the Commission also agreed that agenda items 14, 15 and 19 should be deferred to its thirty-seventh session (see para. 401 above).

411. The Commission decided at its 1526th meeting that informal open-ended working groups should be established for the consideration of items 10 (a); 13, 18 and 23.

412. The Commission also decided (For the text of the decision, see chap. XXVI, sect. B, decision 1 (XXXVI).) to issue the following invitations:

(a) In connexion with item 5, Mr. Abdoulaye Dieye, Special Rapporteur of the Commission on the situation of human rights in Chile, and Mr. Felix Ermacora, expert on the question of the fate of missing and disappeared persons in Chile (Commission resolution 11 (XXXV));

(b) In connexion with item 7, Mr. Ahmed Khalifa, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for the study on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa (Sub-Commission resolution 2 (XXXI));

(c) In connexion with item 12, Mr. Fernando Volio-Jimenez, Special Rapporteur of the Commission for the study of the human rights situation in Equatorial Guinea (Commission resolution 15 (XXXV));

(d) In connexion with item 12 (b), in the absence of Mr. Pirzada who was unable to attend, Mr. Beverly Carter was nominated by the working group on communications established in accordance with Economic and Social Council resolution 1503 (XLVIII), as Chairman-Rapporteur of that working group (Commission decision 3 (XXXIV));

(e) In connexion with item 12, representatives of those States in respect of situations which are being considered under Economic and Social Council resolution 1503 (XLVIII) (Commission decisions 5 (XXXIV) and 14 (XXXV)).

F. Meetings, resolutions and documentation

413. The Commission held 158 meetings (1424th to 1581st meetings).

414. At its 1526th, 1527th, 1528th, 1533rd and 1535th meetings, in considering the organization of its work, the Commission referred to Economic and Social Council resolution 1979/69 by which the Council had decided to discontinue for an experimental period of two years the provision of summary records for its subsidiary bodies, including the Commission on Human Rights. At its 1528th meeting, the Commission decided to request the Council to reinstate summary records and to enable it to have them at its current session. (For the text of the decision, see chap. XXVI, sect. B, decision 2 (XXXVI).) The telegram to that effect was addressed on 6 February 1980 by the Chairman of the Commission to the President of the Economic and Social Council. In reply, the President of the Council referred to General Assembly resolution 34/50 of 23 November 1979 and stated that consequent to that resolution it was no longer within the power of the Council to reinstate summary records. In view of the demands of several representatives that a precise picture be given of the Commission's proceedings, the Commission referred the matter to its Bureau for proposals. At the Commission's 1533rd meeting, the Bureau proposed that the Commission on Human Rights might decide to have a more elaborate report on all items, without any records of the discussions, or - if that was not considered sufficient - to have such records on a limited number of items, bearing in mind the revised guidelines for the format and contents of the reports of functional commissions and standing committees of the Economic and Social Council. A statement of the financial implications of the latter option was orally presented to the Commission.

415. At its 1536th meeting, the Commission decided to have records of discussion on items 4, 6, 7, 9, 10, 11, 12, 16, 20 and to have such records reproduced in six annexes to its report in accordance with the above-mentioned Revised Guidelines, approved in Council resolution 1979/69. For the text of the decision, see chapter XXVI, section B, decision 3 (XXXVI).

416. The resolutions and decisions adopted by the Commission at its thirty-sixth session are contained in chapter XXVI of the present report. Draft resolutions and decisions for action by the Economic and Social Council and other matters of concern to the Council are set out in chapter I.

417. Annex VI contains the abridged records of the discussion on agenda item 4.

418. Annex VII contains the abridged records of the discussion on agenda item 9.

419. Annex VIII contains the abridged records of the discussion on agenda items 6, 7, 16, 20.

420. Annex IX contains the abridged records of the discussion on agenda item 10.

421. Annex X contains the abridged records of the discussion on agenda item 11.

422. Annex V contains the abridged records of the discussion on agenda item 12.

423. Annex III contains statements of the administrative and financial implications of certain decisions.

424. Annex IV contains a list of documents submitted for the Commission's consideration.

425. The working documents of the thirty-sixth session are contained in document E/CN.4/1407.

G. Other matters

426. At its 1578th meeting on 12 March 1980 the Commission decided to postpone the session of the Ad Hoc Committee on Periodic Reports scheduled to meet prior to the thirty-seventh session of the Commission, to the thirty-eighth session of the Commission. For the text of the decision, see chapter XXVI, section B, decision 14 (XXXVI).

427. At the same meeting the Commission decided to recommend to the Economic and Social Council that it authorize three hours of additional meeting services per day during the Commission's thirty-seventh session. For the text of the decision see chapter XXVI, section B, decision 15 (XXXVI).

428. At its 1581st meeting on 14 March 1980, the Commission extended an invitation to H.R.H. Crown Prince Hassan Bin Talal of Jordan to address the Commission at its thirty-seventh session. For the text of the decision see chapter XXVI, section B, decision 18 (XXXVI).

429. At its 1581st meeting on 14 March 1980 the Commission, upon a proposal by the representative of Yugoslavia, decided without a vote to send a telegram to the Prime Minister designate of Zimbabwe. For the text of the decision see chapter XXVI, section B, decision 17 (XXXVI).

ANNEXES

Annex I

ATTENDANCE

Members

Algeria

Mr. Anisse Salah-Bey, Mr. Zineddine Sekfali,\* Mr. Djilali Baghdadi,\*\*  
Mr. Mohamed Bergham,\*\* Mrs. Hania Semichi,\*\* Mr. Omar Baba-Ahmed,\*\*  
Mr. Laraba,\*\* Mr. Benouniche,\*\* Mr. Bendissari\*\*

Argentina

Mr. Enrique J. Ros, Mr. Gabriel O. Martínez,\* Mr. Carlos Cavandoli,\*  
Mr. Atilio N. Molteni,\*\* Mr. Fernando Goldaracena,\*\*  
Mr. Roberto López Delgado,\*\* Mrs. Ana del Carmen Richter,\*\*  
Mr. Juan Facundo Gomensoro,\*\* Mr. Pedro Villagra Delgado\*\*

Australia

Mr. O. L. Davis, Mr. C. L. Lamb,\* Mr. M. A. S. Landale,\* Ms. P. Wells\*

Benin

Mr. Joseph Gnonlonfoun a/

Brazil

Mr. Carlos Calero-Rodrigues, Mr. Luis Antonio Jardim Gagliardi,\*  
Mr. Gilberto Vergne Saboia,\* Mr. Enio Cordeiro\*\*

Bulgaria

Mr. Ivan Garvalov, Mr. Nikola Stoimenov,\* Mr. Boris Petsev,\*\*  
Mrs. Irina Kolarova\*\*

Burundi

Mr. T  rence Nsanze, Mr. Emmanuel Rwamibango,\* Mr. Nestor Ndamama\*\*

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\* Alternate.

\*\* Adviser.

a/ Did not attend.



Byelorussian Soviet Socialist Republic

Mr. Lev I. Maksimov, Mr. S. A. Khodos,\* Mr. V. N. Fissenko\*\*

Canada

Mr. Yvon Beaulne, Mr. Richard McKinnon,\* Mr. Jacques Gaudreau,\*  
Mr. J. D. Livermore,\*\* Mr. Peter McRae,\*\* Mr. J. R. Crowe,\*\*  
Rev. Dr. William MacDougall,\*\* Mr. Fred Coates,\*\* Mr. Padraig O'Donoghue,\*\*  
Mr. Maurice Guilbault

Colombia

Mr. Héctor Charry Samper (up to 19 February 1980), Mr. Enrique Gaviria Liévano  
(from 19 February 1980), Mr. Juan Antonio Barrero,\* Mr. Carlos Osorio,\*  
Miss Angela Gómez\*\*

Costa Rica

Mr. Luis A. Varela, Miss Marta I. Quirós Guardia,\* Mrs. Marta E. Odio Benito\*\*

Cuba

Mr. Luis Solá Vila, Mr. Frank Ortiz Rodríguez,\* Mr. Julio Heredia Pérez\*

Cyprus

Mr. Andreas Ch. Pouyouros, Mr. Michael Pissas,\* Mr. Andrestinos Papadopoulos\*

Denmark

Mr. Skjold Gustav Mellbin, Mr. Eigil Pedersen,\* Mr. Niels K. Dyrlund,\*\*  
Mr. Michael Wagtmann\*\*

Egypt

Mr. M. Omran El-Shafei, Mr. Wahid Fawzi,\* Mr. Mohamed El Baradei,\*  
Miss Leila Emara,\* Mr. Waguih Hanafi,\* Mr. Mohamed Foda\*

Ethiopia

Mr. Tadesse Terrefe, Mr. Girma Amare,\* Mr. Tewodros Amanuel,\*  
Mr. Berhane Deressa,\* Mrs. Berhane Raswork\*\*

France

Mr. Jean-Claude Soyer, Mr. André Lewin,\* Mr. Louis Guistetti,\*  
Mr. Robert Fauris,\* Mr. Jacques Le Blanc,\*\* Mrs. Solange Shulman-Perret,\*\*  
Mr. Alexandre Benmakhlouf,\*\* Miss Christine Chanet,\*\* Mr. Philippe Barbezieux\*\*

Germany, Federal Republic of

Mr. Gerhard Jahn, Mr. Ulrich Sahm,\* Mr. Ernst Martens,\*  
Detlev Graf zu Rantzau,\*\* Mr. Eberhard Baumann,\*\* Mr. Dietrich Lincke,\*\*  
Mr. Claus Vollers,\*\* Mr. Wiprecht von Treskow,\*\* Mr. Horst-Wolfram Kerll\*\*

Ghana

Mr. Kwadwo Faka Nyamekye

Greece

Mr. Anestis Papastefanou, Mr. Constantin Ivraakis,\* Mr. E. Roucounas,\*\*  
Ms. Liana Vourakis\*\*

India

Mr. A. A. Rahim (from 18 February 1980), Mr. C. R. Ghazekhan,  
Mr. T. C. A. Rangachari,\*\* Mr. A. S. Das,\*\* Mr. B. Shetty

Iran

Mr. Mansour Farhang, Mr. Iraj Said-Vaziri,\* Mr. Djamal Shemirani,\*  
Mr. Said Amir-Divani,\*\* Mrs. Farideh Ahmadi,\*\* Miss Sohela Shahkar\*\*

Iraq

Mr. Mohamed Redha Al-Jabiri, Mr. Basil Youssef,\* Mr. Riyadh Aziz Hadi,\*\*  
Mr. Mohamed Hassan Rashid\*\*

Ivory Coast

Mr. Amara Essy, Mr. Amadou Traore,\* Mr. Ekra Kouassi Florent,\*\*  
Mr. Claude Boua,\*\* Miss Marie-Laure Boa\*\*

Jordan

Mr. Waleed M. Sadi, Mr. Tarek Madi,\* Mr. Khalil Abdel-Rahim,\*\*  
Mr. Ahmad Al-Mufleh\*\*

Mongolia

Mr. Dugersurengiin Erdembileg, Mr. Dorjsurengiin Khurelbaatar\*

Morocco

Mr. Ali Skalli, Mr. El Ghali Benhima,\* Mrs. Halima Warzazi,\*  
Mr. Abbas Berrada,\* Mr. Ali Benbouchta,\* Mr. Mohamed El Jasouli,\*  
Mr. Hassan Oufir,\* Mr. Abdeslam Ziadi\*

Netherlands

Mr. Max van der Stoel, Mr. H. J. Heinemann,\* Mr. R. R. Smit,\*\*  
Mr. A. F. van Dongen,\*\* Mr. I. M. de Jong\*\*

Nigeria

Mr. Olu Adeniji, Mr. E. F. Allison,\* Miss O. O. Obafemi,\* Mr. O. A. Owoaje,\*  
Mr. P. L. Oyedele,\* Mr. A. J. Nanna,\* Mr. T. Aguiyi-Ironsi\*

Pakistan

Mr. Agha Hilaly, Mr. Munir Akram,\* Mr. A. A. Hashmi\*

Panama

Mr. Octavio Ferrer A., Miss Maria Chen-Su,\*\* Mr. Luis E. Martínez C.,\*\*  
Mrs. Libertad B. de Fonseca\*\*

Peru

Mr. Luis Chávez-Godoy, Miss Rosa Esther Silva y Silva,\*  
Mr. Alberto Gálvez de Rivero\*

Philippines

Mr. Luis Moreno-Salcedo

Poland

Mr. Adam Łopatka, Mr. Andrzej Olszowka,\* Mr. Bogdan Russin,\*  
Mr. Tadeusz Strojwas\*

Portugal

Mr. Angelo Almeida Ribeiro, Mr. Antonio Martins da Cruz,\* Miss Manuela Franco\*\*

Senegal

Mr. Kéba M'Baye, Mr. Alioune Sène,\* Mr. Abdoulaye Dièye,  
Mr. Ousmane Tanor Dieng,\* Mr. Samba Mbodj,\* Mr. Mohamed El Moustapha Diagna,\*  
Mr. Moussa Sagna\*

Syrian Arab Republic

Mr. Dia-Allah El-Fattal, Mr. Ahmed Saker,\* Mr. Clovis Khoury,\*  
Mr. Abdul Majid Sabbagh,\* Mr. Antanios Hanna\*

Union of Soviet Socialist Republics

Mr. V. A. Zorin, Mr. D. V. Bykov,\* Mr. K. F. Gutsenko,\*  
Mr. V. V. Lochtchinin,\* Mr. S. V. Chernichenko,\* Mr. K. L. Kelin,\*\*  
Mr. G. P. Antonov,\*\* Mr. A. S. Sokolov,\*\* Mr. A. G. Zakovorotny,\*\*  
Mr. N. K. Dubinin,\*\* Mr. S. B. Nikiforov,\*\* Mr. A. V. Zmeevsky\*\*

United Kingdom of Great Britain and  
Northern Ireland

Viscount Colville of Culross, Mr. P. H. R. Marshall,\* Mr. R. J. S. Edis,\*  
Mr. K. G. MacInnes,\*\* Mr. D. R. Snoxell,\*\* Mrs. K. F. Colvin,\*\*  
Mrs. A. Glover\*\*

United States of America

Mr. Jerome J. Shestack, Mr. Gerald B. Helman,\* Mr. Warren E. Hewitt,\*  
Mr. Don Bonker,\*\* Ms. Roberta Cohen,\*\* Mr. John W. MacDonald, Jr.,\*\*  
Mr. Michael P. E. Hoyt,\*\* Mr. Thomas Johnson,\*\* Mr. David Cardwell,\*\*  
Mr. Millard W. Arnold,\*\* Ms. Paula Newberg,\*\* Mr. Cruz Reynoso,\*\*  
Mr. Karl Rolvaag\*\*

Uruguay

Mr. Carlos Giambruno, Mr. José Calataynd Bosch,\* Mr. Jorge Sánchez Márquez,\*\*  
Mr. Rubén Díaz Porto,\*\* Miss Graziella Dubra,\*\* Mr. Luis A. Carrese,\*\*  
Mr. Carlos Nadal Ríos\*\*

Yugoslavia

Mr. Ivan Toševski<sup>V</sup>, Miss Zaga Ilić,\* Mrs. Gordana Diklić-Trajković,\*\*  
Mr. Silvo Devetak,\*\* Mrs. Marija Dordević,\*\* Mr. Željko Jerkić\*\*

Zambia

Mr. Chama L. C. Mubanga-Chipoya, Mr. John L. Kazoka\*

States Members of the United Nations represented by observers

Afghanistan, Austria, Belgium, Bolivia, Chile, China, Czechoslovakia, Democratic  
Kampuchea, Democratic Yemen, Dominican Republic, Equatorial Guinea, Finland,  
German Democratic Republic, Guatemala, Hungary, Ireland, Israel, Italy, Jamaica,  
Japan, Kuwait, Libyan Arab Jamahiriya, Madagascar, Norway, Qatar, Republic of Korea,  
Romania, Somalia, Spain, Sweden, Tunisia, Turkey, Ukrainian Soviet Socialist  
Republic, United Arab Emirates, Venezuela, Viet Nam, Zaire.

Non-member States represented by observers

Holy See, Switzerland.

United Nations bodies

Office of the United Nations High Commissioner for Refugees.

### Specialized agencies

International Labour Organisation, United Nations Educational, Scientific and Cultural Organization.

### Regional intergovernmental organizations

Council of Europe, League of Arab States, Organization of African Unity, Organization of American States.

### National liberation movements

Palestine Liberation Organization, Pan Africanist Congress of Azania.

### Non-governmental organizations in consultative status

#### Category I

International Alliance of Women - Equal Rights, Equal Responsibilities; International Confederation of Free Trade Unions, International Council of Women, International Council on Social Welfare, International Federation of Business and Professional Women, International Youth and Student Movement for the United Nations, League of Red Cross Societies, Women's International Democratic Federation, World Confederation of Labour, World Federation of Democratic Youth, World Federation of Trade Unions, World Federation of United Nations Associations.

#### Category II

Afro-Asian People's Solidarity Organization, All-India Women's Conference, Amnesty International, Anti-Slavery Society for the Protection of Human Rights, Arab Lawyers Union, Association for the Study of the World Refugee Problem, Baha'i International Community, Caritas Internationalis, Christian Democratic World Union, Commission of the Churches on International Affairs, Consultative Council of Jewish Organizations, Friends World Committee for Consultation, Institute for Policy Studies, International Association of Democratic Lawyers, International Association for Religious Freedom, International Catholic Child Bureau, International Commission of Jurists, International Committee of the Red Cross, International Co-operation for Socio-Economic Development, International Council of Jewish Women, International Federation of Human Rights, International Federation of Social Workers, International Federation of University Women, International Federation of Women Lawyers, International Indian Treaty Council, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, International Union for Child Welfare, Lutheran World Federation, Pan-Pacific and South-East Asia Women's Association, Pax Romana, Socialist International Women, Union of Arab Jurists, Women's International League for Peace and Freedom, Women's International Zionist Organization, World Association of World Federalists, World Conference on Religion and Peace, World Jewish Congress, World Student Christian Federation, World Union of Catholic Women's Organizations, World University Service, World Young Women's Christian Association.

Roster

European Union of Women, International Humanist and Ethical Union, International Police Association, International Union of Students, Movement Against Racism and for Friendship between Peoples, Minority Rights Group, World Association for the School as an Instrument of Peace, World Peace Council.

## Annex II

### AGENDA

1. Election of officers
2. Adoption of the agenda
3. Organization of the work of the session
4. Question of the violation of human rights in the occupied Arab territories, including Palestine
5. Question of human rights in Chile
6. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts
7. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa
8. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights
9. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation
10. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:
  - (a) Torture and other cruel, inhuman or degrading treatment or punishment
  - (b) Question of missing and disappeared persons
11. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms
12. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

- (a) Question of human rights in Cyprus
  - (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolution 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-fifth session
13. Question of a convention on the rights of the child
  14. Measures to improve the situation and ensure the human rights and dignity of all migrant workers
  15. Human rights and scientific and technological developments
  16. Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid
  17. The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service
  18. Draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief
  19. Periodic reports on human rights
    - (a) Periodic reports on freedom of information
    - (b) Periodic reports on civil and political rights and question of the right of everyone to leave any country, including his own, and to return to his country (Economic and Social Council resolution 1788 (LIV))
  20. (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination
    - (b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination
  21. Status of the International Covenants on Human Rights
  22. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session
  23. Rights of persons belonging to national, ethnic, religious and linguistic minorities
  24. Question of international legal protection of the human rights of individuals who are not citizens of the country in which they live
  25. Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred



26. Advisory services in the field of human rights
27. Communications concerning human rights
28. Draft provisional agenda for the thirty-seventh session of the Commission
29. Report to the Economic and Social Council on the thirty-sixth session of the Commission

Annex III

FINANCIAL IMPLICATIONS OF RESOLUTIONS AND DECISIONS ADOPTED  
BY THE COMMISSION AT ITS THIRTY-SIXTH SESSION

1. In the course of its thirty-sixth session, the Commission adopted 14 resolutions and 3 decisions that have financial implications. The Secretary-General, in compliance with regulation 13.1 of the Financial Regulations of the United Nations and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, submitted statements on the administrative and financial implications of the proposals.
2. If the Economic and Social Council approves the proposals contained in the report of the Commission, the Secretary-General would request from the General Assembly at its thirty-fifth session any additional resources needed to implement the proposals during the biennium 1980-1981.
3. The financial implications arising from proposals emanating from the thirty-sixth session of the Commission that relate to human rights are contained in section A and those relating to conference servicing costs in section B of this annex. These financial implications are summarized as follows:

SUMMARY TABLE, BY SECTION, OF FINANCIAL IMPLICATIONS OF RESOLUTIONS  
AND DECISIONS ADOPTED BY THE COMMISSION AT ITS THIRTY-SIXTH SESSION  
FOR THE BIENNIUM 1980-1981

Resolution or decision	Section 23 Human rights			Section 29 B Conference servicing costs		TOTAL (US dollars)
	1980 (United States dollars)	1981	1982	1980 (United States dollars)	1981	
Resolution 7 (XXXVI)	26 800	-	-	-	28 831	55 631
Resolution 11 (XXXVI)	-	-	-	41 041	-	41 041
Resolution 14 (XXXVI)	3 050	5 900	-	-	28 831	37 781
Resolution 15 (XXXVI)	1 000	-	-	-	-	1 000
Resolution 16 (XXXVI)	2 930	-	-	-	-	2 930
Resolution 17 (XXXVI)	850	1 500	-	-	-	2 350
Resolution 18 (XXXVI)	4 450	3 550	3 550	-	-	11 550
Resolution 20 (XXXVI)	283 000*	36 800	-	200 487	-	520 287
Resolution 21 (XXXVI)	100 900	28 000	-	297 303	174 147	600 350
Resolution 25 (XXXVI)	-	-	-	134 279	337 970	472 249
Resolution 29 (XXXVI)	2 500	2 300	-	-	-	4 800
Resolution 33 (XXXVI)	22 000	3 200	-	-	-	25 200
Resolution 34 (XXXVI)	-	-	-	-	30 486	30 486
Resolution 36 (XXXVI)	-	-	-	-	30 486	30 486
Decision 5 (XXXVI)	1 130	-	-	4 020	-	5 150
Decision 8 (XXXVI)	-	-	-	-	29 946	29 946
Decision 15 (XXXVI)	-	-	-	-	120 900	120 900
	448 610	81 250	3 550	677 130	781 597	1 992 137

\* Includes an amount of \$75,000 for computing services which would be financed partly under Section 23 "Human rights", and partly under Section 28 G "Electronic Data Processing and Information System Division".

A. Human rights (Section 23)

Resolution 7 (XXXVI). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which developing countries face in their efforts to achieve these human rights

4. Under the terms of resolution 7 (XXXVI), the Commission recalled its resolution 5 (XXXV) and its recommendation in paragraph 6 of its resolution 4 (XXXV) approved by Economic and Social Council decision 1979/29, of 10 May 1979, inviting the Secretary-General, in co-operation with UNESCO and other competent specialized agencies, to follow up the study undertaken in pursuance of paragraph 4 of Commission resolution 4 (XXXIII) with a study of the "regional and national dimensions of the right to development as a human right, paying special attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of this right" and to make this study available for consideration by the Commission on Human Rights at its thirty-seventh session. In paragraph 4 of the resolution the Commission further requested the Secretary-General to furnish all the assistance necessary to enable the study undertaken to be completed in a thoroughly satisfactory manner.

5. The Secretary-General considers that he will need additional staffing resources under temporary assistance to continue with the preparation of this study.

6. On the basis of the foregoing, the relevant costs are estimated as follows:

Human rights (Section 23)	1980 (US dollars)
6 months of temporary assistance at the P-3 level	26,800

Resolution 14 (XXXVI). Implementation of the programme for the Decade for Action to Combat Racism and Racial Discrimination

7. Under the terms of paragraph 3 of resolution 14 A (XXXVI), the Commission recommended to the Economic and Social Council the adoption of a draft resolution which would authorize the Sub-Commission to entrust Mr. Justice Abu Sayeed Chowdhury with the preparation of a study on discriminatory treatment against members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice proceedings, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences including the ideologies or beliefs which contribute or lead to racism, in the light of the comments made in the Sub-Commission at its thirty-second session. In operative paragraph 2 of the recommended draft resolution the Secretary-General would be requested to give the Special Rapporteur all the assistance he may require in his work, and in operative paragraph 3 the Special Rapporteur would be requested to submit his report to the Sub-Commission at its thirty-fourth session.

8. On the basis of the foregoing, the financial implications of the resolution are as follows:

<u>Human rights</u> (Section 23)	<u>1980</u> (US dollars)	<u>1981</u>
1 round-trip (economy class, Dacca/Geneva/Dacca) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days	3,050	
1 round-trip (economy class, Dacca/Geneva/Dacca) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days		3,050
If no longer a member of Sub-Commission, 1 round-trip (economy class, Dacca/Geneva/Dacca) of Special Rapporteur to present his report, and subsistence for 3 working days		2,850
	<u>3,050</u>	<u>5,900</u>

Resolution 15 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

9. Under the terms of paragraph 1 of its resolution 15 (XXXVI) the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission to entrust Mr. Benjamin Whitaker with the further extension and updating of the Report on Slavery, in the light of the comments made in the Sub-Commission at its thirty-first session.

10. On the basis of the foregoing, the relevant costs are estimated as follows:

<u>Human rights</u> (Section 23)	<u>1980</u> (US dollars)
1 round-trip (economy class, London/Geneva/London) of Special Rapporteur to consult with the Division of Human Rights, and subsistence for 5 working days	1,000

Resolution 16 (XXXVI). Question of the human rights of persons subjected to any form of detention or imprisonment

11. Under the terms of paragraph 1 of its resolution 16 (XXXVI), the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission to entrust Mr. L. M. Singhvi with the preparation of a report on the independence and impartiality of judiciary jurors and assessors and the independence of lawyers, to the end that there shall be no discrimination in the administration of justice and that human rights and fundamental freedoms may be maintained and safeguarded, in the light of comments made in the Sub-Commission at its thirty-second session.

12. On the basis of the foregoing, the relevant costs are estimated as follows:

Human rights  
(Section 23)

1980  
(US dollars)

1 round-trip (first class, New Delhi/Geneva/New Delhi) of Special Rapporteur to consult with Division of Human Rights and subsistence for 5 working days.

2,930

Resolution 17 (XXXVI). Exploitation of child labour

13. Under the terms of paragraph 1 of its resolution 17 (XXXVI), the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission to entrust Mr. Abdelwahab Bouhdiba with the preparation of a report on the exploitation of child labour, taking into account all the economic, social, cultural and psychological dimensions of the problem, in the light of the comments made in the Sub-Commission at its thirty-second session, reports prepared by the ILO on this subject and other relevant reports. In paragraph 3 of the resolution, the Commission requested the Special Rapporteur to submit his report to the Sub-Commission at its thirty-fourth session.

14. On the basis of the foregoing, the relevant costs are estimated as follows:

Human rights  
(Section 23)

1980      1981  
(US dollars)

1 round-trip (economy class, Tunis/Geneva/Tunis) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days

850

1 round-trip (economy class, Tunis/Geneva/Tunis) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days

850

If no longer a member of Sub-Commission, 1 round-trip (economy class, Tunis/Geneva/Tunis) of Special Rapporteur to present his report, and subsistence for 3 working days

650

850      1,500

Resolution 18 (XXXVI). The new international economic order and the promotion of human rights

15. Under the terms of paragraph 1 of its resolution 18 (XXXVI) the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission to appoint Mr. Raúl Ferrero as Special Rapporteur, with the mandate of preparing a study on the new international economic order and the promotion of human rights. The Special Rapporteur in elaborating his study, should take into account the conclusions of the seminar to be held in 1980 within the framework of the advisory services programme on the basis of paragraph 8, resolution 5 (XXXV) of the Commission on Human Rights and should examine the effect, if any, that the new international economic order has on the implementation of some human rights and fundamental freedoms, as well as taking into account the comments made in the Sub-Commission at its thirty-second session and the relevant existing documents

prepared by the competent organs of the United Nations system. The Special Rapporteur should also collect and analyse, from a human rights perspective, recommendations and guidelines contained in resolutions and reports adopted by organs of the United Nations system, in particular regional commissions, in relation to the new international economic order.

16. On the basis of the foregoing, the relevant costs are estimated as follows:

<u>Human rights</u> (Section 23)	<u>1980</u>	<u>1981</u>	<u>1982</u>
	(US dollars)		
1 round-trip (first-class, Lima/Geneva/Lima) of Special Rapporteur to attend seminar to be held under the framework of advisory services on the effect of the existing unjust international economic order, and subsistence for 2 weeks	4,450		
1 round-trip (first-class, Lima/Geneva/Lima) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days		3,550	
1 round-trip (first-class, Lima/Geneva/Lima) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days			3,550
	<u>4,450</u>	<u>3,550</u>	<u>3,550</u>

Resolution 20 (XXXVI). Question of missing and disappeared persons

17. Under resolution 20 (XXXVI), the Commission decided to establish for a period of one year a Working Group consisting of five of its members to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons (para. 1). The Commission on Human Rights also decided that the Working Group, in carrying out its mandate shall seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources (para. 3). Under this resolution the Working Group was invited, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it and to carry out its work with discretion (para. 6). The Working Group was requested to submit to the Commission at its thirty-seventh session a report on its activities together with its conclusions and recommendations (para. 7). The Secretary-General is requested to provide the Working Group with all necessary assistance, in particular staff and resources they require in order to perform their functions in an effective and expeditious manner (para. 5).

18. In accordance with the provisions of the resolution, the Working Group will choose its methods of work. The following estimates have been prepared by the Secretary-General with a view to enabling him, in accordance with paragraph 5 of the resolution, to provide the Group with any assistance it may require in order to enable it to perform its functions in an effective and expeditious manner. In preparing these financial implications, the Secretary-General has based himself on experience with the working methods and needs of other groups and on the volume of information which is likely to be before the Group.

19. The Secretary-General envisages that the Group might wish to hold the following meetings:

Meeting to adopt methods of work - May/June 1980, Geneva, 5 working days;

Meeting to review available information - September 1980, Geneva, 10 working days;

Meeting to review further information and prepare report to the Commission on Human Rights at its thirty-seventh session - December 1980, Geneva, 10 working days.

20. The Group may also wish to establish contacts with Governments. Provision has therefore been made for travel for this purpose.

21. The Secretary-General would require one Professional officer at the P-3 level to provide basic services in connexion with the activities of the Working Group, to carry out other tasks in connexion with the meetings of the Group, and to enable the Group to report to the Commission on Human Rights at its thirty-seventh session.

22. With regard to the information which the Group may seek and receive from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources, three functions on the secretariat level would have to be carried out in order to enable the Group to carry out its activities: the information would have to be subject to an initial screening and classification; the information would have to be analysed and prepared in usable form for the Group; and, finally, correspondence with those involved in the procedure would have to be maintained. The Secretary-General estimates that a total of 900 man-days (or 45 man-months) might be required to carry out these functions, which equals five staff members working full-time during the expected available period of nine months. It is proposed that these tasks be accomplished by three Professional staff at the P-2 level, assisted by two General Service clerk/typists.

23. In making the above estimates the Secretary-General has foreseen the use of computer services as an indispensable means to reduce staff and costs.

24. On the basis of the foregoing, the estimated costs would amount to \$208,000 and \$36,800 under Section 23 "Human rights", for 1980 and 1981 respectively. In addition, the computer services costs - estimated after consultations with the International Computing Centre (ICC) - would be \$75,000 and would have to be financed partly under Section 23 "Human rights", and partly under Section 28G "Electronic Data Processing and Information System Division" (United Nations share of ICC Geneva cost). The related conference servicing costs which would be incurred in 1980 are calculated on a full cost basis and would amount to \$200,487.



Human rights  
(Section 23)

1980      1981  
(US dollars)

Working Group on Missing Persons

I.	Meeting in Geneva, May/June 1980 (5 working days)		
	Travel and subsistence of experts		
	(a) Travel	8 000	-
	(b) Subsistence	3 700	-
	Subtotal	<u>11 700</u>	<u>-</u>
II.	5 separate round-trips for 1 member of Group accompanied by 1 substantive officer for consultations with Governments (calculated on a notional basis for a period of 5 working days for each visit)		
	Travel cost of Group 5 x \$2,500	10 000	2 500
	Travel cost of staff 5 x \$2,300	9 200	2 300
	Subtotal	<u>19 200</u>	<u>4 800</u>
III.	Meeting in Geneva, September 1980, (10 working days)		
	Travel and subsistence of Group		
	(a) Travel	8 000	-
	(b) Subsistence	7 400	-
	Subtotal	<u>15 400</u>	<u>-</u>
IV.	Meeting in Geneva, December 1980, (10 working days)		
	Travel and subsistence of Group		
	(a) Travel	8 000	-
	(b) Subsistence	7 400	-
	Subtotal	<u>15 400</u>	<u>-</u>
V.	Supplementary staff to service Group (temporary assistance including common staff costs - July 1980 to February 1981)		
	1 staff member at the P-3 level	31 200	9 000
	3 staff members at the P-2/P-1 level	76 500	22 000
	2 staff members at the General Service level	38 600	11 000
	Subtotal	<u>146 300</u>	<u>32 000</u>
	Total	<u>208 000</u>	<u>36 800</u>

Resolution 21 (XXXVI). Question of human rights in Chile

25. In resolution 21 (XXXVI) the Commission decided to extend the mandate of the Special Rapporteur for another year and requested the Rapporteur also to deal in his report with the question of disappeared persons in Chile.
26. The Special Rapporteur is required to report to the General Assembly at its thirty-fifth session and to the Commission on Human Rights at its thirty-seventh session. For this purpose, the Special Rapporteur will require the necessary arrangements to be made to permit him to gather information relevant to his mandate. The Special Rapporteur will conduct hearings of persons having knowledge and experience of the situation of human rights in Chile; in the event that the Government of Chile extends its co-operation, the Special Rapporteur would visit that country for this purpose and to collect information.
27. The Special Rapporteur will require an ongoing system of recording information received by him or otherwise brought to his attention.
28. The Special Rapporteur will conduct consultations periodically to review the information with the purpose of establishing the facts upon which his report to the General Assembly and to the Commission on Human Rights will be based. The Special Rapporteur envisages that such consultations will take place at Geneva at the end of May 1980 for a period of five working days. The Special Rapporteur will undertake a mission to Chile during the summer of 1980 for a period of 10 working days for the purpose of collecting information on the spot. Immediately after the mission he will spend five working days in New York or Geneva for the purpose of gathering further information. Should the mission to Chile not take place, the Special Rapporteur will visit New York during the summer of 1980 for a period of seven working days, for the purpose of hearing testimony and collecting information. The Special Rapporteur will also visit Geneva during September 1980 for a period of 10 working days. The Special Rapporteur will spend 10 working days in New York at the time of the submission of his report to the General Assembly at its thirty-fifth session. He will visit Geneva for a period of 10 working days during January 1981 for the purpose of hearing testimony, receiving other evidence and finalizing his report to the Commission on Human Rights at its thirty-seventh session. The Special Rapporteur will visit Geneva during February/March 1981 for a period of five working days for the purpose of presenting his report to the Commission on Human Rights at its thirty-seventh session. The Special Rapporteur intends to conduct hearings either at Geneva, New York or elsewhere.
29. It is estimated that an average of 190 pieces of information (reports, including press reports, articles, letters, etc.) of varying size will have to be examined per month and a synthesis of them prepared for the Special Rapporteur. This will necessitate the recruitment, on a temporary assistance basis, of a junior professional staff member and a secretary for the purpose of assisting the Special Rapporteur in the gathering of information, compilation of materials and preparation of his report.
30. On the basis of the foregoing, the relevant costs are estimated at \$100,900 and \$28,000 under Section 23, "Human rights", for 1980 and 1981 respectively. The related conference servicing costs, calculated on a full-cost basis, would amount to \$297,303 for 1980 and \$174,147 for 1981.

1980                      1981  
(US dollars)

Human rights  
(Section 23)

I. Meeting in Geneva, May 1980  
(5 working days)

Travel and subsistence of Special Rapporteur

(a) Travel	1 500
(b) Subsistence	700

Travel and subsistence of witnesses

(a) Travel	6 600
(b) Subsistence	2 000

	10 800
--	--------

II. Field mission to Chile  
10 working days plus 5 working days  
in New York or Geneva summer 1980  
(total 15 working days)

Travel and subsistence of Special  
Rapporteur

(a) Travel	4 100
(b) Subsistence	1 800

Travel and subsistence of staff of  
Division of Human Rights

Principal secretary 1  
Substantive officer 1  
Secretary 1

(a) Travel	8 200
(b) Subsistence	3 300

Travel and subsistence of witnesses

(a) Travel	3 400
(b) Subsistence	1 500

General expenses

Local transportation and communications; air freight for equipment and documentation; rental of equipment, miscellaneous expenses	5 000
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1980                      1981  
(US dollars)

II. (continued)

Local staff

Staff who may be provided by other United Nations Offices in Latin America without charge

Administrative officer  
Bilingual secretaries  
Typist

Subtotal                      27 300

III. In the event that the field mission to Chile does not materialize:

Meeting in New York end June 1980  
(7 working days)

Travel and subsistence of Special Rapporteur

(a) Travel    1 500  
(b) Subsistence    1 100

Travel and subsistence of staff of Division of Human Rights

Substantive officer    1  
Secretary                      1

(a) Travel    2 800  
(b) Subsistence    1 600

Travel and subsistence of witnesses

(a) Travel    3 400  
(b) Subsistence    1 900

Subtotal                      12 300 b/

IV. Meeting in Geneva, September 1980  
(10 working days)

Travel and subsistence of Special Rapporteur

(a) Travel    1 500  
(b) Subsistence    1 400

	<u>1980</u>	<u>1981</u>
	(US dollars)	
IV. (continued)		
Travel and subsistence of witnesses		
(a) Travel	6 600	
(b) Subsistence	3 200	
		<hr/>
Subtotal	12 700	
V. Travel and subsistence of Special Rapporteur to Headquarters New York, at thirty-fifth session of General Assembly (10 working days)		
(a) Travel	1 500	
(b) Subsistence	1 800	
		<hr/>
Subtotal	3 300	
VI. Meeting in Geneva, January 1981 (10 working days)		
Travel and subsistence of Special Rapporteur		
(a) Travel		1 500
(b) Subsistence		1 400
Travel and subsistence of witnesses		
(a) Travel		6 600
(b) Subsistence		3 200
		<hr/>
Subtotal		12 700
VII. Travel of Special Rapporteur to Geneva to thirty-seventh session of Commission on Human Rights (5 working days)		
(a) Travel		1 500
(b) Subsistence		700
		<hr/>
Subtotal		2 200

	<u>1980</u>	<u>1981</u>
	(US dollars)	
VIII. Supplementary staff to service Special Rapporteur		
(a) Temporary assistance for gathering information, compiling materials and preparing the report (P-2 staff member for 9 months)	25 500	7 400
(b) Secretariat assistance (1 G-4 staff member for 9 months)	<u>19 300</u>	<u>5 500</u>
Subtotal	44 800	12 900
IX. Overtime	1 000	-
X. Press clippings and other related services required on a yearly subscription basis	<u>1 000</u>	<u>200</u>
Total	100 900	28 000

SUMMARYHuman rights

(Section 23)

19801981

(US dollars)

Special Rapporteur on the situation of  
human rights in Chile

I. Meeting in Geneva, May 1980 (5 working days)	10 800	-
II. Field Mission to Chile: 10 working days plus 5 working days in New York or Geneva, summer 1980 (15 working days)	27 300	-
III. In the event mission to Chile does not materialize, meeting in New York, summer 1980 (7 working days)	12 300 <u>b/</u>	-
IV. Meeting in Geneva late summer 1980 (10 working days)	12 700	-
V. Travel and subsistence of Special Rapporteur of Working Group for mission to Headquarters, New York, at thirty-fifth session of General Assembly (10 working days)	3 300	-
VI. Meeting in Geneva, January 1981, (10 working days)	-	12 700
VII. Travel of Special Rapporteur to Geneva to thirty-seventh session on Commission of Human Rights (5 working days)	-	2 200
VIII. Supplementary staff to service Special Rapporteur	44 800	12 900
IX. Overtime	1 000	-
X. Press clippings and other related services required on a yearly subscription basis	1 000	200
	<hr/>	<hr/>
Total	100 900	28 000

Resolution 29 (XXXVI). Human Rights situation in Democratic Kampuchea

31. In paragraph 10 of its resolution 29 (XXXVI), the Commission decided to keep the human rights situation in Democratic Kampuchea under review at its thirty-seventh session as a matter of priority, and to this end requested a member of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities at its thirty-third session to review any further material on the subject which may become available and to submit it together with appropriate recommendations to the Commission.

32. On the basis of the foregoing, the relevant costs are estimated as follows:

	<u>1980</u>	<u>1981</u>
	(US dollars)	
<u>Human rights</u> (Section 23)		
Travel and subsistence of member of the Sub-Commission for consultations with the Division of Human Rights (5 working days)	2 500	
Travel and subsistence of member of Sub-Commission to present his report to the Commission at its thirty-seventh session (3 working days)		2 300
	2 500	2 300

Resolution 33 (XXXVI). The situation of human rights in Equatorial Guinea

33. In paragraph 1 of its resolution 33 (XXXVI), the Commission decided to request the Secretary-General to appoint, as an expert in his individual capacity, a person with wide experience of the situation in Equatorial Guinea. In paragraph 2 of the resolution, the Commission requested the Secretary-General, in consultation with the expert, to provide the assistance necessary to help the Government of Equatorial Guinea take the action necessary for the full restoration of human rights and fundamental freedoms in that country.

34. In order to assist the expert in all aspects of his mandate including legislative matters and the integration of human rights in technical assistance projects as well as the preparation of his report for the Commission on Human Rights at its thirty-seventh session the Secretary-General considers that he would require additional staffing resources under temporary assistance.

35. On the basis of the foregoing, the relevant costs are estimated as follows:



1980                      1981  
(US dollars)

Human rights  
(Section 23)

Travel and subsistence for one visit of expert accompanied by a substantive officer from the Division of Human Rights (7 working days)	8 600	
Three months of temporary assistance at P-3 level	13 400	
Travel and subsistence of expert to present his report to the Commission on Human Rights at its thirty-seventh session (3 working days)	_____	3 200
	22 000	3 200

Decision 5 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Extension of the period of work of the Working Group on Slavery

36. In decision 5 (XXXVI), the Commission decided to extend the period of work of the Working Group on Slavery to five working days immediately before the session of the Sub-Commission, as was recommended in Sub-Commission resolution 5 (XXVIII) of 10 September 1975.

37. On the basis of the foregoing the relevant costs are estimated as follows:

1980  
(US dollars)

Human rights  
(Section 23)

Additional per diem for 5 experts for 2 extra working days	1 130	
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B. Conference servicing costs (Section 29 B)

Resolution 7 (XXXVI). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which developing countries face in their efforts to achieve these human rights

Conference servicing costs  
(Section 29 B)

	<u>Number of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	(US dollars)	
			<u>Total</u> <u>1981</u>	
<u>Documentation</u> (English, French, Russian, Spanish)				
Pre-session				
Salaries - Translation	84	171	14 364	
Revision	28	190	5 320	
Typing	98	69	6 762	26 446
Reproduction	50	45	2 250	2 250
Distribution	3	45	135	135
				<hr/>
Total				28 831

Resolution 11 (XXXVI). The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa

Conference servicing costs  
(Section 29 B)

	<u>Number of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	(US dollars)	
			<u>Total</u> <u>1980</u>	
<u>Editing</u>				
Salaries - Editor	67	147	9 849	
Editorial Assistant	18	76	1 368	
Typing	81	68	5 508	16 725
Preparation	39	50		1 950
Internal typesetting	-	-		17 691
Printing	-	-		4 675
				<hr/>
Total				41 041

Resolution 14 (XXXVI). Implementation of the Programme for the Decade for  
Action to Combat Racism and Racial Discrimination

Conference-servicing costs  
(Section 29 B)

	<u>Number of days</u>	<u>Daily rate</u>	<u>Total 1981</u>	
			(US dollars)	
<u>Documentation</u> (English, French, Russian, Spanish)				
Pre-session				
Salaries - Translation	84	171	14 364	
- Revision	28	190	5 320	
- Typing	98	69	6 762	26 446
Reproduction	50	45	2 250	2 250
Distribution	3	45	135	<u>135</u>
Distribution	Total			28 831

Resolution 20 (XXXVI). Question of missing and disappeared persons

Conference-servicing costs  
(Section 29 B)

I. Meetings May/June (5 working days)

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>	
				(US dollars)	
<u>Interpretation</u>					
Salaries	9	7	206	12 978	12 978
<u>Documentation</u>					
Pre-session					
Salaries - Translation	-	11	171	1 881	
- Revision	-	4	190	760	
- Typing	-	14	69	966	3 607
In-session					
Salaries - Translation	-	28	171	4 788	
- Revision	-	10	190	1 900	
- Typing	-	35	69	2 415	9 103
Post-session					
Salaries - Translation	-	84	171	14 364	
- Revision	-	28	190	5 320	
- Typing	-	105	69	7 245	26 929
<u>Reproduction</u>	-	71	45	3 195	3 195
<u>Distribution</u>	-	10	45	450	450
<u>Other conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Messengers			45		
Guards			45		
Cleaners	1	7	24	168	1 113
					<u>1 113</u>
		<u>Total</u>			57 375

II. Meetings September 1980 (10 working days)

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>	<u>Total 1980</u> (US dollars)	
<u>Interpretation</u>					
Salaries	9	14	206	25 956	25 956
<u>Documentation</u>					
Pre-session					
Salaries - Translation	-	11	171	1 881	
- Revision	-	4	190	760	
- Typing	-	14	69	966	3 601
In-session					
Salaries - Translation	-	28	171	4 788	
- Revision	-	10	190	1 900	
- Typing	-	35	69	2 415	9 103
Post-session					
Salaries - Translation	-	84	171	14 364	
- Revision	-	28	190	5 320	
- Typing	-	105	69	7 245	26 929
<u>Reproduction</u>	-	73	45	3 285	3 285
<u>Distribution</u>	-	10	45	450	450
<u>Other conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	14	45	630	
Technicians: interpretation	1	14	45	630	
sound recording	1	14	45	630	
Messengers			45		
Guards			45		
Cleaners	1	14	24	336	<u>2 226</u>
					<u>71 556</u>

III. Meetings December 1980 (10 working days)

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>	<u>Total 1980</u> (US dollars)	
<u>Interpretation</u>					
Salaries	9	14	206	25 956	25 956
<u>Documentation</u>					
Pre-session					
Salaries - Translation	-	11	171	1 881	
- Revision	-	4	190	760	
- Typing	-	14	69	966	3 601
In-session					
Salaries - Translation	-	28	171	4 788	
- Revision	-	10	190	1 900	
- Typing	-	35	69	2 415	9 103
Post-session					
Salaries - Translation	-	84	171	14 364	
- Revision	-	28	190	5 320	
- Typing	-	105	69	7 245	26 929
<u>Reproduction</u>	-	73	45	3 285	3 285
<u>Distribution</u>	-	10	45	450	450
<u>Other conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	14	45	630	
Technicians: interpretation	1	14	45	630	
sound recording	1	14	45	630	
Messengers			45		
Guards			45		
Cleaners	1	14	24	336	<u>2 226</u>
	<u>Total</u>				71 556

Resolution 21 (XXXVI). Question of human rights in Chile

Conference-servicing costs  
(Section 29 B)

I. Meeting in Geneva, May 1980

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>	
				(US dollars)	
<u>Interpretation</u> (English, French, Spanish)					
Salaries	9	7	206	12 978	12 978
<u>Documentation</u> (English, French Spanish)					
Pre-session					
Salaries - Translation	-	56	171	9 576	
- Revision	-	19	190	3 610	
- Typing	-	70	69	4 830	18 016
In-session					
Salaries - Translation	-	14	171	2 394	
- Revision	-	5	190	950	
- Typing	-	17	69	1 173	4 517
<u>Transcription of testimonies</u>					
Salaries - Revision	-	7	190	133	
- Typing	-	7	69	483	1 813
<u>Other conference staff</u>					
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Cleaners	1	7	24	168	1 113
					<u>38 437</u>
		<u>Total</u>			

II. Field mission to Chile followed by meeting in New York or Geneva

(i) Mission in Chile (10 working days)

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>	
				(US dollars)	
<u>Interpretation</u> (French, Spanish)					
Salaries <u>c/</u>	6	12	211	15 192	
Travel <u>d/</u>				7 020	22 212
<u>Documentation</u>					
Pre-session (French, Spanish)					
Salaries <u>e/</u> - Translation	-	56	171	9 576	
- Revision	-	19	190	3 610	
- Typing	-	56	69	3 864	17 050
In-session (French)					
Salaries <u>f/</u> - Translation	2	12	163	3 912	
Typing - non-local recruits	3	12	48	1 728	
local recruits	1	10	30	300	
Travel <u>d/</u>				5 850	11 790
<u>Reproduction e/</u>	-	8	45	360	360
<u>Distribution e/</u>	-	1	45	45	45
					<hr/>
Subtotal					51 457



(ii) Meeting in New York or Geneva (5 working days)

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>	
				(US dollars)	
<u>Interpretation</u> (English, French, Spanish)					
Salaries	9	7	206	12 978	12 978
<u>Documentation</u>					
In-session (English, French, Spanish)					
Salaries - Translation	-	13	171	2 223	
- Revision	-	4	190	760	
- Typing	-	13	69	897	3 880
<u>Transcripts of testimonies</u>					
Salaries - Translation	-		171		
- Revision	-	14	190	2 660	
- Typing	-	14	69	966	3 626
<u>Other conference staff</u>					
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Cleaners	1	7	24	168	<u>1 113</u>
					<u>21 597 g/</u>
					<u>73 054</u>

III. Meeting in New York, June 1980

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>
				(US dollars)
<u>Interpretation (English, French,</u> <u>(New York) Spanish)</u>				
Salaries (including subsistence)	8	9	211	15 192
Travel <u>h/</u>				8 608 23 800
<u>Documentation</u>				
Pre-session - 400 pages (Geneva)				
Salaries - Translation	-	224	171	38 304
- Revision	-	75	190	14 250
- Typing	-	280	69	19 320 71 874
In-session - 84 pages (New York) <u>i/</u>				
Salaries - Translation	2	8	163	2 608
- Revision	2	4	174	1 392
- Typing - non-local recruits	2	8	48	768
- local recruits	1	6	30	180
Travel <u>j/</u>				24 748 29 696
Post-session - 200 pages (Geneva)				
Salaries - Translation	-	280	171	47 880
- Revision	-	94	190	17 860
- Typing	-	308	69	21 252
				86 992
<u>Verbatim records (French)</u> <u>(New York)</u>				
Salaries - Translation	8	9	163	11 736
- Revision	1	9	174	1 566
- Typing - non-local recruits	8	9	48	3 456
				16 758
<u>Reproduction and distribution</u> <u>(New York)</u>				
				228

III. Meeting in New York, June 1980 (continued)

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>
				(US dollars)
<u>Reproduction and distribution</u> (Geneva)				5 310
<u>Other conference staff</u> (New York)				
Conference officers	1	7	30	210
Documents clerk	1	7	30	210
				<u>420</u>
Total				235 078 <u>b/</u>

IV. Meeting in Geneva, September 1980

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>	<u>Total 1980</u> (US dollars)	
<u>Interpretation</u>					
Salaries	9	7	206	12 978	12 978
<u>Documentation</u>					
Pre-session					
Salaries - Translation	-	224	171	38 304	
- Revision	-	75	190	14 250	
- Typing	-	280	69	19 320	
					71 874
In-session					
Salaries - Translation	-	14	171	2 394	
- Revision	-	5	190	950	
- Typing	-	17	69	1 173	
					4 517
Post-session					
Salaries - Translation	-	280	171	47 880	
- Revision	-	94	190	17 860	
- Typing	-	308	69	21 252	
					86 992
<u>Reproduction</u>	-	113	45	5 085	5 085
<u>Distribution</u>	-	11	45	495	495
<u>Other conference staff</u>					
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Cleaners	1	14	24	336	
					1 281

IV. Meeting in Geneva, September 1980 (continued)

	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1980</u>
(US dollars)				
<u>Transcript of testimonies</u>				
Typists		10	69	690
Revisers		10	190	1 900
				2 590
	Total			185 812

VI. Meeting in Geneva, January 1981

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>		<u>Total 1981</u>
				(US dollars)	
<u>Interpretation</u>					
Salaries	9	7	206	12 978	12 978
<u>Documentation</u>					
Pre-session					
Salaries - Translation	-	280	171	47 880	
- Revision	-	95	190	18 050	
- Typing	-	350	69	24 150	
					90 080
In-session					
Salaries - Translation	-	28	171	4 788	
- Revision	-	10	190	1 900	
- Typing	-	35	69	2 415	
					9 103
Post-session					
Salaries - Translation	-	168	171	28 728	
- Revision	-	56	190	10 640	
- Typing	-	196	69	13 524	
					52 892
<u>Reproduction</u>	-	115	45	5 175	5 175
<u>Distribution</u>	-	13	45	585	585
<u>Other conference staff</u>					
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Cleaners	1	24	24	576	
					1 521
<u>Transcripts of testimonies</u>					
Typists		7	69	483	
Revisers		7	190	1 330	
					1 813
Total					174 147

SUMMARYConference-servicing costs

(Section 29 B)

19801981

(US dollars)

Special Rapporteur on the situation of  
human rights in Chile

I. Meeting in Geneva, May 1980 (5 working days)	38 437	-
II. Field Mission to Chile: 10 working days plus 5 working days in New York or Geneva, summer 1980 (15 working days)	73 054	-
III. In the event mission to Chile does not materialize, meeting in New York, summer 1980 (7 working days)	235 078 <u>b/</u>	-
IV. Meeting in Geneva late summer 1980 (10 working days)	185 812	-
V. Travel and subsistence of Special Rapporteur of Working Group for mission to Headquarters, New York, at thirty-fifth session of General Assembly (10 working days)	-	-
VI. Meeting in Geneva, January 1981 (10 working days)	-	174 147
VII. Travel of Special Rapporteur to Geneva to thirty-seventh session on Commission on Human Rights (5 working days)	-	-
VIII. Supplementary staff to service Special Rapporteur	-	-
IX. Overtime	-	-
X. Press clippings and other related services required on a yearly subscription basis	-	-
	<hr/>	<hr/>
Total	297 303	174 147

Resolution 25 (XXXVI). Reinstatement of summary records

1980                      1981  
(US dollars)

Conference servicing costs  
(section 29 B)

I. Reintroduction of summary records for the Sub-Commission on the Prevention of Discrimination and Protection of Minorities (thirty-third and thirty-fourth sessions)	134	279		134	279
	<u>Number of</u>	<u>Number of</u>	<u>Daily</u>		<u>Total</u>
	<u>staff</u>	<u>days</u>	<u>rate</u>	(US dollars)	
<u>Interpretation</u>					
Salaries			206		
<u>Documentation</u>					
Pre-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
In-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
Post-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
<u>Reproduction</u>	-	203	45	9 135	9 135
<u>Distribution</u>	-	88	45	3 960	3 960
<u>Other Conference staff</u>					
Conference officers	1	28	77	2 156	
Meeting-room attendants			45		
Technicians: interpretation			45		
sound recording	1	28	45	1 260	
Messengers			45		
Guards			45		
Cleaners			24		3 416
<u>Summary Records</u>					
Salaries - Translation	-	392	171	67 032	
Revision	-	84	190	15 960	
Typing	-	504	69	34 776	<u>117 768</u>
Total					134 279



II. Reintroduction of summary records for  
the Commission on Human Rights  
(thirty-seventh session)

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>	<u>Total 1981</u>	
				(US dollars)	
<u>Interpretation</u>					
Salaries			206		
<u>Documentation</u>					
Pre-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
In-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
Post-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
<u>Reproduction</u>	-	259	45	11 655	11 655
<u>Distribution</u>	-	114	45	5 130	5 130
<u>Other Conference staff</u>					
Conference officers	1	42	77	3 234	
Meeting room attendants			45		
Technicians: interpretation			45		
sound recording	1	42	45	1 890	
Messengers			45		
Guards			45		
Cleaners			24		5 124
<u>Summary Records</u>					
Salaries - Translation	-	588	171	100 548	
Revision	-	153	153	29 070	
Typing	-	756	756	52 164	181 782
Total					203 691

Resolution 34 (XXXVI). Draft convention on torture and other cruel, inhuman or degrading treatment or punishment

Conference servicing costs  
(Section 29 B)

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>		<u>Total 1981</u>
(US dollars)					
<u>Interpretation</u>					
Salaries	12	7	206	17 304	17 304
<u>Documentation</u>					
Pre-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
In-session					
Salaries - Translation	-	17	171	2 907	
Revision	-	6	190	1 140	
Typing	-	20	69	1 380	5 427
Post-session					
Salaries - Translation	-	17	171	2 907	
Revision	-	6	190	1 140	
Typing	-	20	69	1 380	5 427
<u>Reproduction</u>	-	10	45	450	450
<u>Distribution</u>	-	17	45	765	765
<u>Other Conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Messengers			45		
Guards			45		
Cleaners	1	7	24	168	1 113
Total					<u>30 486</u>

Resolution 36 (XXXVI). Question of a convention on the rights of the child

Conference servicing costs  
(Section 29 B)

	<u>Number of staff</u>	<u>Number of days</u>	<u>Daily rate</u>		
				(US dollars)	
					<u>Total 1981</u>
<u>Interpretation</u>					
Salaries	12	7	206	17 304	17 304
<u>Documentation</u>					
Pre-session					
Salaries - Translation			171		
Revision			190		
Typing			69		
In-session					
Salaries - Translation	-	17	171	2 907	
Revision	-	6	190	1 140	
Typing	-	20	69	1 380	5 427
Post-session					
Salaries - Translation	-	17	171	2 907	
Revision	-	6	190	1 140	
Typing	-	20	69	1 380	5 427
<u>Reproduction</u>	-	10	45	450	450
<u>Distribution</u>	-	17	45	765	765
<u>Other Conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Messengers			45		
Guards			45		
Cleaners	1	7	24	168	
Total					<u>1 113</u> <u>30 486</u>

Decision 5 (XXXVI). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism - Extension of the period of the Working Group on Slavery

38. In decision 5 (XXXVI), the Commission decided to extend the period of work of the Working Group on Slavery to five working days immediately before the session of the Sub-Commission, as was recommended in Sub-Commission resolution 5 (XXVIII) of 10 September 1975.

<u>Conference servicing costs</u> (Section 29 B)	<u>Number of</u> <u>staff</u>	<u>Number of</u> <u>days</u>	<u>Daily</u> <u>rate</u> (US dollars)	<u>Total</u> <u>1980</u>
<u>Interpretation</u>				
Salaries	9	2	206	3,708
<u>Other Conference staff</u>				
Technicians: interpretation	3	2	44	264
Cleaners	1	2	24	48
				4,020

Decision 8 (XXXVI). General decision concerning the establishment of a working group of the Commission to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) and situations which the Commission has decided to keep under review

<u>Conference servicing costs</u> (Section 29 B)	<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u> (US dollars)	<u>Total</u> <u>1981</u>
<u>Interpretation</u>				
Salaries	12	7	206	17,304
<u>Documentation</u>				
Pre-session				
Salaries - Translation			171	
Revision			190	
Typing			69	
In-session				
Salaries - Translation	-	17	171	2,907
Revision	-	6	190	1,140
Typing	-	20	69	1,380
				5,427
Post-session				
Salaries - Translation	-	17	171	2,907
Revision	-	6	190	1,140
Typing	-	20	69	1,380
				5,427
<u>Reproduction</u>	-	11	45	495
<u>Distribution</u>	-	4	45	180

<u>Conference servicing costs</u> (Section 29 B) (continued)	<u>Number</u> of <u>staff</u>	<u>Number</u> of <u>days</u>	<u>Daily</u> <u>rate</u>	<u>Total</u> <u>1981</u> (US dollars)	
<u>Other Conference staff</u>					
Conference officers			77		
Meeting-room attendants	1	7	45	315	
Technicians: interpretation	1	7	45	315	
sound recording	1	7	45	315	
Messengers			45		
Guards			45		
Cleaners	1	7	24	168	1,113
				Total	<u>29,946</u>

Decision 15 (XXXVI). Meetings services for the Commission on Human Rights

39. The Commission on Human Rights, in view of its heavy schedule of work and the need to meet the requirements of its sessional working groups during its thirty-seventh session, recommended to the Economic and Social Council that it authorize three hours of additional meeting service per day during the Commission's thirty-seventh session. Conference servicing costs have been calculated on the basis of groups meeting during four weeks, as follows:

	<u>1981</u> (US dollars)
(a) For one meeting (3 hours) a day	80,600
(b) For two meetings (6 hours) a day	103,672

Should the groups meet during the full session of the Commission, namely during six weeks, the estimated conference servicing costs on a pro-rata basis would be:

	<u>1981</u> (US dollars)
For one meeting (3 hours) a day	<u>120,900</u>

<u>Conference servicing costs</u> (Section 29 B)		<u>Number</u> <u>of</u> <u>staff</u>	<u>Number</u> <u>of</u> <u>days</u>	<u>Daily</u> <u>rate</u>		<u>Total</u> <u>1981</u>
					(US dollars)	
<u>Interpretation</u>						
Salaries	and	8 4	28) 28)	206	46 144 23 072	46 144
<u>Documentation</u>						
Pre-session						
Salaries - Translation				171		
Revision				190		
Typing				69		
In-session						
Salaries - Translation		-	84	171	14 364	
Revision		-	28	190	5 320	
Typing		-	98	69	6 762	26 446
Post-session						
Salaries - Translation				171		
Revision				190		
Typing				69		
<u>Reproduction</u>		-	10	45	450	450
<u>Distribution</u>		-	56	45	2 520	2 520
<u>Other Conference staff</u>						
Conference officers				77		
Meeting-room attendants		2	28	45	2 520	
Technicians: interpretation		1	28	45	1 260	
sound recording		1	28	45	1 260	
Messengers				45		
Guards				45		
Cleaners				24		5 040
						<u>80 600</u>
Total, with two meetings a day						103 672

(Foot-notes to annex III on following page)

(Foot-notes to annex III)

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a/ Flight time more than nine hours (General Assembly resolution 32/198).

b/ Not included in total of costs.

c/ Including subsistence at New York rate.

d/ Based on economy fare New York/Santiago/New York.

e/ To be provided by UNOG.

f/ To be provided by ECLA.

g/ Estimated at Geneva rates.

h/ All non-locally recruited.

i/ It is assumed that pre-session and post-session documentation will be processed at Geneva.

j/ Travel cost estimates based on language staff requirements for the production of in-session documentation and of verbatim records.

Annex IV

LIST OF DOCUMENTS ISSUED FOR THE THIRTY-SIXTH SESSION  
OF THE COMMISSION

<u>Documents issued in the general series</u>		<u>Agenda item</u>
E/CN.4/1298/Add.3-9	Comments received from Governments pursuant to Commission resolution 14 A (XXXIV)	23
E/CN.4/1299/Add.4	Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism: note by the Secretary-General	22
E/CN.4/1305/Add.3	Comments received from Governments pursuant to Commission resolution 22 (XXIV)	18
E/CN.4/1314/Add.4	Summary prepared by the Secretary-General in accordance with Commission resolution 18 (XXXIV)	10
E/CN.4/1324/Add.5	Report of the Secretary-General: addendum	13
E/CN.4/1348/Rev.1	Telegram dated 30 March 1979 from the representative of Cuba to the Director of the Division of Human Rights	12
E/CN.4/1349	Note verbale dated 5 October 1979 from the Permanent Representative of Poland to the United Nations Office at Geneva addressed to the Division of Human Rights	13
E/CN.4/1350	Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-second session	22
E/CN.4/1351	Provisional agenda: note by the Secretary-General	2
E/CN.4/1351/Add.1	Annotations to the provisional agenda prepared by the Secretary-General	2
E/CN.4/1352 and Add.1	Note by the Secretary-General	4
E/CN.4/1353	Note by the Secretary-General	16



<u>Documents issued in the general series</u> (continued)		<u>Agenda item</u>
E/CN.4/1353 and Add.1-10	Reports submitted by States parties under article VII of the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u>	16
E/CN.4/1354 and Add.1	Comments received from Governments pursuant to Economic and Social Council decision 1979/36	24
E/CN.4/1354/Add.2-6	Report of the Secretary-General	24
E/CN.4/1355	Note by the Secretary-General	9
E/CN.4/1356/Add.1	Annual reports on racial discrimination submitted by ILO and UNESCO in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI): note by the Secretary-General	12
E/CN.4/1357	Note by the Secretary-General	16
E/CN.4/1358	Report of the Group of Three established under the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u>	16
E/CN.4/1359	Information submitted in accordance with Economic and Social Council resolution 1159 (XLI) regarding co-operation with regional intergovernmental bodies concerned with human rights: note by the Secretary-General	
E/CN.4/1360	Report of the Secretary-General	4
E/CN.4/1361	Note by the Secretary-General	4
E/CN.4/1362	Report prepared by the Special Rapporteur on the situation of human rights in Chile pursuant to Commission resolution 11 (XXXV)	5
E/CN.4/1363	Report of the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile appointed pursuant to Commission resolution 11 (XXXV)	5
E/CN.4/1364	Report by the Chairman of the Board of Trustees of the United Nations Trust Fund for Chile	5

<u>Documents issued in the general series</u> (continued)	<u>Agenda item</u>	
E/CN.4/1365	Progress report of the <u>Ad Hoc</u> Working Group of Experts prepared in accordance with Commission resolution 12 (XXXV) and Economic and Social Council decision 1979/34	6
E/CN.4/1366	Special report of the <u>Ad Hoc</u> Group of Experts prepared in accordance with Commission resolution 12 (XXXV), paragraph 17: application of the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u>	6
E/CN.4/1367	Report of the Working Group on a draft convention on torture and other cruel, inhuman or degrading treatment or punishment	10 (a)
E/CN.4/1368	Report of the Secretary-General prepared pursuant to paragraph 2 of Commission resolution 23 (XXXV)	11
E/CN.4/1369	Information submitted in accordance with Economic and Social Council resolution 1159 (XLI) regarding co-operation with regional intergovernmental bodies concerned with human rights: note by the Secretary-General	
E/CN.4/1370	Letter dated 18 February 1980 from the Permanent Representative of the Arab Republic of Egypt to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	4
E/CN.4/1371 and Corr.1	Study of the human rights situation in Equatorial Guinea, by Professor Fernando Volio Jiménez, Special Rapporteur, appointed in accordance with Commission resolution 15 (XXXVI)	12
E/CN.4/1372	Situation of human rights in Nicaragua: report of the Secretary-General	12
E/CN.4/1373	Report of the Secretary-General in pursuance of Commission resolution 5 (XXXV)	12 (a)
E/CN.4/1374	Report of the Secretary-General	14

Documents issued in the general series  
(continued)

Agenda  
item

E/CN.4/1375	Extracts from the final report of the meeting of experts on the place of human rights in cultural and religious traditions organized by UNESCO (Bangkok, 3 to 7 December 1979) communicated by UNESCO in accordance with Commission resolution 20 (XXXV)	18
E/CN.4/1376	Report by the Secretary-General	21
E/CN.4/1377	Report of the Secretary-General	26
E/CN.4/1378	Letter dated 10 January 1980 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1379	Letter dated 21 January 1980 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1380	Letter dated 3 December 1979 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1381	Case reports on missing persons in Chile prepared by the Expert on the Question of the Fate of Missing and Disappeared Persons in Chile appointed pursuant to Commission resolution 11 (XXXV)	5
E/CN.4/1382	Letter dated 10 December 1979 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1383	Letter dated 14 December 1979 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12

<u>Documents issued in the general series</u> (continued)		<u>Agenda</u> <u>item</u>
E/CN.4/1384	Letter dated 27 December 1979 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1385	Letter dated 14 September 1979 from the Permanent Representative of Guatemala to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights	12
E/CN.4/1386	Note dated 6 February 1980 from the Permanent Mission of the Republic of Cuba to the United Nations Office at Geneva addressed to the Division of Human Rights	10
E/CN.4/1387	Note by the Secretary-General	12
E/CN.4/1388	Letter dated 5 February 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1389	Letter dated 8 February 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1390	Letter dated 11 February 1980 from the Acting Permanent Representative of Pakistan to the United Nations Office at Geneva addressed to the Chairman of the Commission at its thirty-sixth session	12
E/CN.4/1391	Note by the Secretary-General	4
E/CN.4/1392	Letter dated 15 February 1980 from the Deputy Permanent Representative of Democratic Kampuchea to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1393	Letter dated 15 February 1980 from the Permanent Representative of the Arab Republic of Egypt to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	4

Documents issued in the general series  
(continued)

Agenda  
item

E/CN.4/1394	Letter dated 14 February 1980 from the Permanent Representative of the Mongolian People's Republic to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	12
E/CN.4/1395	Letter dated 19 February 1980 from the Permanent Representative of the Kingdom of Morocco to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	4
E/CN.4/1396	Letter dated 20 February 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1397	Letter dated 21 February 1980 from the Deputy Head of the delegation of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1398	Letter dated 22 February 1980 from the Permanent Representative of the Arab Republic of Egypt to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	6, 7 16 and 20
E/CN.4/1399	Letter dated 20 February 1980 from the Permanent Mission of Guatemala to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1400	Letter dated 25 February 1980 from the Deputy Head of the delegation of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1401	Letter dated 25 February 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12

Documents issued in the general series  
(continued)

Agenda  
item

E/CN.4/1402	Letter dated 29 February 1980 from the Deputy Head of the delegation of Democratic Kampuchea to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1403	Letter dated 29 February 1980 from the Chargé d'Affaires a.i. of the Permanent Mission of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1404	Letter dated 27 February 1980 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	9
E/CN.4/1405	Letter dated 5 March 1980 from the Deputy Head of the delegation of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-sixth session	12
E/CN.4/1406	Written statement communicated by the delegation of the United Kingdom of Great Britain and Northern Ireland	12
E/CN.4/1407	Working documents of the thirty-sixth session of the Commission	
E/1980/13 E/CN.4/1408 et Add.1	Report of the Commission on Human Rights on its thirty-sixth session	
E/CN.4/INF.26	Attendance at the thirty-sixth session of the Commission	

Documents issued in the limited series a/

E/CN.4/L.1483	France: draft telegram to be sent to the Government of the USSR	12
E/CN.4/L.1484	Algeria, Cuba, Cyprus, Democratic Yemen, India, Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Morocco, Nigeria, Pakistan, Qatar, Senegal, Syrian Arab Republic, Tunisia and Yugoslavia: draft resolution	4

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a/ The sponsors listed here include those who became sponsors of the draft resolution or amendment subsequent to the issue of the document.

<u>Documents issued in the limited series</u> (continued)		<u>Agenda item</u>
E/CN.4/L.1485	Algeria, Cuba, Democratic Yemen, Iran, Iraq, Jordan, Libyan Arab Jamahiriya, Morocco, Pakistan, Syrian Arab Republic, Tunisia and Yugoslavia: draft resolution	9
E/CN.4/L.1486	Denmark and the Netherlands: draft resolution	5
E/CN.4/L.1486/Rev.1	Denmark and the Netherlands: revised draft resolution	5
E/CN.4/L.1487	Administrative and financial implications of the draft resolution E/CN.4/L.1486: statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council	5
E/CN.4/L.1488	Costa Rica, Iran, Malaysia, Morocco, Oman, Pakistan, Philippines, Qatar, Saudi Arabia, Somalia, Sudan and Tunisia: draft resolution	9
E/CN.4/L.1489	Algeria, Cuba, Democratic Yemen, Ghana, Libyan Arab Jamahiriya, Madagascar, Panama and the Syrian Arab Republic: draft resolution	9
E/CN.4/L.1490	Algeria, Cuba, Ethiopia, Iraq, Libyan Arab Jamahiriya, Senegal and the Syrian Arab Republic: draft resolution	9
E/CN.4/L.1490/Rev.1	Algeria, Cuba, Democratic Yemen, Ethiopia, Ghana, Iraq, Libyan Arab Jamahiriya, Nigeria, Senegal, Syrian Arab Republic and Yugoslavia: revised draft resolution	9
E/CN.4/L.1491	Burundi, Egypt, Iraq, Morocco, Senegal and Yugoslavia: draft resolution	8
E/CN.4/L.1491/Rev.1	Burundi, Egypt, Iraq, Ivory Coast, Morocco, Portugal, Senegal and Yugoslavia: revised draft resolution	8
E/CN.4/L.1492	Algeria, Argentina, Burundi, Cuba, Ethiopia, India, Iraq, Panama and Yugoslavia: draft resolution	8
E/CN.4/L.1492/Rev.1	Algeria, Argentina, Burundi, Costa Rica, Cuba, Ethiopia, India, Iraq, Nigeria, Panama, Pakistan, Peru, Syrian Arab Republic and Yugoslavia: revised draft resolution	8

<u>Documents issued in the limited series</u> (continued)		<u>Agenda item</u>
E/CN.4/L.1493	Canada, Costa Rica, Denmark, Germany, Federal Republic of, Senegal and the United Kingdom of Great Britain and Northern Ireland: draft resolution	21
E/CN.4/L.1494	Burundi, Cuba, Egypt, Ghana, India, Jordan, Morocco, Pakistan, Poland, Senegal and the Syrian Arab Republic: draft resolution	16
E/CN.4/L.1495	Burundi, Egypt, Ghana, India, Iraq, Jordan, Morocco, Nigeria, Philippines, Senegal, Syrian Arab Republic and Yugoslavia: draft resolution	6
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Annex V

ABRIDGED RECORD OF THE DISCUSSION ON AGENDA ITEM 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR  
REFERENCE TO COLONIAL AND OTHER DEPENDENT  
COUNTRIES AND TERRITORIES

Meetings: 1573rd, 1574th, 1575th, 1576th and 1577th,  
held from 7 to 11 March 1980

Mr. VOLIO JIMENEZ (Special Rapporteur), introducing his report on the situation in Equatorial Guinea (E/CN.4/1371), said that the Government of Equatorial Guinea had hardly co-operated with him in any way and had even ignored his study. In the main, he had been free to move about and had been able to speak with hundreds of persons from different social classes, but on a number of occasions the military authorities had prevented people from expressing their views. He had asked for certain information in writing from the Government, which had never replied.

For all the people of Equatorial Guinea, the crucial event in recent months had been the fall of the Government of President Macías, which had been oppressive, something that was corroborated by his own observations and the majority of the complaints submitted to the Commission. He had been able to ascertain that such important human rights as freedom of religion, education and movement, freedom to trade (to a limited extent) and freedom of expression, among others, had been restored. In particular, freedom of education and religion were being exercised without any apparent restriction. Nevertheless, the people were still living in wretched conditions and political power remained in the hands of the military. There was no democratic system of political and legal control mechanisms. The enjoyment of fundamental freedoms therefore depended on the will of the military. Until such time as a new political constitution was enacted, something for which no date had been fixed, the people could not play any part in political life. Moreover, the Government intended to carry on the military régime for a further two or three years and, consequently, there could be no question of political parties or elections. In the absence of an independent judiciary, the situation regarding human rights was confused. He had been particularly concerned about the question of forced labour. The situation regarding workers forcibly recruited some years earlier had not changed, except that they now seemed to be paid regularly. He had not been able to proceed to Gabon to visit the refugee camps, but in his opinion the reasons for the refugee problem were in most cases social and economic rather than political.

His mandate had been to study the human rights situation in Equatorial Guinea not only during the régime of President Macías but also since the change of Government. He had found that despite the Government's announcement of the restoration of certain freedoms, freedom of expression was seriously restricted at the present time. Perhaps the Government had not yet realized that observance of human rights, particularly political and civil rights, was indispensable in rebuilding the country. His mission would have proved pointless and the international community would simply have helped one military group to replace another and produce yet another dictatorship if human rights, in the noblest sense, were not respected.

Lastly, he drew the attention of the members of the Commission to his recommendations, more particularly those contained in paragraphs 239 and 244 of the report, and also the fact that, without machinery to implement them, the Commission's endeavours to protect the human rights of the people of Equatorial Guinea would be futile. In conclusion, he conveyed to the Commission the hope of the people of Equatorial Guinea that the Commission would respond to their aspirations.

Mr. VARELA (Costa Rica) expressed his gratification that an eminent person from his country, Mr. Volio Jimenez, had been appointed as Special Rapporteur on Equatorial Guinea.

Mr. MacDERMOT (Secretary-General, International Commission of Jurists), speaking at the invitation of the Chairman, first expressed the hope that the Commission on Human Rights would keep the situation in Equatorial Guinea, Nicaragua, Democratic Kampuchea, Uganda and the Central African Republic under review. As to the situation in Equatorial Guinea, he pointed out that the International Commission of Jurists had been invited to send an observer to the trial of former President Macías. The report of the observer, Mr. Artucio, was available in English and Spanish. It confirmed the abuses of the Macías régime and the conclusions reached were along the same lines as those of the Special Rapporteur. For his own part, he supported the recommendations contained in paragraphs 239-242 and paragraph 247 of the Special Rapporteur's report (E/CN.4/1371). Administrative machinery was essential before moving ahead with the political process, but in order to set up the machinery, certain fundamental freedoms, such as freedom of expression, freedom of the press, etc., had to be restored.

Generally speaking, the problems inherent in the return to democracy from a system of dictatorial abuse were of such importance that the Commission should also request the Governments of the Central African Republic, Nicaragua and Uganda to allow a person appointed by the Chairman to examine the conditions surrounding the changes in those countries and the nature of the assistance that was to be furnished

In Democratic Kampuchea, unlike the countries he had mentioned earlier, there had been no change universally approved by the population. It was difficult to see what initiative could be taken at the present stage, but the Commission should keep the question on its agenda and consider it again at the next session. A welcome event in Zimbabwe had been the holding of free elections, which had made it possible to put an end to the civil war and to the illegal régime of the white minority. In Guatemala, numerous acts of violence had been committed since 1954, particularly by the para-military forces. In view of the recent attack on the Spanish Embassy by the security forces, an attack in which all the peasants who had met to voice their protests had been killed, he hoped that the Commission would make suitable inquiries into the matter.

Mr. BEAULNE (Canada) expressed the hope that the Commission would follow up the recommendations of the Special Rapporteur on Equatorial Guinea so that help to live in peace and national harmony could be brought to the people of that country, ravaged by long years of oppression ignored by the international community in spite of pathetic appeals.

Mr. MONTGOMERY (Anti-Slavery Society) welcomed the visit made to Equatorial Guinea by the Special Rapporteur. The report (E/CN.4/1371) was unique in that, for the first time, the United Nations had verified the ravages caused by 12 years of terror that had stripped Equatorial Guinea and its people of everything, a situation which had been known in diplomatic and trade circles and by the office of the UNDP Resident Representative but which only a very small number of non-governmental organizations, including the Anti-Slavery Society, had denounced.

His organization expected the Commission to endorse the recommendations of the Special Rapporteur on Equatorial Guinea and furnish prolonged supervised aid for the economic and social recovery of the country.

Mr. EYA NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that, in 11 of the darkest years of its history, Equatorial Guinea had suffered the gravest violations of human rights, violations which had regularly been denounced by the opposition, and primarily by the Alianza Nacional de Restauración Democrática. He welcomed resolution 15 (XXXV), in which the Commission had decided, on 13 March 1979, to appoint a Special Rapporteur to study the situation regarding human rights in Equatorial Guinea.

Unfortunately, the change in the leadership that had occurred in Equatorial Guinea in August 1979 still had not made it possible to ensure complete observance of human rights, something that was confirmed by the report of the Special Rapporteur. The catastrophic economic situation was itself the result of the political disorder and the Commission should work to restore human rights so as to enable the inhabitants of the country to enjoy living conditions that were worthy of human beings.

The new leadership seemed resolved to pursue a policy identical to that of the previous régime, with which it had numerous links. His organization took the view that the Commission should continue to consider the situation of human rights in Equatorial Guinea, which did not yet have the slightest foundations to ensure respect for human rights, a fact which was proved by the arrests and ill-treatment of members of the opposition on their return to Equatorial Guinea after the change in the leadership.

The Commission should endorse the Special Rapporteur's recommendations and, in particular, invite the Government of Equatorial Guinea to set up a National Constituent Assembly promptly and make preparations to hold general elections. Democratic dialogue alone could ensure respect for human rights.

Mr. BENHIMA (Morocco) said that the international community must help the people of Equatorial Guinea to regain its freedoms and rebuild its country, which had suffered so much from the misdeeds of Macías, the late dictator.

Viscount COLVILLE (United Kingdom) said that the Commission could not pass over the case of Andrei Sakharov, who merited the respect of the international community on two counts - as an eminent scientist and as an active defender of human rights who had been awarded the Nobel Peace Prize. Internal exile was defined as a punishment in Soviet law and it was therefore difficult to see on what legal grounds it had been possible for Sakharov to be sentenced to such punishment without a trial. It was contrary to article 12 of the International Covenant on Civil and Political Rights, which stated that "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence", and also article 14 of the Covenant, which guaranteed everyone the right "to a fair and public hearing by a competent, independent and impartial tribunal established by law". In addition, Sakharov had been deprived of the right to freedom of expression, which was safeguarded by article 19 of the Covenant. Hence the least that the Commission could do was to request the Soviet Government to explain the various anomalies in the Sakharov case, which had caused great concern throughout the world.

Mr. ZORIN (Union of Soviet Socialist Republics), referring to the United Kingdom's intention to submit a draft decision concerning Sakharov on behalf of a number of other delegations, reminded the Commission that his own delegation had pointed out that the matter was one that fell exclusively within the domestic jurisdiction of the Soviet Union. The Commission had no reason whatsoever to take up the matter and to echo the slanders spread by western propaganda for political purposes in connexion with alleged violations of human rights in the Soviet Union. Instead, the Commission should, in conformity with General Assembly resolution 32/130, turn its attention to real violations of human rights.

The maintenance of world peace and security, which his country had always defended in a constructive manner, unquestionably entailed co-operation among States in all fields, including human rights. In that regard, his delegation was concerned about the dangers to peace caused by the decision of the NATO countries, under pressure from the United States, to place new American nuclear weapons in western Europe and it was concerned about the swelling of the United States military budget.

His delegation wished to draw the attention of the Commission to certain situations in the world that revealed a pattern of gross violations of human rights. In Guatemala, for example, habitual killers were acting with impunity because they were protected by a dictatorial Government that had been in power for 20 years as the result of the support of the United States of America. In Haiti, famine, arrests and emigration were the result of the reign of the Duvalier dynasty.

Mr. CHAVEZ-GODOY (Peru), speaking on a point of order, said it was his understanding that the Commission had decided to consider the Sakharov case before examining other situations.

Mr. ZORIN (Union of Soviet Socialist Republics) considered that, according to the agenda, delegations could deal with all the matters falling under item 12. Consequently, he wished to comment on the situation in Northern Ireland.

The basic reason for the situation, which had shocked world public opinion since 1969, was the discrimination practised against the Catholic minority as a result of the attitude of the most reactionary circles, more particularly the Protestant landowners and industrialists. The deterioration in the situation had led to greater repression involving, among other things, detention camps and the frequent use of torture. The United Kingdom authorities did not ensure the rule of law, refused to introduce democratic reforms and made themselves guilty of violating human rights.

In 1978, the European Court of Human Rights had declared the United Kingdom guilty of violating article 3 of the European Convention on Human Rights. Nevertheless, the situation in Northern Ireland had not improved in the meanwhile. Torture was still being practised with impunity and the British authorities continued to oppress the population of that country and violate human rights which the United Kingdom claimed to be defending. The bourgeois British press had even justified such practices, yet the persons killed, injured or arrested numbered thousands at a time when the London Government was directly responsible for maintaining order in the country.

Ten years of such a situation had still failed to solve the basic problems and the economic situation in Northern Ireland was growing worse all the time. Recently, the United Kingdom had engaged in a diplomatic initiative which had proved disappointing in that it had ignored certain essential matters such as equal rights for Catholics and Protestants and the economic recovery of the country. Despite that failure, the United Kingdom Government was still trying to solve the problems by repression and by the presence of its troops.

The many reports of torture and cruel treatment in Northern Ireland required the attention of the Commission, which should consider the human rights situation in that country and request the Government of the United Kingdom to put an end to the violations of which it was guilty. In that connexion, his delegation had submitted a draft resolution which would be circulated shortly. It reserved the right to return to the matter later.

Mr. DAVIS (Australia) emphasized that the Commission's mandate was not only to pinpoint and examine serious violations of human rights in any part of the world but also to identify the causes. His country had voted in favour of General Assembly resolution 34/46 and hoped that the Commission would consider the study called for therein. It also took the view that the Governments concerned should be encouraged to co-operate in improving the human rights situation in their countries.

Many matters called for examination by the Commission, more particularly summary executions, arbitrary arrests and detention and the conditions in which certain persons suffered detention, house arrest or banishment. His delegation was particularly concerned about the house arrest of Mr. Sakharov in the USSR, the decisions on banishment taken in South Africa and the measures for house arrest authorized by a number of recent laws enacted in Chile.

The continued existence of apartheid in South Africa demanded special priority attention from the Commission. The question of the right of peoples to self-determination was no less important. His delegation especially welcomed the support given by the Commission to the Afghan people struggling to secure that right. It was essential that the Soviet military occupation of Afghanistan should come to an end as soon as possible and that the Afghan people should be in a position to determine its own future free from any foreign interference or intervention. The outright invasion of Afghanistan and the elimination of Afghan resistance bore witness to a cynical contempt for international law and fundamental human rights. The international community had rightly condemned those acts.

The Commission appeared to acknowledge by consensus that the report of Mr. Boudhiba on human rights in Democratic Kampuchea revealed a pattern of gross violations of human rights in that country. His own country reiterated its condemnation of the inhuman practices in Democratic Kampuchea. It was also gravely concerned about the situation of the Khmer people, who were still suffering from malnutrition, disease and foreign occupation. Withdrawal of the Vietnamese forces and exercise by the Khmer people of its right to self-determination were prerequisites for the restoration of fundamental human rights in Kampuchea. For that reason, his country was among the sponsors of draft resolution E/CN.4/L.1532.

The United Nations should contribute to the rebuilding of Equatorial Guinea through its technical assistance programmes and enable that country to regain its traditions of freedom and democracy. His delegation considered that the task of the Commission was not simply to denounce violations of human rights but also to support the efforts of new Governments to restore those rights.

His country was also concerned about the situation in Guatemala and hoped that the Commission would be in a position to secure information regarding that country's commitment to respect the fundamental principles of human rights. Similarly, it was to be hoped that the action to find a satisfactory solution to the situation in El Salvador would prove successful.

Lastly, he hoped that the countries discussed in reports that ascertained the existence of violations of human rights would co-operate willingly with the Commission so as to enable their populations to enjoy the rights and freedoms set forth in the Charter of the United Nations, the Universal Declaration of Human Rights and the Covenants relating to human rights. It should never be forgotten that the Charter was an expression of the will of the people.

Mr. ERDEMBILEG (Mongolia) said that, among the questions to be considered in connexion with agenda item 12 (b), priority should be attached to the consistent pattern of gross violations of human rights in Kampuchea under the régime of Pol Pot. For that reason, his delegation, together with many others, had submitted a draft resolution on the question of the violations of human rights committed in Democratic Kampuchea (E/CN.4/L.1524). The draft noted with appreciation the analysis of the situation of human rights in Democratic Kampuchea prepared by the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1335), relating more particularly to communications from the Governments of Canada, Norway, the United Kingdom, the United States and Australia. It declared the complete sympathy of the Commission with the Kampuchean people and appealed to all States for their support. He hoped that the draft resolution would be adopted unanimously.

Mr. van der STOEL (Netherlands) said that it was often difficult for a Government to criticize the human rights situations in other countries, since bilateral relations might suffer as a result. Indeed, Governments which violated human rights frequently resorted to political or economic pressure in order to compel other Governments to remain silent. For example, when the Netherlands Government had acted as host in Amsterdam for a seminar on violations of human rights under the régime of the Shah of Iran, the Iranian Government had threatened to take economic reprisals.

He wholeheartedly supported draft resolution E/CN.4/L.1534 which condemned the violations of human rights committed in Democratic Kampuchea. He also spoke out against the repression of political dissidents in certain countries, especially in South Africa, Chile and the Soviet Union. In the latter country, the recent internal exile of Sakharov was merely a particularly flagrant example of the brutal repression with which the Soviet authorities sought to crush the human rights movement that had emerged in the Soviet Union at the beginning of the 1960s and sought, by peaceful means, to ensure implementation of the Helsinki agreements. The Governments of some countries masked the repression of the dissident movements by a

semblance of legality, as was shown by the trial of the signatories of Charter 77 held in Prague in the autumn of 1979. In other countries, such as Guatemala, Governments resorted to outright violence in order to overcome political opposition and used the police and the army for more assassinations, abductions and arbitrary arrests.

Lastly, he denounced the increasingly common practice of taking diplomats as hostages, a practice which constituted not only a violation of human rights but also a violation of one of the oldest principles of international law. He was also opposed to the arrest of members of the Secretariat of the United Nations, something which was contrary to Article 105 of the Charter and to the obligation entered into by Member States under the Convention on Privileges and Immunities of the United Nations. It was his hope that the Secretary-General, drawing on the experience of UNESCO in that regard, would take urgent steps to bring such practices to an end, for they were contrary both to the rights of individuals and to international law.



Mr. DAVIS (Australia), introducing draft resolution E/CN.4/L.1532, emphasized that its reference to Democratic Kampuchea related to the Government that was still recognized by the United Nations General Assembly, while Kampuchea meant the geographical entity formerly known as Cambodia. The draft resolution sought to cover the broad human rights situation in Kampuchea as dealt with in the Bouhdiba report, as well as subsequent tragedies, including the invasion and the flight of thousands of people from the country. Draft resolution E/CN.4/L.1532 should be given priority over draft resolution E/CN.4/L.1524, on which it would be inappropriate to take a vote because of its fragmentary nature.

Mr. McKINNON (Canada), introducing draft resolution E/CN.4/L.1530, said that since the submission of the draft resolution on the same subject at the Commission's previous session, the number of refugees and the magnitude of the problem had increased. The international community had a twofold responsibility: to assist the victims and to deal with the causes of the problem. The draft resolution was designed to serve those ends; it had no political motive. When receiving the Nansen Medal, the President of the French Republic had rightly emphasized that the refugee problem was a human rights problem which must be tackled at its roots.

Mr. HEREDIA (Cuba), introducing draft resolution E/CN.4/L.1535, said that the text was designed to reflect the concern of members of the Commission and non-governmental organizations at the worsening situation in Guatemala. Every effort had been made to provide a balanced and moderate text.

Viscount COLVILLE (United Kingdom), introducing draft resolution E/CN.4/L.1534, observed that the explanation expected from the Soviet Union representative had not been forthcoming. At the present stage in the Commission's session, no purpose would be served by sending a telegram. At the Commission's next session, his delegation expected to hear that full freedom had been restored to Dr. Sakharov and his wife to enjoy their fundamental rights, and that the repressive climate had been lifted. If such information was not forthcoming, the question should appear as an item on the Commission's agenda.

Mr. GARVALOV (Bulgaria) said that the Commission had no legitimate right to discuss the Sakharov case, which was being used by Western States as a propaganda campaign against the Soviet Union in order to divert the Commission's attention from considering the mass and flagrant violations of human rights in capitalist society. Unemployment in Western States was a serious problem, depriving millions of people of the fundamental human right to work. Such a mass violation of human rights should be placed in the focus of the Commission's attention. Other serious violations of human rights in certain Western States included inequalities between men and women, social inequalities, racial discrimination, increased crime and terrorism and political assassinations. New racial ideologies were being practised by organized groups. The Commission could not disregard the continued mass and flagrant violations of human rights in Northern Ireland. United States imperialism, which had denied many people their right to self-determination, had tried to impose a war of aggression on Viet Nam. The situation in Guatemala, Haiti and El Salvador was of serious concern. In the former Democratic Kampuchea, the Pol Pot clique, with the assistance of China, had imposed a brutal régime of genocide in which millions had been killed. The People's Republic of Kampuchea, which was the only legitimate authority, had launched a nation-wide reconstruction programme which deserved United Nations

support, both in the interest of the Kampuchean people and for the sake of international peace and security. The criticism of the People's Republic of Kampuchea by Western States was insincere and politically motivated. His delegation had sponsored draft resolution E/CN.4/L.1524 because it believed that unconditional support and assistance should be given to the People's Republic of Kampuchea.

Mr. JAHN (Federal Republic of Germany), after describing the position of the European Economic Community on the situation in Kampuchea, reminded the Commission that his country had been among the first to condemn violations of human rights in Democratic Kampuchea, to request an investigation on the subject and to appeal to all parties to refrain from any action that might endanger the safety of the refugees. He emphasized the efforts made by Thailand in that connexion. His delegation hoped that rapid relief would be given to the Kampuchean people without discrimination. It supported draft resolution E/CN.4/L.1533 in the belief that the problem could only be overcome through a durable political solution. Many provisions of the International Covenant on Civil and Political Rights were being violated.

Although there had been some temporary improvement in some Eastern European States, the hope that the Final Act of Helsinki would lead to more humane treatment of political opponents had largely been disappointed. Along with the Soviet Union's intervention in Afghanistan, the number of cases in which drastic measures had been taken against persons speaking out for human rights had increased.

His Government's policy was not directed against any State's internal order. In supporting draft decision E/CN.4/L.1534, his delegation sought simply to obtain information concerning a person who epitomized the struggle, in many parts of Europe, for the full expression of human rights.

Mr. SOYER (France) said that draft decision E/CN.4/L.1534 was a moderate and non-controversial document, the sole purpose of which was to elicit information concerning a defender of human rights. It had a basis in a Canadian resolution concerning protection of defenders of human rights, which the Commission had adopted by consensus. Furthermore, draft decision E/CN.4/L.1534 did not infringe the Soviet Union's sovereign right to appraise the reasons behind the measures applied to Mr. Sakharov.

Mr. MORENO-SALCEDO (Philippines), speaking on a point of order, objected that, although general statements on the agenda item were now being made, his delegation had earlier been told that it might speak only in regard to specific draft resolutions.

Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that draft decision E/CN.4/L.1534 represented an attempt to interfere in the internal affairs of a sovereign State as well as an effort to revive the cold war and to distract attention from those parts of the world where gross violations of human rights constantly occurred. Those rights were being violated on a massive scale, in particular in Guatemala, Haiti, South Korea, and Ulster. With regard to the two last-named, his delegation urged the adoption of draft resolutions E/CN.4/L.1524 and E/CN.4/L.1536.

The threat to peace and security posed by the NATO Powers' unrelenting arms race was a further violation of human rights.

Mr. SHESTACK (United States of America) said that many recent events - the overthrow of some of the world's worst rulers, the return to civilian government in certain countries and the increasing importance of human rights in foreign policy - were encouraging. But there were still grounds for grave concern, such as the banning of discussion relating to certain persons and subjects, as in South Africa; the large-scale refugee problem in Kampuchea; and the repression of individuals and minorities in the Soviet Union - consideration of which the authorities there constantly sought to block. He cited many allegations of religious persecution in that country, saying they seemed more in keeping with the dark days of tsarism than with an enlightened Soviet State.

He hoped that the Commission would unswervingly promote the cause of human rights everywhere, regardless of the burdens at times imposed.

Mr. MELLBIN (Denmark) said that human rights were the concern not of Governments alone but of organizations, groups and individuals. Repressive measures against proponents of human rights were to be deplored. The exile of Dr. Sakharov contravened article 12 of the International Covenant on Civil and Political Rights. Denmark continued to urge the Soviet authorities to restore Dr. Sakharov's rights; to that end, it would support draft decision E/CN.4/L.1534.

Mr. M'BAYE (Senegal) said that his delegation attached great significance to item 12, which was the most important item on the Commission's agenda. It was under that item that such important matters as the situation of human rights in Chile, in central Africa and in the occupied Arab territories were considered. Although the human rights situation was generally gloomy, there were nevertheless a few rays of hope, particularly in Africa, where OAU was planning to prepare, in the coming months, a charter of the rights of man and of peoples.

Mr. BEAULNE (Canada) said that co-operation between the Commission and national Governments was essential. Thus far, such co-operation had taken the form of direct contacts between the Secretary-General and the Governments concerned. While that approach had not always been wholly successful, it had served to define problems and had helped to devise measures for bringing about changes in the situation. However, in order to be useful, such direct contacts must result in objective and accurate reports which would enable the Commission to arrive at objective conclusions as well as practical recommendations. The Commission should insist that the Secretary-General appoint the best people available to carry out such functions. If a Government refused to co-operate, the Commission should immediately call for a public inquiry. A variety of positive measures could be taken by the Commission, such as sending teams of specialists to determine whether, in cases of alleged torture, for example, internationally acceptable standards were applied in prisons and by the police.

National budgets should include larger appropriations for the funding of the activities of the Division of Human Rights. The mandate of the Division could be broadened to include the areas of technical assistance and socio-cultural activities. The assistance of the Secretary-General to the Commission was of cardinal importance.

A number of bloodthirsty dictators had been overthrown since the thirty-fifth session of the Commission. The Commission's inaction had allowed those situations to deteriorate until they had become intolerable. Human rights were not the exclusive concern of national Governments. Governments which had assumed obligations in the human rights field by ratifying the relevant international instruments must be accountable to the international community. It was incorrect to claim that the Commission must not deal with the cases of private citizens who were persecuted because they had reminded their Governments that they must abide by their international obligations.

His delegation was concerned at the treatment extended to Dr. Sakharov and would vote for draft decision E/CN.4/L.1534.

Mr. ROS (Argentina) said that one of the basic problems facing the Commission was how, and to what extent, it could prevail upon States to comply with their international responsibilities in the field of human rights. The practical and effective measures taken by the Commission depended on the extent of the co-operation received from States. Such co-operation was fundamental. Nothing would be gained by arriving at decisions which took no account of the complex political realities in the countries concerned.

The attitudes of those who encouraged the progress achieved in the field of human rights and of those motivated by other concerns would be noted by the Governments concerned. It would be naive to regard the positions of delegations as having no effect on bilateral or regional relations. His delegation joined with those who had condemned the taking of diplomatic hostages.

Viscount COLVILLE (United Kingdom) recalled that, at the thirty-fourth session of the Commission, his delegation had sought to draw attention to the appalling situation existing in Cambodia at that time. At the current session, even those who had originally sought to deny the truth of those reports accepted them, as evidenced by draft resolution E/CN.4/L.1524. For two years, the Commission had failed to take action in respect of the situation in Democratic Kampuchea. Three members of the Sub-Commission, including those nominated by the Soviet Union and Bulgaria, had even voted against the study which was referred to with approval in that draft resolution, thus revealing the hypocrisy and cynicism of the latter. Current reports issuing from the areas of Cambodia currently occupied by the Vietnamese army were of a very similar nature. There were also reports of the use of chemical weapons. Those reports must be taken seriously.

He expressed concern at the refugee situations existing elsewhere in South-East Asia and other parts of the world, particularly the large-scale exoduses from Cambodia, Viet Nam, Laos and Afghanistan. Accordingly, he supported the draft resolution submitted by Canada.

He was gratified at the significant improvement in the human rights situation in many parts of Africa, particularly Uganda, and welcomed the move towards the legal independence of Zimbabwe.

He expressed concern regarding the situation of indigenous peoples in various areas of the Americas, and the human rights situation in Guatemala. He expressed the hope that Latin American countries would continue their efforts to protect human rights.

1574th meeting

His delegation condemned the subjection of United Nations staff members to arbitrary arrest, detention and harsher forms of harassment, and the growing phenomenon of the taking of diplomatic hostages.

The treatment of Dr. Andrei Sakharov was symptomatic of the response of the Soviet authorities to the exercise of freedoms which they purported to uphold. Some "dissidents" were also confined to psychiatric institutions. There were also many examples of the abuse of human rights in the Soviet Union affecting larger groups of people such as minorities. One such example was the persecution of the Islamic Crimean Tartars, which he documented in detail. The reply of the Ukrainian spokesman when the question had been raised by the Human Rights Committee had been predictably mendacious. The Sub-Commission on Prevention of Discrimination and Protection of Minorities should look into those questions, as well as that of minorities in Bulgaria, at its forthcoming session. For these reasons, as well as for others, including the Soviet invasion of Afghanistan, his Government favoured the transfer of the Olympic Games away from Moscow.

It went without saying that in raising human rights matters in other countries, the United Kingdom was ready to have its own human rights record examined.

Mr. EL-FATTAL (Syrian Arab Republic) drew attention to the fact that violations of human rights were occurring in Palestine and in the occupied Arab territories.

He fully endorsed the remarks made at the previous meeting by the Senegalise and Canadian delegations regarding the importance of agenda item 12. Many delegations had noted the caution observed by the delegation of the Syrian Arab Republic, which was most concerned to avoid interfering in the internal affairs of States. Such interference was permissible only in the event of flagrant and mass violations of human rights or of situations constituting a threat to international peace and security - in other words, cases involving breaches of the provisions of the Charter, the Universal Declaration of Human Rights and the two International Covenants on Human Rights. The Sakharov case did not fall into either of those two categories and lay outside the competence of the Commission, which considered only situations and not individual cases. Furthermore, the "Sakharov affair" ill concealed an insidious propaganda campaign launched and sustained by world zionism in order to obstruct peace in the Middle East. Mr. Sakharov's repeated statements in favour of the emigration of Jews from the USSR to Palestine and the occupied Arab territories made him an accessory to the crime of Jewish colonization of those territories. Mr. Sakharov could of course be seen as a symbol in that he had never upheld the rights of the Palestinians or those of the oppressed African peoples and was the father of a hateful invention - the hydrogen bomb.

With regard to the statement made by the United States representative at the previous meeting, he noted that there were three major monotheistic religions; it was regrettable that the United States should disregard the feelings of the international Christian community over what Le Monde had called "the increase in anti-Christian violence" in Palestine and Israeli-occupied Jerusalem and accord special treatment to only one of those religions, for purely electoral purposes.

Mr. RODRIGUEZ (Cuba) noted that, since the establishment of the United Nations, there had been a movement which had led to the emergence of a set of international instruments guaranteeing human rights and which had most recently borne fruit in General Assembly resolution 32/130. The third world countries well understood why those who had been at the origin of slavery and subsequently of colonialism and neo-colonialism could not agree to acknowledge their right to development, and they also understood why attempts were being made to divert the Commission's attention from the serious problems which genuinely lay within its competence.

The question of Kampuchea had been presented to the Commission in such a way that the facts were being twisted to suit certain special interests; the situation obtaining in that country since the revolution which had overthrown the Pol Pot régime was very different from that which was currently being depicted. Of course, each State was entitled to express its own opinion, but it was inadmissible that certain States should adopt the method of sweeping generalizations, distorting the truth and making assertions which were unaccompanied by any evidence. Such crude and shameless machinations would leave their imprint on the history of the United Nations and would one day summon forth a response from the peoples whose rights were being violated and whose children were dying.

The USSR, in particular, was the victim of interference in its internal affairs. The "Sakharov affair" was an example of such interference and also demonstrated the refusal to report events as they really happened.

1575th meeting

His delegation had already emphasized the need to reorient the Commission's activities so as to prevent certain elements from monopolizing them for their own ends. It would be desirable to respect various criteria such as the urgency and importance of issues and the flagrancy of the violations denounced. The speakers who had put forward proposals such as the one to which he had referred had provided no answer on that point.

At the initiative of one country, the Commission had before it the question of the situation of human rights in Northern Ireland. The Western press might be tempted to remain silent on that issue or to pretend that nothing out of the ordinary was happening in that area of the world. However, the developed world was not exempt from human rights violations, as was again demonstrated by the voluminous documentation submitted to the Commission on the situation of the Indian nations in North America. The Commission could not ignore the allegations which that documentation contained regarding such questions as the situation of Indian women, who were exposed to grave danger because of the many miscarriages caused by polluted radio-active water.

A request had been made for the situation of human rights in Nicaragua to be kept on the Commission's agenda, when in fact such a proposal was completely at variance with the Commission's traditional method of work. It was legitimate to seek to determine what interests lay behind that initiative, since everything that was currently happening in Nicaragua indicated that the Nicaraguan people and its new Government were prepared to restore the human rights violated by the Somoza dictatorship; it was not possible to reflect on the existing situation of human rights in Nicaragua.

Mr. ZORIN (Union of Soviet Socialist Republics) noted that the documents which had been submitted to the Commission on the subject of Kampuchea clearly exposed the policy of genocide followed by the Government of "Democratic Kampuchea". It was evident that the Pol Pot régime and its masters in Peking had launched a veritable war of elimination against the Khmer people - which had been the first confrontation designed to establish a Maoist régime outside China - with the sole object of providing Chinese expansionism with a new base in Asia. The aim had been to eliminate the Khmer people and to populate its territory with Chinese. The régime of Pol Pot and Ieng Sary had been given the task of carrying out those plans, drawn up in Peking. The régime had therefore launched its policy of genocide and had attacked neighbouring Viet Nam in order to create tensions which would cover up its actions.

The Khmer people had had to choose between being wiped out and overthrowing the tyrannical régime. In 1978, the general popular uprising in the country had led to the creation of the United Front for the National Salvation of Kampuchea, under whose leadership the Kampuchean people had eliminated the Pol Pot régime. Those who had attacked Viet Nam had therefore been defeated and the people had saved itself.

However, China had been unable to accept the failure of its plans. The tragedy of the Kampuchean people was that it had been the first victim of Maoist expansionism. In spring 1979, Peking had launched an offensive against the sovereign State of Viet Nam. Despite its shameful defeat at the hands of the Vietnamese forces, China was persisting in its policy of intervention and was now

receiving support from the Western countries and particularly from the United States of America, with which it had formed an alliance openly directed against the peoples of Asia.

The presence of Vietnamese troops in Kampuchea was exclusively a matter for the two countries concerned. It was justified by the external aggression constituted by the threats and armed provocations of China, which was endeavouring to foster confrontations in Asia and whose attitude ought to be censured by the Commission. The creation of the People's Republic of Kampuchea marked the resurrection of the Kampuchean people which, 14 months after its victory, had accomplished a remarkable effort of reconstruction, despite all the sufferings which it had endured. The People's Revolutionary Council of Kampuchea controlled the entire national territory and was taking all necessary measures to ensure the country's recovery and defence.

Two draft resolutions had been submitted to the Commission on that question; only draft resolution E/CN.4/L.1524 could be regarded as being of a pacific nature and comprehensive and balanced, since it condemned the misdeeds of the Pol Pot régime, expressed the Commission's sympathy with the people of Kampuchea and invited all States to support that country's efforts. Draft resolution E/CN.4/L.1532, on the other hand, was unacceptable to his delegation, since it ran counter to the interests of the Kampuchean people, constituted interference in the internal affairs of the People's Republic of Kampuchea and was at variance with the interests of peace-loving peoples throughout the world.

Replying to allegations made by the United States delegation, he said that it was absurd to claim that there were no Jews in Soviet universities. Moreover, there were hundreds and perhaps thousands of political prisoners in United States gaols, as former Ambassador Andrew Young had himself stated. He (Mr. Zorin) referred, inter alia, to cases of persons who had been arrested following racial disturbances. He mentioned the incident, reported in the Western press, in which a prison riot had been suppressed and 40 prisoners had lost their lives. Representatives of the Indians in the United States had already described to the Commission the way in which that minority was treated; according to Indian leaders, 24 per cent of Indian women had to accept enforced sterilization; infant mortality was three times higher than the average, and 75 per cent of Indians were suffering from malnutrition; 90 per cent of Indian land had been allotted to white settlers, and particularly to companies. According to information provided by the Commission on Civil Rights, a United States organization, 50 per cent of children belonging to minority groups still attended segregated schools; in addition, the unemployment rate was known to be far higher for the minorities than for the rest of the population. The Ku Klux Klan was pursuing its racist activities: it had recently opened fire on peaceful demonstrators in Greenborough.

Moreover, the United States State Department published a report on the situation of human rights in various countries which reflected a policy of interference. Of the many countries reviewed, only the countries members of NATO and some other capitalist countries were described as "free"; the others were said to be only partly free or not free at all. Under that classification, many States represented in the Commission would be regarded as not being free.



Mr. AMARE (Ethiopia) said he found it surprising that the Sakharov case should have been discussed at such length by the Commission: the case involved an individual who had been subjected to a legal measure by his Government and to whom remedies were available under the legal system of his country. The Commission should focus its attention on flagrant and systematic violations of human rights such as military aggression, the occupation of Arab lands in Palestine, genocide, apartheid and colonialism. The objectives of the Commission derived from a principle laid down in the Charter, from which it must not depart.

His Government had condemned the genocidal régime of Pol Pot, and his delegation believed that the Commission should express its support for the people of the People's Republic of Kampuchea, which was currently restoring human rights and fundamental freedoms in that country. Ironically, some Powers which posed as human rights advocates were supporting the vestiges of the Pol Pot régime. His delegation's position on other matters would be reflected in its votes.

Mr. OLSZOWKA (Poland), referring to the report of the Sub-Commission on the situation of human rights in Kampuchea (E/CN.4/1335), said that the Pol Pot régime had committed the most flagrant violations of human rights and had imposed untold sufferings on the Kampuchean people. The Commission should express its support for the People's Republic of Kampuchea, which was restoring human rights in the country and was embarking upon development. With that consideration in mind, his delegation had become a sponsor of draft resolution E/CN.4/L.1524.

The Commission would be exceeding its terms of reference by continuing to discuss the Sakharov affair, which was a contrived issue likely to jeopardize peaceful co-operation among nations. Some countries were using that case to conceal their own problems, particularly mass unemployment.

Mr. HILALY (Pakistan) emphasized the contrast between, on the one hand, the economic, social and political advances achieved during the previous century, the liberation of the peoples of the third world and the promises of progress contained in the Charter and, on the other hand, the destitution and denial of fundamental rights to which a large part of humanity was subjected. The existing economic system deprived the peoples of the third world of the fruits of their labour and their natural wealth, and the world political order was characterized by the rivalry of the major Powers and ideologies, imposed on those peoples. One consequence of that situation was the massive violations of human rights in parts of the world such as southern Africa and Palestine. On the other hand, he was happy to note that the people of Zimbabwe had finally escaped from the oppression of a racist minority, and he congratulated Mr. Mugabe on his electoral victory.

In the Middle East, the only feasible solution was one which responded to the just cause of the Palestinian people and brought PLO into the negotiating process. In Kampuchea, a nation which had struggled heroically for its national liberation had, paradoxically, acted as an invader; the Pakistan delegation was a sponsor of draft resolution E/CN.4/L.1532, which gave balanced consideration to the various violations of human rights in that country and to foreign intervention. The Commission had already called for the withdrawal of foreign troops from Afghanistan, but military operations against the Afghan resistance were being intensified and the flow of refugees into Pakistan was increasing. Pakistan hoped that, in response to the call of the international community, a solution which was in conformity with the fundamental rights of the Afghan people would be found.

Lastly, he emphasized that the countries of the third world were more concerned with the wrongs inflicted on them than with the fate of individuals; he expressed the hope that the Commission's discussions would not be characterized by mutual recrimination but would enhance understanding between peoples.

Mr. MORENO-SALCEDO (Philippines) said that his delegation was a sponsor of draft resolutions E/CN.4/L.1530, L.1532 and L.1533, relating respectively to population exoduses, Kampuchea and the privileges and immunities of United Nations staff members; those draft resolutions had been introduced at the previous meeting by the representatives of Canada, Australia and Portugal.

The situation in Kampuchea should be considered in the light of three elements: the report of the Sub-Commission (E/CN.4/L.1335); the fact of foreign occupation; and the fate of hundreds of thousands of refugees. Draft resolution E/CN.4/L.1532 was balanced, in that it condemned both violations of human rights committed before the invasion, the invasion itself and the other violations which had ensued. At the same time, the draft resolution called upon Governments and non-governmental organizations to continue assisting the hundreds of thousands of Kampuchean refugees. Draft resolution E/CN.4/L.1530 emphasized the need - deriving from the concept of the brotherhood of man - to assist persons displaced by exoduses; he hoped that that draft resolution could be adopted unanimously. Draft resolution E/CN.4/L.1533 was based on the idea that the effectiveness of the United Nations and the specialized agencies depended on respect for the integrity and safety of their staff members; it was to be hoped that the Commission would adopt that text by consensus.

Mr. YOURAN (Observer for Democratic Kampuchea) denounced the occupation of Democratic Kampuchea by a Vietnamese army of 250,000 men using Soviet equipment, an occupation which was designed to exterminate the people of Kampuchea and to annex an independent, non-aligned State Member of the United Nations. In one year, the Vietnamese had caused the death of more than 2 million persons, particularly through chemical weapons and starvation. In order to achieve their objective of an "Indo-Chinese Federation", the Hanoi authorities had signed a military pact with the Soviet Union on 3 November 1978; under that pact Viet Nam had been incorporated into the USSR's global strategy in Asia, of which the invasion of Afghanistan was one element.

On 15 January and 16 March 1979, the Security Council had condemned the invasion of Democratic Kampuchea, and by resolution 34/22, the General Assembly had called for the immediate withdrawal of all foreign forces and had resolved that the people of Kampuchea should be enabled to choose democratically their own government. On 7 March 1980, the Ministers for Foreign Affairs of ASEAN and EEC had issued a joint statement at Kuala Lumpur, condemning the military interventions in Kampuchea and Afghanistan and calling for the implementation of United Nations resolutions on the subject.

In the light of that situation, he requested the Commission to help to ensure the survival of the people of Kampuchea and to put an end to the war of racial extermination being waged by Viet Nam and its masters, and to call for free elections by secret and direct ballot under the supervision of the Secretary-General, in implementation of General Assembly resolution 34/22. The Commission

should also request that the United Nations send to Kampuchea sufficient personnel and observers to supervise the distribution of humanitarian relief to the population of Kampuchea.

Mr. BARROMI (Observer for Israel) mentioned the case of Syrian Jews who were held as virtual hostages in the ghettos of Damascus, Aleppo and Kamishli, without being allowed to emigrate; Amnesty International had submitted a report on the subject.

The situation of the Jews was also grave in the Soviet Union; their culture and their religious tradition were destroyed, and their language could not be taught. The Jews, who had long been excluded from senior diplomatic and administrative positions, were now increasingly debarred from scientific careers; there had been a decline in the number of Jewish students, and it had become nearly impossible for Jews to be admitted to prestigious universities in Moscow. The Soviet Government was engaging in active anti-Semitic propaganda veiled as action to combat zionism particularly in television and radio programmes. It was true that emigration had increased in 1979, but persons whose applications were turned down became "refuseniks", who risked dismissal from employment and persecution. He also mentioned the case of various Jews who had now been held in Soviet prisons for years.

The Soviet Government was violating the International Covenants on Human Rights and the UNESCO Convention against Discrimination in Education, as well as the provisions of the Charter relating to human rights, and the Commission could not therefore fail to consider the plight of Jews in the Soviet Union.

Mr. BATIOUK (Observer for the Ukrainian Soviet Socialist Republic) said that, in four years of government, Pol Pot had butchered half of the population of Kampuchea and had reduced the other half to famine, had ruined the economy of the country and had violated the most elementary human rights, in the name of an ideology inspired by Maoism and with the assistance of thousands of Chinese political and military advisers. The Kampuchean people had driven Pol Pot from power and was now endeavouring to restore normal living conditions, human rights and fundamental freedoms, but for that purpose it required international assistance. He therefore supported draft resolution E/CN.4/L.1524, which appealed to all States to support the Kampuchean people in their efforts. On the other hand, he was unable to support draft resolution E/CN.4/L.1532.

He protested against the false accusations which the representatives of the United Kingdom and the United States had made against the Soviet Union and, more particularly, the Ukrainian Soviet Socialist Republic. The Greek Catholic Church in the Ukraine had not been dissolved, as the United States representative had claimed, but had merged of its own accord with the Orthodox Church. As for the Sakharov Affair, the issue had been trumped up by the Western Powers for the purposes of anti-Soviet propaganda. He wondered when the United States intended to ratify the International Covenants on Human Rights and when the United States and United Kingdom Governments would discontinue their assistance to the racist régime of South Africa. He also wondered when the violations of human rights in Ulster would cease.

Mr. TRUONG QUAN PHAN (Observer for Viet Nam) said it was deplorable that the debate on the situation of human rights in Kampuchea should be taking place without the participation of the People's Revolutionary Council of Kampuchea, which was the sole authentic and legal representative of the Kampuchean people. It was also regrettable that the Commission had allowed a statement to be made by the representative of a régime which had been overthrown by the Kampuchean people and which was responsible for the death of 3 million innocent persons. He hoped that that absurd situation would be brought to an end and that the seat of the People's Republic of Kampuchea in the United Nations would be turned over to the People's Revolutionary Council of Kampuchea.

If the Pol Pot clique had succeeded in taking power in Kampuchea after the victorious struggle of the Kampuchean people against colonialism and United States aggression, that was due to the assistance of China, which, driven by expansionist and hegemonist ambitions, had sought to make Kampuchea a strategic base from which to attack Viet Nam and annex Indo-China. Under the direction of Chinese advisers, the Pol Pot clique had transformed Democratic Kampuchea into a vast concentration camp, where men, women and children had had to work as slaves. The monstrous crimes committed by the Pol Pot clique had been described in documents E/CN.4/Sub.2/414 and Add.1-8 and in documents E/CN.4/1388, 1389 and 1401, as well as in the analysis submitted to the Commission at its thirty-fifth session by the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1335).

By overthrowing the fascist régime of Pol Pot, the Kampuchean people had rid itself not only of a cruel régime but also of Chinese hegemonism, which threatened the stability of South-East Asia. It had exercised its right to self-determination and had contributed to the cause of peace, democracy and social progress in the region. It had become the true master of its own fate and it was currently endeavouring, under the guidance of the People's Revolutionary Council, to eliminate the serious after-effects of the Pol Pot régime by reconstructing the national economy and restoring human rights. With its foreign policy of independence, peace and non-alignment, the People's Republic of Kampuchea was prepared to maintain friendly, co-operative and good-neighbourly relations with the countries of South-East Asia and other countries on the basis of the principles of peaceful coexistence, thus contributing to peace and stability in the region and in the world. The People's Revolutionary Council of Kampuchea, which now controlled the entire territory and managed all the affairs of the People's Republic of Kampuchea, was the genuine representative of the Kampuchean people in all international organizations and meetings. The Commission, which had done nothing in the past to prevent the massacre of 3 million Kampuchean people perpetrated by the Pol Pot clique, should now provide the Kampuchean people with assistance of every kind with a view to the rapid restoration of normal living conditions and the reconstruction of its country.

The Vietnamese people, for its part, had striven unceasingly to defend its independence against imperialism, colonialism and hegemonism - particularly the hegemonism practised by the United States and China. The Vietnamese delegation believed that the concerns expressed in draft resolution E/CN.4/L.1532 were hypocritical, since the sponsors of that draft had helped the United States aggressors to put Kampuchea to fire and sword and were responsible for the genocide perpetrated in that country.

Mr. FRAMBACH (Observer for the German Democratic Republic) said that the representatives of the criminal Pol Pot régime should not be allowed to participate in the Commission's discussions in place of the legitimate representatives of the Kampuchean people. The crimes committed by the Pol Pot régime were known throughout the world and had been described in detail in the documents submitted to the Commission, particularly in the analysis made by the Chairman of the Sub-Commission (E/CN.4/1335). The assistance with which Viet Nam was providing Kampuchea was a matter that concerned only those two States. Peace and security in South-East Asia were threatened not by the presence of Vietnamese troops in Kampuchea, but by those elements who supported the Pol Pot régime. For that reason, the German Democratic Republic, which was a sponsor of draft resolution E/CN.4/L.1524, could not support draft resolution E/CN.4/L.1532. It had participated in international action in solidarity with Kampuchea by providing that country with medical and food assistance to a value of 20 million marks.

With regard to the so-called Sakharov affair, his delegation noted with indignation that certain delegations were endeavouring, by distorting the facts and referring to dubious sources of information, to interfere in the internal affairs of a State, to discredit the socialist system and to revive the cold war. In his opinion, the Commission should deal not with individual cases, but with mass violations of human rights which affected millions of persons.

Mr. SHEMIRANI (Iran) said that the recent triumph of the people of Zimbabwe and the overthrow of the dictatorial and repressive régimes in Uganda, Equatorial Guinea, Nicaragua and Iran were great victories for human rights. The Commission should denounce flagrant and mass violations of human rights wherever they occurred in the world, but it should not make any value judgement on the political and social systems of different countries; nor should it deal with individual cases such as that of Sakharov.

With regard to Kampuchea, it was clear that the Pol Pot régime had engaged in genocide and could not represent the true aspirations of the Kampuchean people. However, it was also true that Viet Nam had invaded Kampuchea and that that military intervention was a flagrant violation of the principle of the sovereignty and territorial integrity of States and the right of peoples to self-determination, as also was the Soviet intervention in Afghanistan.

His delegation would not participate in the vote on draft resolutions E/CN.4/L.1524 and L.1532, relating to Kampuchea, since neither draft reflected its position. It believed that any military intervention by the super-Powers should be condemned, whether it was dictated by ideological considerations or was effected under the pretext of preserving "international interests".

Mr. VARGA (Observer for Hungary) said that his delegation did not recognize the puppet régime of Pol Pot, and reaffirmed its solidarity with the Kampuchean people in their efforts to restore normal living conditions and to recover their human rights and fundamental freedoms. Draft resolution E/CN.4/L.1532, and in particular the fifth and sixth preambular paragraphs and operative paragraphs 3 and 4, seemed to his delegation to be unacceptable, and it would vote against that draft resolution when it came to be considered by the Economic and Social Council.

He believed that the Sakharov affair was a contrived issue and that some of the statements made on the matter had been prompted by political considerations rather than by a sincere concern for human rights. Under its terms of reference, the Commission's main concern was to consider flagrant and mass violations of human rights such as those being committed in Chile or in the occupied Arab territories, and it should not neglect that essential task in order to deal with individual cases. He also noted that none of those who had cited article 19 of the International Covenant on Civil and Political Rights had referred to paragraph 3 of that article. Nor had any reference been made to article 15, paragraph 4, of the International Covenant on Economic, Social and Cultural Rights, which Mr. Sakharov had violated by calling for a boycott of scientific or cultural relations and a temporary embargo on certain types of specialized capital goods to be imposed on his own country.

Mr. CORDERO di MONTEZEMOLO (Observer for Italy) said that the measures taken by the Soviet authorities against Professor Sakharov were a matter of deep concern to all constitutional political forces and public opinion in Italy which saw in them a flagrant violation of the letter and the spirit of the Final Act of Helsinki. His country had already protested against those measures, both bilaterally and at the community level.

The experience gained from the cases submitted to the Commission made it imperative to forge a strong link between "statements of intent" and factual reality, between commitments of principle and their actual fulfilment.

His delegation considered that the Commission should condemn any violation of freedom of movement and of expression. It was convinced that the voices raised in defence of Professor Sakharov and in condemnation of other cases of violation of human rights throughout the world showed that respect for human rights was the concern not only of States but also of the entire international community.

Mrs. SLAMOVA (Observer for Czechoslovakia) said that no United Nations document provided a full definition of the concept of human rights, but her delegation's view was that human rights depended upon the economic and social system in question. Nevertheless, with the adoption of international instruments on human rights, States had been required to embody the relevant international norms in their legislation and ensure their observance. Yet her delegation could not agree that the case of individuals or of groups of persons whose freedoms had been restricted as a consequence of their unlawful activities could be considered under item 12. The international community, and hence the Commission, was concerned with brutal and massive violations of human rights. Some delegations, however, took a different view of the Commission's mandate and wanted it to deal with individual cases that fell exclusively within the jurisdiction of States, something which led the Commission to violate the principle of non-interference in the domestic affairs of States.

Furthermore, her delegation was opposed to considering the situation in Kampuchea without the presence of the representatives of the Government of the People's Republic, and in contempt of the legitimate rights and interests of the Kampuchean people. Some States were even endeavouring to distort events in

Kampuchea and to establish a connexion between them and other matters to the detriment of international peace. Kampuchea had experienced foreign aggression and then feudal Maoism, which had claimed thousands of victims and had destroyed the country's economic and social foundations. States must refrain from any act of interference in the affairs of Kampuchea and it was essential that all questions that directly concerned Kampuchea and the other South-East Asian countries should be settled without any foreign interference, on the basis of the principles of international law. It was in the light of those considerations that her delegation would vote for draft resolution E/CN.4/L.1524.

Mr. YU Pai Wen (Observer for China) said that, because of Viet Nam's aggression and its occupation of Kampuchea, the very survival of the Kampuchean people was at stake. In defiance of the appeal launched by the majority of peoples, more particularly in a resolution of the General Assembly and a decision of the ASEAN Ministers for Foreign Affairs, the Vietnamese Government was increasing its acts of atrocity.

The opponents of the forces of aggression had been wiped out, crops had been destroyed or taken out of the country, and the sabotage of international aid, the mining of land and the use of poison gases had caused famine. Even chemical weapons had been used to kill and maim people. To achieve its ends - the creation of an Indo-Chinese federation - Viet Nam had engaged in brutal aggression which it had sought to justify by using misleading propaganda. The Soviet Union, too, was resorting to unfounded arguments to explain its occupation of Afghanistan and to defend the expansion of Viet Nam.

All the patriotic forces of Kampuchea had now joined together to fight against Vietnamese aggression and to safeguard peace in South-East Asia and the Pacific. Protection of the sovereignty and territorial integrity of States was a prerequisite for observance of the human rights of peoples of all nations.

Armed aggression against a country and the subjugation of an entire people was the most brutal violation of human rights. It was therefore essential to implement General Assembly resolution 34/22, which underlined the need to put an end to such aggression, so that the Kampuchean people, whose survival hung by no more than a thread, could determine their own future. It was in that spirit that his delegation supported draft resolution E/CN.4/L.1532, despite certain reservations regarding the report of the Sub-Commission.

As for the misleading accusations made by the observer for Viet Nam in connexion with the Sino-Vietnamese conflict, China was the main obstacle to Vietnamese hegemony. After the treaty of friendship concluded with the Soviet Union in 1978, Viet Nam had believed itself invulnerable and Chinese troops had been obliged to take certain limited action in self-defence. During the ensuing negotiations, the Vietnamese had displayed no sincerity and had made use of them to mislead the international community, while continuing to engage in armed provocation against China. Viet Nam was therefore wholly responsible for the lack of progress in those negotiations.

Mr. MALDONADO AGUIRRE (Observer for Guatemala) drew attention to document E/CN.4/1399, from which members would note that the Government of Guatemala had

formally invited the OAS Inter-American Commission on Human Rights to visit Guatemala and to prepare as comprehensive a report as possible on the human rights situation in the country. He emphasized the importance of the regional character of OAS, something which placed it in a better position to appreciate the various aspects of the true situation in the countries of the region. Indeed, it was to avoid undermining legal instruments and American regional institutions that his Government had referred the matter to the Inter-American Commission, whose observations and recommendations, based on the actual facts, would be examined by all of the authorities and political forces in Guatemala. The report of the Inter-American Commission would prove useful to the country if the Commission was able to pinpoint who was responsible, keeping in mind article 30 of the Universal Declaration of Human Rights, relating to violations of human rights by individuals or groups of individuals. Such violations were now a frequent occurrence owing to the terrorism and the fight against terrorism which claimed their victims among the poorest sectors of society, thus creating a climate of violence and uncertainty that was prejudicial to reform and economic growth and was an impediment to democracy and the exercise of human rights. Hence, the responsibility for the deterioration on the human rights situation lay with the Governments that granted asylum to terrorists and gave them material, political and financial support.

His Government therefore trusted that the Inter-American Commission's report would help to promote respect for the law and to uphold Guatemala's sovereignty. Lastly, he asked the sponsors to withdraw draft resolution E/CN.4/L.1535, since it did not take account of the procedure prescribed in Economic and Social Council resolution 1503 (XLVIII), which was available to other countries, and it reflected premature judgements at a time when his Government had voluntarily requested a regional body to examine the situation.

Mr. OWONO (Observer for Equatorial Guinea) informed the Commission that the armed forces of Equatorial Guinea which had overthrown President Macías had restored the human rights of all citizens and realized that political and social awareness, a sound economy and other factors played a vital role in the observance of human rights. What would have been the point in removing President Macías and sentencing him to death if the new Government simply carried on the hateful and inhumane system of dictatorship and terror from which all levels of society had suffered? Indeed, the Supreme Military Council would only be satisfied when it had fulfilled its commitments to the people, in other words, when it had guaranteed respect for human rights and had refloated the national economy - tasks which, in a ravaged country, could not be accomplished overnight. It had already taken certain measures to that end: for instance, a general amnesty had been granted to political prisoners and refugees, freedom of religion had been recognized and confiscated property had been returned to the lawful owners.

For the most part, the Special Rapporteur's report reflected the true situation in Equatorial Guinea, but the Special Rapporteur had failed to point out that he had arrived at a time when the administrative machinery was still not operational and when the new Government's task had been complicated by supply difficulties. Also, the Special Rapporteur had underestimated the concern and the endeavours of the Supreme Military Council.

Experience had shown that in some countries governed by the best constitutions human rights still were not respected, that counterfeit systems of controls could



be set up and that the expression of popular will of the people could be disregarded. That was why the Supreme Military Council, without underestimating the importance of legal instruments, was endeavouring to be pragmatic and was refusing to embark on any political undertaking that might, in the final analysis, prove detrimental to the people.

According to the report, there was no freedom of the press in Equatorial Guinea, but there were in fact no newspapers or private radio stations whose freedoms could be violated; indeed the Government was doing its utmost to help to introduce them. What was more, the Spanish television service and foreign press correspondents were able to issue all the information they saw fit. Again, the report referred to the discrimination suffered by women in Equatorial Guinea, yet that phenomenon was not confined to his country alone. It was to be found in almost all third world countries which had been under colonial domination. As to forced labour, he pointed out that the object of the order of 25 August 1979, mentioned by the Special Rapporteur, had been to counteract idleness, vagrancy and banditry. In January 1980, the Supreme Military Council had also decreed the standards to be applied to all agricultural forestry and industrial workers, as well as workers in the fishing sector. Provision had been made, inter alia, for higher wages, fixed two-year contracts of service with two months' holidays, and other working and living conditions favourable to workers. In addition, the workers on the plantations were completely free to return to their villages. The Special Rapporteur should therefore have pointed out that only three months had elapsed between the change of Government and his visit. The present Government regarded itself as a Government of national reconciliation in which civilians and the military shared responsibility. Hence, it was not an absolute military Power.

Lastly, his Government agreed with the Special Rapporteur that Equatorial Guinea had need of international aid, above all economic and technical, and particularly in the field of education. It was taking part in the present discussion in the hope that its efforts would receive the support of the international community, so that the people of Equatorial Guinea would be afforded effective enjoyment of human rights and economic and social well-being.

Mrs. FUENTES MOHR (International Federation of Human Rights) said that many of the assassinations committed in Guatemala in recent years, including that of her husband and of various opponents of the Government in power, had gone unpunished and had not even given rise to any legal proceedings.

Many eminently respectable international bodies, such as Amnesty International, the International Commission of Jurists, the Inter-Parliamentary Union and the European Parliament, had already condemned the violent repression which flouted basic rights of the individual in Guatemala. She trusted that the Commission would systematically denounce the violations of human rights committed in that country, in the hope that the moral pressure of the conscience of the international community would compel the authorities to abandon their criminal policy.

Mr. ATERONHIATAKON (Institute for Policy Studies) drew the attention of the Commission to the serious violations of human rights and fundamental freedoms being committed against the Mohawk nation, a State member of the Haudenosaunee (Iroquois Confederation), one of the indigenous nations of North America. That Confederation constituted a people under international law and was entitled to international

recognition and to the protection of its human rights and fundamental freedoms. The members of the Mohawk nation constituted a race which had its own religion, its own language, its own political institutions and its own traditions. Since time immemorial, it had occupied its ancestral territory, which had resisted annexation by foreign Powers. The Confederation had never been conquered or come under military subjugation by any external Power. It had always been governed by its own law, the great law of peace; it had concluded treaties with various other sovereign entities which recognized its sovereignty and its territorial integrity. Attempts to impose a foreign colonial régime on the Mohawk people had always met with strong resistance, as evidenced by the continued existence of the Council of Chiefs, which was traditionally vested with authority over the Mohawk territory of Akwesasne.

Consequently, it had been possible to impose a colonial régime on those populations only against their express wishes. A referendum organized in 1948 in the territory of Akwesasne had resulted in the massive rejection of the colonial régime, which had immediately been abolished in favour of traditional forms of authority. None the less the colonizing Power had again imposed its régime the following year, after a rigged election held in the presence of its armed police. Since then, that régime, known under the name of the St. Regis Mohawk Tribal Council, had been kept in existence by the threat of armed intervention in the national territory.

The colonizing Power was now attempting to eliminate the traditional régime of the Mohawk people, particularly by applying to that people the provisions of its criminal law, in open violation of its solemn treaty commitments. For the previous seven months, the Mohawk people had been defending a camp on part of its territory against the forces of the external Power. Actually it was a prisoner on its own land.

Responsibility for that serious situation and for the threat of armed conflict fell on the colonizing Power, which had brought a criminal action against four traditional chiefs and nine members of the Confederation, with the highly political aim of destroying the laws of the Mohawk nation and abolishing its traditional right to autonomy.

It was quite evident that the determination to destroy the traditional political organization was part of a plan to eliminate the Mohawk people and the other peoples of the Iroquois Confederation, notwithstanding the international community's condemnation of all attempts to subjugate peoples of different races, particularly when they were living on their own territory. For almost two centuries, the Confederation had been the victim of the policies and practices of the United States of America, which was attempting to deny the existence of the Mohawk nation and of its members by subjecting them to a foreign régime on their own territory.

The problems of the various indigenous populations were sufficiently grave, widespread and distinct in character to justify the urgent establishment by the Commission of a working group to consider the violations of human rights to which he had referred.

Mr. TERENCE (Inter-Parliamentary Union) said that the ad hoc committee set up by his organization to deal confidentially with the communications sent to it in accordance with the Union's procedure on matters relating to violations of the human rights of parliamentarians had met in Geneva from 4 to 7 February 1980. It had considered 54 cases from 15 countries and had decided that 26 cases involving eight countries should be the subject of a public report to the Inter-Parliamentary Council, in which the 88 parliaments members of the Union were represented and which was to meet in Oslo in April 1980.

With regard to those cases, the Argentine Government had recently informed the Union of the release of two deputies, which meant that the six parliamentarians detained in that country whose cases had been considered by the Union had now all been set free. He expressed the hope that that policy would be rapidly expanded and extended to all persons arrested for their opinions, a large number of whom had gone missing.

In Brazil seven deputies who had been deprived of their political rights had had those rights fully restored as a result of the recent amnesty.

In Indonesia, three deputies who had been imprisoned since 1965 had been released at the end of December, thus bringing to four the number of parliamentarians recently recorded by the Union as having been set free in that country. Information had been received, however, that they had been placed under house arrest.

A deputy imprisoned in Singapore since 1963 had recently been released and placed under house arrest on the island of Pulau Ubin.

The Inter-Parliamentary Union hoped that the Uruguayan Government would inform it as soon as possible of the date for the hearing of the appeals of several parliamentarians so that an observer from the Union could be present and make a report to the Union Council.

Those developments, which were mostly encouraging, inclined him to think that international action for human rights, of which the Commission was the main driving force at the governmental level, could usefully be pursued and strengthened.

He stated, in conclusion, that an ad hoc committee of the Union set up to consider the human rights situation in Argentina, Chile and Uruguay would be meeting in Geneva starting on 10 March 1980.

Mr. HENN (World Peace Council) said that he wished to draw the Commission's attention to the crimes committed in Kampuchea by the Pol Pot clique, which was a worthy successor to the Nazis - crimes committed not only against Kampuchean but also against foreigners. The people of Kampuchea, under the leadership of the United National Front for the Salvation of Kampuchea, had reacted to those atrocities by overthrowing that odious régime and had established the People's Republic of Kampuchea. As a result, it had fully recovered its rights, including the right to life, it was endeavouring to improve its living conditions and it was preparing to elect a national assembly which was to draw up a draft constitution.

The international community had a duty to help the people of Kampuchea to protect its achievements against the manoeuvres of the Peking expansionists, imperialists and reactionary forces, to eliminate the after-effects of the Pol Pot régime and to maintain peace and stability in Indo-China, in South-East Asia and throughout the world.

The Revolutionary People's Court of Kampuchea had found Pol Pot and his followers guilty of genocide and had sentenced them to death in their absence. The Kampuchean people, represented by the People's Revolutionary Council of Kampuchea, demanded their return to face punishment.

Mrs. SIMSON (Women's International Democratic Federation) said that two recent visits to Kampuchea by a WIDF delegation had exposed the atrocities committed by the Pol Pot régime, which had resulted in the destruction of the economic life of the country, the annihilation of a large part of the population, the extinction of the family, the establishment of forced labour camps with inhuman conditions, famine and epidemics of typhoid, cholera and malaria.

Rather than spend its time in discussing the situation of a single individual, the Commission, in face of such systematic violations of human rights, should take all necessary measures to ensure that the letter and spirit of the Convention on the Prevention and Punishment of the Crime of Genocide were put into practice.

Emphasis should be placed on the tremendous efforts being made by the People's Revolutionary Council of the People's Republic of Kampuchea, with the support of the whole Kampuchean people of which it was the sole genuine representative, and with material and moral support from peace-loving, progressive forces all over the world and in particular from the Vietnamese Government and people, to heal the country's wounds and to restore the exercise of all economic, political, social and cultural rights. WIDF expressed the hope that the international community would recognize the People's Republic of Kampuchea and its legal Government.

Mr. ZEPHIER (International Indian Treaty Council) said that the Indian people of North America had been subjected to a form of colonization which it refused to accept and had been denied the most basic human rights and fundamental freedoms. For instance, the Indian nations had been refused the right to self-determination, subjected to racial and religious discrimination, and denied sovereignty and territorial integrity. They had been denied the right freely to pursue their economic, social and cultural development and had had an alien educational system and judicial system forced upon them. The situation of Indian political prisoners, which he had mentioned at the thirty-fifth session of the Commission, had deteriorated. It had recently been discovered that on three Indian reservations in the State of South Dakota, all the drinking water wells had been contaminated with radioactivity and chemical residues. The consequence had been a large number of spontaneous abortions, deformities among new-born babies and cancers. Although the contamination had been known to the authorities, nothing had been done to alleviate the situation, which proved Government complicity in what could only be termed genocide.

In addition, the Akwesasne-Mohawk nation had been under siege by the New York State police for almost a year.

While aware of the study on the situation of indigenous peoples being undertaken by the Sub-Commission, the International Indian Treaty Council wished to urge the Commission to appoint a special rapporteur to investigate the situation of the Indians of the North American continent, and specifically those in the United States. The Indian peoples of the western hemisphere were seeking support from the world community in their efforts to regain their human rights and freedoms.

Mr. MYERS (World Student Christian Federation) said that certain countries adhered to policies and legal doctrines which deprived indigenous peoples of all legal protection, thus destroying their cultures, their communities and their governments. The current situation of indigenous peoples in one particular country constituted a clear instance of racial discrimination and oppression sanctioned by the Government and the legal system. For some 200 years there had been gross violations of the human rights and fundamental freedoms of indigenous peoples. The destruction of indigenous nations resulted from domestic laws which had their origins in the colonial era and which enabled the Government to expropriate indigenous people's lands without compensation.

The United States was continuing to assert its authority over the indigenous people's lands by claiming the power of trusteeship. That was in contrast with the situation of non-indigenous property, which could not be taken by the Government without the owners being notified, having an opportunity to be heard in court, and receiving just compensation. In several cases, the Supreme Court had upheld such discrimination. Yet indigenous peoples depended directly for their survival on their lands and environment. The indigenous peoples had vigorously protested against such actions to extinguish their title to their lands and against the fact that due process of law was not observed.

The indigenous peoples had found no relief from the authorities of the United States, and had therefore been obliged to appeal to the Commission in the hope of bringing international attention to bear on their problems with a view to inducing the countries concerned, including the United States, to correct such abuses. In conclusion, he wished to support the recommendation made by the Institute for Policy Studies that a working group should be set up to consider the problems of indigenous populations and the violations of human rights of which they were victims.

Mr. ANAWATI (World Conference on Religion and Peace) said that his organization had consistently expressed its concern about massacres and could not fail to be alarmed by the threat of annihilation hanging over the Khmer people, which had been subjected to bombing, international war, civil war, invasion and famine. The Khmer people should be allowed to exercise their rights, including the right to leave and to return to their country and their right to self-determination, along the lines of General Assembly resolution 34/22.

The Commission, for its part, should update and publish the report in document E/CN.4/1335, not only to condemn the violations of human rights in Kampuchea, but also to provide evidence of barbarous acts which should be proscribed forever. In that connexion, the Commission should adopt draft resolution E/CN.4/L.1530, paragraph 5 of which was especially appropriate.

Mr. LIBEROFF (International Union of Students) stated that his organization had fought unceasingly for more than 30 years for human rights and fundamental freedoms, and especially for the right to education and the rights of students.

For that reason, the International Union of Students condemned the crimes committed in Nicaragua under the Somoza dictatorship and recommended the adoption of urgent measures to help the new Nicaraguan Government and the Nicaraguan people in their reconstruction efforts, and especially in the campaign against illiteracy which was shortly to be launched and which would enable the Nicaraguan people, for the first time in its history, to exercise one of the essential human rights, namely the right to education. Similarly, the international community should help the People's Republic of Kampuchea, which was working unremittingly to allow the country to recover from the ravages of the Pol Pot régime, and in particular to re-establish the national educational system. The International Union of Students also denounced the repression exercised in Guatemala by the dictatorship, supported by paramilitary forces; one of the main targets of that repression was the student movement.

There were other situations, for example in Uruguay, Paraguay, Argentina and Northern Ireland, which called for urgent and specific measures for the protection of human rights.

Mr. SUSSEX (International Confederation of Free Trade Unions) said that, in exercising its functions, the Commission should also seek to ensure respect for the rights of persons and of groups, such as ethnic minorities that were threatened by military conflicts and should receive international assistance.

The International Confederation of Free Trade Unions deplored the tragedy of the Khmer people, who were subjected to forced labour in violation of the Universal Declaration of Human Rights, and should on no account be forgotten. It was also concerned about the situation in Guatemala, where every trade union official or activist went in fear of his life, despite the fact that Guatemala had ratified the ILO Conventions concerning freedom of association and protection of the right to organize, and application of the principles of the right to organize and to bargain collectively.

Referring to General Assembly resolution 33/169, on protection of the human rights of arrested or detained trade union activists, he said the Confederation had demanded that the General Secretary of the Tunisian General Workers' Union, Mr. Habib Achour, and his colleagues should be set free. In addition, it had demanded the release of Vladimir Klebanov and his colleagues, who had been sentenced to hard labour, and of the members of the Free Inter-Occupational Union of Workers (SMOT) who had been imprisoned, exiled or sentenced to hard labour in the Soviet Union, and also the release of Edmund Zadrozynski, the editor of a Polish workers' review. All those arrests and detentions were evidence that it was impossible to set up a trade union organization independently of a party which exercised constant control over the State.

One of the aims of trade union organizations was to promote equality of opportunity and treatment in employment, and in that respect migrant workers and women workers were victims of discrimination during periods of economic recession. He was therefore concerned about the proposed French law on migrant workers and the proposed United Kingdom law on maternity rights and selective treatment of workers in small enterprises. Again, it should be noted that, in 1978, the ILO Governing Body had accepted a submission relating to the discrimination based on political beliefs that was practised in Czechoslovakia and that, at its forthcoming session,

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the International Labour Conference was to examine the state of affairs existing in that regard. The International Confederation of Free Trade Unions deeply deplored the acts of oppression against individuals, such as the Soviet citizen Andrei Sakharov, who formally declared that it was their intention to promote respect for human rights.

Mr. SHESTACK (United States of America) said that many recent events - the overthrow of some of the world's worst rulers, the return to civilian government in certain countries, the strengthening and development of regional human rights organizations and the increasing importance of human rights in foreign policy - were encouraging. But there were grounds for grave concern. He pointed to banning, disappearances and internal exile as interrelated abuses, which sought to negate a person's humanity and to silence his or her views. He spoke also of the relationship between refugees, mass exoduses and refusals to allow persons to emigrate, emphasizing the massive human rights violations in Kampuchea. He deplored the suppression of Catholic churches, schools and clergy as well as repression of cultural rights in the Ukraine. Similar religious and cultural repression prevailed in Lithuania, Estonia and Latvia. He also pointed out that Jewish religious and cultural rights were restricted in the USSR, that Jews were discriminated against, particularly in higher education, and that there was official anti-semitism in the Soviet Union that was more in keeping with the dark days of tsarism than with an enlightened Government. He also referred to religious persecution of Moslems.

In addition, he deplored the internal exile of Dr. Andrei Sakharov, the denial of his right to freedom of expression, and the persecution and harassment directed against him. Dr. Sakharov was a champion, symbol and spokesman of the human rights cause and the personification of the human rights movement in the Soviet Union. He called upon the Soviet Government to reconsider its action on Dr. Sakharov and noted that various other delegations had done likewise.

He further deplored the severe repression of human rights monitoring groups in the USSR and cited persons in Ukrainian, Lithuanian, Georgian, Armenian and Moscow human rights groups who had been imprisoned or sent into internal or external exile. He condemned the reported use by the Vietnamese of lethal chemical agents, in particular close to refugee camps, and also noted the use of chemical agents in Afghanistan. In that connexion, his delegation proposed that an independent commission of inquiry should be set up to collect evidence from refugees. It was also important to expose the use of poison gas in Afghanistan, Laos and Kampuchea. His country would continue to expose such inhuman acts committed in violation of human rights and international laws.

Mr. ZORIN (Union of Soviet Socialist Republics), speaking on a point of order, observed that the question on the agenda was that of Kampuchea, not Afghanistan.

Mr. DAVIS (Australia), referring to rule 65, paragraph 1, of the rules of procedure, formally proposed that the Commission should take a decision on draft resolution E/CN.4/L.1532 before turning to draft resolution E/CN.4/L.1524, which, moreover, did not take into account the real situation regarding human rights in Kampuchea.

Miss EMARA (Egypt) stated that her delegation would abstain in the vote on draft resolution E/CN.4/L.1524, which dealt with only one aspect of the question,

and it would vote in favour of draft resolution E/CN.4/L.1532, which covered all the essential aspects, namely the human rights situation, foreign aggression, and the right of the Kampuchean people to determine their own future. Her delegation condemned the armed foreign aggression against Kampuchea and demanded the immediate withdrawal of all foreign forces from that country.

Mr. ZORIN (Union of Soviet Socialist Republics) said that his delegation would vote in favour of resolution E/CN.4/L.1524, which dealt with the human rights situation in Kampuchea as a whole and condemned the flagrant violation of human rights committed by the Pol Pot-Ieng Sary régime; he categorically rejected draft resolution E/CN.4/L.1532, submitted by the Western countries.

His delegation condemned as outright lies the accusations of the United States delegation concerning the alleged use of chemical arms in South-East Asia and pointed out that it was the United States of America which had engaged in chemical warfare in that region of the world when it had perpetrated a war of aggression against the Indo-Chinese peoples.

Mr. GARVALOV (Bulgaria) said that his delegation would vote for draft resolution E/CN.4/L.1524, of which it was a sponsor, and would vote against draft resolution E/CN.4/L.1532, which was a kind of rehabilitation of the bloody régime of Pol Pot overthrown by the Kampuchean people.

Mr. RODRIGUEZ (Cuba) voiced his delegation's protests against the political manoeuvres underlying draft resolution E/CN.4/L.1532, which enshrined the Pol Pot clique and failed to condemn it for the horrendous crimes committed by that régime. Draft resolution E/CN.4/L.1524, however, was of such a kind as to ensure stability in South-East Asia and restore to the Kampuchean people their rights, which had been violated by the Pol Pot régime. It also reflected the solidarity that must be shown to the Kampuchean people by the international community for the purposes of national reconstruction in exercise of the right to self-determination.

Mr. AKRAM (Pakistan) denounced the bias shown in draft resolution E/CN.4/L.1524, which did not take account of the present situation in Kampuchea and concentrated on the past situation, one that, however terrible it might have been, none the less belonged to the past. However, draft resolution E/CN.4/L.1532, of which Pakistan was a sponsor, was perfectly balanced in that it condemned both the past violations of human rights in Kampuchea and the foreign military intervention in that country.

Mr. ERDEMBILEG (Mongolia) said that his delegation, as a sponsor of draft resolution E/CN.4/L.1524, was perturbed by the priority given to draft resolution E/CN.4/L.1532. It would vote against the latter draft, since its adoption would have an unfortunate impact on the work of the Commission.

Mr. GARVALOV (Bulgaria), speaking in exercise of his right of reply, said that the national question had been resolved definitely and categorically by the people themselves.

The Bulgarian Constitution and Bulgarian legislation guaranteed and ensured equal rights for every citizen of Bulgaria, irrespective of and without distinction as to race, sex, language or religion, as stipulated in Article 1, paragraph 3, of the Charter of the United Nations and reaffirmed in Article 55.



Draft resolution E/CN.4/L.1532

The draft resolution was adopted by roll-call vote.

Mr. HILALY (Pakistan) said that, since resolution E/CN.4/L.1532 dealt comprehensively with the situation in Kampuchea, the sponsors proposed that no action should be taken on draft resolution E/CN.4/L.1524.

A vote was taken on the Pakistan proposal, which was adopted.

Mr. DAVIS (Australia) said that his delegation would have voted in favour of draft resolution E/CN.4/L.1532 if it had been present when the vote was taken.

Mr. ZORIN (Union of Soviet Socialist Republics) said that some delegations were clearly unwilling to give written expression to their professed condemnation of the crimes of the Pol Pot régime, to which draft resolution E/CN.4/L.1524 referred.

Mr. YOURAN (Observer for Democratic Kampuchea) welcomed the adoption of draft resolution E/CN.4/L.1532. A return of peace was the only means of ensuring the enjoyment by the Kampuchean people of their fundamental right to freedom. The armed forces which were waging a war of aggression against Democratic Kampuchea must be withdrawn without delay. His delegation maintained the reservations it had expressed on the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1335).

Mr. ERDEMBILEG (Mongolia) said that his delegation was astonished that the sponsors of draft resolution E/CN.4/L.1532 included a country which had recognized the people's democratic revolution in Kampuchea but which was unwilling to declare its sympathy with the efforts of the Kampuchean people to recover their human rights.

Draft resolution E/CN.4/L.1530

Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) introduced the amendments in document E/CN.4/L.1539.

Mr. GHAREKHAN (India) said that the precise meaning of the terms "exodus" and "large-scale" in draft resolution E/CN.4/L.1530, was unclear, and the word "asylum" was inappropriate. The fifth preambular paragraph was an over-simplification. Movements of population were brought about not only by violations of human rights but also by many other factors. He asked whether the seventh preambular paragraph meant that the international community would assume the responsibility for providing the necessary conditions in which no population movements would take place. There appeared to be an attempt in operative paragraphs 4, 5 and 6 to transfer some of the responsibilities of the High Commissioner for Refugees to the Secretary-General. All those points should be given careful consideration.

Mr. BEAULNE (Canada) said that the sponsors of draft resolution E/CN.4/L.1530 had desired to ensure that the humanitarian role of the High Commissioner for Refugees was in no way compromised. The text had been drafted very carefully with that in mind. It was not aimed at particular countries or regions but was of general scope. The sponsors could accept the deletion of the words "including on-site visits with their permission", in operative paragraph 4, as proposed by the Iraqi representative. They could also accept the first, second, third, fourth and fifth amendments in document E/CN.4/L.1539 submitted by Bulgaria and the Byelorussian Soviet Socialist Republic, although the second might hamper the work of the High Commissioner in dealing with particular situations. They would have preferred no reference at all to be made to the High Commissioner. The sixth, seventh and eighth amendments were totally unacceptable.

With regard to the Indian representative's comments, the sponsors could not agree to change the scope of the draft resolution. It was essential to mention the connexion between the refugee problem and violations of human rights, since the main objective was to consider such possible correlation. The words "exodus" and "asylum" had passed into current usage and he hoped the Indian representative would agree to their retention.

Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that the term "exodus" as used in the draft resolution was imprecise. He wished to know on which articles of the Charter of the United Nations the sponsors of draft resolution E/CN.4/L.1530 had based the requests to the Secretary-General. The proposals would infringe the principle of State sovereignty and encroach on the responsibilities of the High Commissioner for Refugees. He appealed to the Commission to accept the amendments in document E/CN.4/L.1539.

Mr. SALAH-BEY (Algeria) said that he failed to understand why a clear reference should not be made to the humanitarian role of the High Commissioner for Refugees. That role had been acknowledged by the Canadian representative and by a number of other speakers, and it was illogical not to refer to it in the draft resolution. On-site visits were of primary importance and he therefore failed to understand the reason for the amendment to operative paragraph 4. His delegation was not entirely in favour either of the amendments in document E/CN.4/L.1539 or of the draft resolution as amended.

Mr. EL-FATTAL (Syrian Arab Republic) said that he had some doubts about draft resolution E/CN.4/L.1530 in its present form. His delegation would vote in favour of the amendments in document E/CN.4/L.1539 and of the draft resolution as amended. Care should be taken to consider the mandate of the High Commissioner from the legalistic viewpoint. He proposed that the words "the fourth Geneva Convention on the Protection of Civilian Persons in Time of War, dated 12 August 1949" should be added at the end of operative paragraph 1.

Mr. MUBANGA-CHIPOYA (Zambia), speaking as a sponsor of draft resolution E/CN.4/L.1530, said that he could accept the amendment proposed by the Syrian representative. The word "exodus" in the draft resolution meant the mass movement of people. The word "frequently" in the fourth preambular paragraph might be deleted in order to meet the Indian representative's difficulty. His delegation could accept the first, third, fifth and sixth amendments in document E/CN.4/L.1539, which fully complied with chapter 15 of the Charter.

Mr. GHAREKHAN (India) said that there was some contradiction in the concepts and language of the draft resolution. He understood that the intention was to see whether there was any correlation between exoduses of populations and violations of human rights. The deletion of the word "frequently" as suggested by the Zambian representative would prejudice the issue.

Mr. BEAULNE (Canada) replying to the Algerian representative, said that the intention was to entrust the Secretary-General with the aspects of the problem that were not within the humanitarian responsibilities of the High Commissioner. The sponsors had accepted the proposal to delete the words "including on-site visits with their permission" in operative paragraph 4, because such deletion would not exclude the possibility of visits but would merely leave the Secretary-General free to take whatever action he considered appropriate.

Replying to the Bulgarian representative, he said that it was fully in accordance with the terms of the Charter for the competent organs of the United Nations to confer a mandate on the Secretary-General. The Commission was accustomed to doing so constantly. He accepted the Syrian amendment. The words "first asylum countries" might be replaced by the words "countries of first reception", to meet the Indian representative's difficulty.

Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) said that the Canadian representative had failed to reply to his question as to the articles of the Charter on which the proposals in draft resolution E/CN.4/L.1530 were based. The proposals were in direct contradiction to the Charter.

A vote was taken on paragraphs 6, 7 and 8 of document E/CN.4/L.1539, which were rejected.

A vote was taken on draft resolution E/CN.4/L.1530, which was adopted.

Draft resolution E/CN.4/L.1533

Mr. EL-FATTAL (Syrian Arab Republic) suggested that the words "to take such action as may be necessary" in operative paragraph 2 should be replaced by the words "to use his good offices to ensure".

Mr. GHAREKHAN (India) said that draft resolution E/CN.4/L.1533 appeared to confuse two separate concepts. It was right for diplomatic and United Nations privileges and immunities to be respected, but that issue should not be confused with provisions on the enjoyment of human rights.

Mr. NSANZE (Burundi) said that his delegation would vote in favour of draft resolution E/CN.4/L.1533 on the strict understanding that international officials should concern themselves with performing the tasks entrusted to them and do nothing to prejudice the high ideals of their organization.

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Mr. CHAVEZ-GODOY (Peru) said that he had certain doubts about the draft resolution in view of the fact that many of the staff members concerned were working in a country that was not a member of the United Nations. His delegation would therefore abstain in the vote on the draft resolution if a vote was taken.

The draft resolution was adopted without a vote.

Mr. GHAREKHAN (India) said that his delegation would have abstained in the vote on the draft resolution if a vote had been taken.

Draft resolution E/CN.4/L.1534

The CHAIRMAN said that a compromise proposal had been made after consultations among a number of delegations. He suggested that the Commission should adopt the following decision:

"The Commission on Human Rights

Decides to defer consideration of the question in draft resolution E/CN.4/L.1534 until the thirty-seventh session, with priority".

It was so decided.

Mr. SHESTACK (United States of America) said the decision to maintain the Commission's concern with the Sakharov case and to consider it again at the next session with priority demonstrated the symbolic importance of Andrei Sakharov to the cause of human rights. Sakharov was a symbol precisely because of his belief in human dignity, because of his humanity, because of his love of peace, because of his courage and unselfishness. The Commission's decision to continue to accord a priority to the Sakharov case would be heard by people such as Yuri Orlov, Mykola Rudenko, Levko Lukyianenko, Vladimir Slepak, Anatoly Scharansky, Robert Nazaryan, Viktoras Petkus, and the many other human rights spokesman the Soviet Union sought to repress. The Commission would watch carefully what conclusions the Soviet Union drew from the discussions in the Commission and what transpired. The Commission's action would serve as a sign and a symbol that the matter would not pass. All should know that Andrei Sakharov remained close to the Commission's concerns and dear to its conscience.

Draft resolution E/CN.4/L.1536

Mr. ZORIN (Union of Soviet Socialist Republics) referred to draft resolution E/CN.4/L.1536. His delegation was deeply concerned by reports of mass violations of human rights in Northern Ireland. It was regrettable that the United Kingdom had not supplied the information requested by his delegation. He would not, however press the draft resolution to a vote at the present stage.

Mr. CHAVEZ-GODOY (Peru) said that the Commission had just witnessed an appalling example of bargaining between two super-Powers. Such action could only destroy the Commission's credibility throughout the world. He hoped all developing countries, and particularly the non-aligned countries, had noted what had occurred.

Draft resolution E/CN.4/L.1535

Mr. JAHN (Federal Republic of Germany) proposed that the words "on the basis of information received from all relevant sources" should be added after the words "thirty-seventh session" in operative paragraph 3.

Ms. COHEN (United States of America) proposed that a new operative paragraph 3 should be inserted, to read:

"Takes note with satisfaction of the decisions adopted by the Government of Guatemala to invite the Inter-American Commission on Human Rights to visit the country and to prepare a report on the situation of human rights."

Mr. VILA (Cuba) said that his delegation could accept the proposal made by the representative of the Federal Republic of Germany. He opposed the United States amendment. The Inter-American Commission on Human Rights was merely a tool of the United States. It had never examined the appalling human rights record of that country or the activities of its transnational corporations in Latin America. There was no reason to praise the Government of Guatemala.

Mr. BEAULNE (Canada) said that his delegation could accept the proposal made by the representative of the Federal Republic of Germany. With regard to the United States amendment and the Cuban representative's comments, Canada had never been a member of the Organization of American States and was unaware of the attitude of the Inter-American Commission on Human Rights. His delegation, therefore, had no objection to the United States proposal.

Mr. GIAMBRUNO (Uruguay) said that the draft resolution was lacking in balance; it ignored the efforts of the Government of Guatemala to overcome violence by peaceful means, in a democratic system of Government. The attacks on diplomats were attributable to forces which all countries should endeavour to overcome. The Inter-American Commission on Human Rights was defending human rights in Latin America. The existence of thousands of political prisoners in Cuba had been recorded. His delegation would vote against the draft resolution.

A vote was taken on the United States amendment, which was adopted.

A vote was taken on the draft resolution, as amended, which was adopted.

Mrs. QUIROS GUARDIA (Costa Rica) said that her delegation had abstained in the vote on the draft resolution because it considered that the Commission should not take action on a matter which was under investigation by the Inter-American Commission on Human Rights, and because the procedures laid down in Economic and Social Council resolution 1503 (XLVIII) should have been followed. The Inter-American Commission on Human Rights had proved its ability to deal with such matters.

Mr. VILA (Cuba), speaking in exercise of the right of reply, said that the representative of Uruguay had made an unfounded propaganda attack against the Government of Cuba. He would refrain from attacking the fascist Government of Uruguay.

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Mr. ROS (Argentina) said that his delegation had voted against the draft resolution because it objected to references being made under item 12 of the agenda to individual cases on which relevant information was not available. A dangerous precedent, which could adversely affect the functioning of the Commission, had been established. It was inequitable to make charges against observer countries which themselves had no right to make similar proposals.

Mr. FERRER (Panama) said that his delegation had voted in favour of the United States amendment because it considered the reports of regional bodies, which were based on local information, to be of primary importance.

Mr. MALDONADO AGUIRRE (Observer for Guatemala) said that it was because of its concern about international terrorism that his Government had requested the Inter-American Commission on Human Rights to prepare a report on the subject. That report would help to promote the exercise of human rights and fundamental freedoms. The resolution just adopted could do nothing to further that cause in Latin America, which had an effective regional system. Guatemala was a sovereign and independent country with no foreign troops or bases on its territory.

Draft resolution E/CN.4/L.1541

Mr. BEAULNE (Canada) introduced draft resolution E/CN.4/L.1541.

Mr. van BOVEN (Director, Division of Human Rights) said that the financial implications of the draft resolution would be:

<u>1980:</u>	Travel and subsistence for one visit of the expert, accompanied by a substantive officer from the Division of Human Rights: 11 working days . . . . .	\$ 8,600
	Three months' temporary assistance at P-3 level . . . . .	13,400
		<hr/>
		\$22,000
<u>1981:</u>	Travel and subsistence of the expert to present his report to the Commission at its thirty-seventh session: three working days . . . . .	\$ 3,200
		<hr/>

Draft resolution E/CN.4/L.1543

Mr. DAVIS (Australia) introduced draft resolution E/CN.4/L.1543. In view of the short time remaining, the sponsors would not press the draft resolution to a vote at the present session, but they hoped that all States and organizations concerned would be in a position to consider it in greater detail at the thirty-seventh session. They also hoped that the concern for reconstruction and rehabilitation assistance which had inspired General Assembly resolution 34/123 would also inspire the Commission in considering its role of helping countries to overcome the devastation caused by years of human rights violations, and that human rights concerns would be taken into account in the further implementation of that General Assembly resolution and others.

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Mr. GHAREKHAN (India) said he wished to make a joint statement on draft resolutions E/CN.4/L.1541 and E/CN.4/L.1543, both of which contained certain points of general application. The idea that expert assistance for the restoration of human rights and fundamental freedoms should be provided under the technical assistance programme required detailed discussion. His delegation had serious reservations about the use of technical assistance funds for that purpose. If the Government of Equatorial Guinea desired to have the services of such an expert it should have made a written request to that effect to the Commission, to which reference should have been made in the draft resolution. Any such appointment should be made only with the agreement of the Government concerned. It was illogical to appoint an expert who was unlikely to receive Government support.

Mr. HILALY (Pakistan) said that the concept of the Commission's appointing experts to assist Governments ran counter to the principle of State sovereignty, and that operative paragraph 1 of draft resolution E/CN.4/L.1541 should therefore be reworded.

His delegation also thought it would be inappropriate to use United Nations technical assistance programmes for the purpose of human rights activities and that the words "within the framework of United Nations technical assistance programmes" should be deleted from operative paragraphs 2 and 6 (b).

Mr. GHAREKHAN (India) proposed that, in the light of informal consultations, the word "Decides" in operative paragraph 1 should be followed by "in response to the request of the Government of Equatorial Guinea", that the words "the Secretary-General" in operative paragraph 6 should be followed by "in response to a request from the Government of Equatorial Guinea:", and that the deletions proposed by the representative of Pakistan should be made.

Mr. BEAULNE (Canada) said that his delegation, as a sponsor of draft resolution E/CN.4/L.1541, could agree to the oral amendments just proposed.

Mr. van BOVEN (Director, Division of Human Rights) said that technical assistance, including the services of experts, had been a part of the advisory services programme in the field of human rights from the outset, pursuant to a General Assembly resolution 926 (X).

Mr. ABAGA (Observer for Equatorial Guinea) said that his Government had placed on record its readiness to accept the help of a technical expert appointed by the Commission. His delegation could accept the Indian representative's proposed amendments to draft resolution E/CN.4/L.1541.

Mr. van BOVEN (Director, Division of Human Rights), replying to an observation by Mr. Nyamekye (Ghana), said that replacing the words which the Pakistan representative proposed for deletion by the phrase "within the framework of the advisory services programme of the United Nations" might lead to difficulties, since the existing programme was already impossible to carry out in full owing to lack of funds.

Mr. DAVIS (Australia) noted that the General Assembly, in its resolution 34/123, had asked the Secretary-General to ensure adequate financial arrangements for organizing an effective programme of assistance to Equatorial Guinea and for mobilizing international assistance. In that connexion, draft resolution E/CN.4/L.1541, with the proposed oral amendments, seemed entirely acceptable.

Draft resolution E/CN.4/L.1541, as orally amended, was adopted by consensus.

Mr. ZORIN (Union of Soviet Socialist Republics), speaking in exercise of the right of reply, repudiated the United Kingdom representative's observations concerning the situation of national groups in the Soviet Union. Every Soviet citizen, unlike those in the United Kingdom, enjoyed the full exercise of rights and freedoms under the Constitution and related legislation. In that connexion, the Soviet Union's report pursuant to the International Covenant on Civil and Political Rights had been fully accepted, whereas that from the United Kingdom had led to a call for further information.



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It was hard to understand how the Netherlands representative could claim concern for an individual in another country - Dr. Sakharov - at a time when the Netherlands authorities were using troops and armour to evict people from buildings, thus denying them the elementary human right to a dwelling place. It was also surprising to hear similar expressions of concern from the representative of the Federal Republic of Germany - a country whose policy of restricting access to jobs on political grounds was being sharply criticized by its own citizens and whose attacks on socialist countries seemed at odds with its avowed policy of non-interference in other States' internal affairs.

The delegation of Israel had repeated its baseless charges concerning anti-semitism in the Soviet Union, knowing full well that neither anti-semitism nor any other form of racial intolerance was practised there. Anti-semitism was being deliberately confused with denouncements, in the Soviet press, of zionism as an aggressive ideology - an entirely different matter. With regard to the film Holocaust, it should be remembered that the lives of some 20 million Soviet citizens had been lost in defending the world's peoples, including Jews, from fascism.

Mr. van der STOEL (Netherlands), speaking in exercise of the right of reply, said that the measures in his country referred to by the Soviet representative had been taken not to evict people from buildings but to clear the streets of barricades. The Netherlands was unquestionably one of the freest countries on earth.

Mr. JAHN (Federal Republic of Germany), speaking in exercise of the right of reply, drew the Soviet delegation's attention to the ILO's confirmation, in the course of an inquiry, that the Federal German provisions to exclude enemies of the Constitution from public service did not contravene the ILO rules.

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