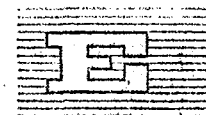


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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities

REPORT OF THE SUB-COMMISSION ON PREVENTION OF
DISCRIMINATION AND PROTECTION OF MINORITIES
ON ITS THIRTY-FOURTH SESSION

Geneva, 17 August - 11 September 1981

Rapporteur: Mrs. Erica-Irene Daes

CONTENTS

<u>Chapter</u>	<u>Page</u>
I Issues that require action or consideration by the Commission on Human Rights	1
A. <u>Draft resolutions proposed by the Sub-Commission for adoption by the Commission on Human Rights</u>	1
I. Study of the problem of discrimination against indigenous populations	1
II. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism	2
III. Exploitation of child labour	3
B. <u>Sub-Commission resolutions and decisions requiring consideration by the Commission on Human Rights</u>	3
Sub-Commission resolution 1 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment	3
Sub-Commission resolution 4 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment	4
Sub-Commission resolution 6 (XXXIV). 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	4
Sub-Commission resolution 8 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	5
Sub-Commission resolution 9 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 9 (XXXIV)	5

CONTENTS (continued)

<u>Chapter</u>		<u>Page</u>
I	B. <u>Sub-Commission resolutions and decisions requiring consideration by the Commission on Human Rights (continued.)</u>	
	Sub-Commission resolution 10 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries; with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	6
	Sub-Commission resolution 11 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: Report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	6
	Sub-Commission resolution 12 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	7
	Sub-Commission resolution 13 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	8
	Sub-Commission resolution 15 (XXXIV). Question of human rights of persons subjected to any form of detention or imprisonment	8
	Sub-Commission resolution 18 (XXXIV). Exploitation of child labour	9
	Sub-Commission decision 2 (XXXIV). Review of further developments in fields with which the Sub-Commission has been concerned	10

CONTENTS (continued)

<u>Chapter</u>			<u>Page</u>
I	B. <u>Sub-Commission resolutions and decisions requiring consideration by the Commission on Human Rights</u> (continued)		
	Sub-Commission decision 3 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)		10
	Sub-Commission decision 4 (XXXIV). The effects of gross violations of human rights on international peace and security		10
		<u>Paragraphs</u>	
II	Organization of the session	1 - 17	11
III	Review of further developments in fields with which the Sub-Commission has been concerned	18 - 40	14
IV	Measures to combat racism and racial discrimination and the role of the Sub-Commission	41 - 62	17
V	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	63 - 83	21
VI	Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	84 - 140	24
VII	Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XIVIII)	141 - 147	30
VIII	Question of the human rights of persons subjected to any form of detention or imprisonment	148 - 188	31

CONTENTS (continued)

<u>Chapter</u>	<u>Paragraphs</u>	<u>Page</u>
IX	Human rights and scientific and technological developments	189 - 219 38
X	Study of the problem of discrimination against indigenous populations	220 - 256 43
XI	The new international economic order and the promotion of human rights	257 - 277 48
XII	Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>apartheid</u> and colonialism	278 - 303 53
XIII	Exploitation of child labour	304 - 316 56
XIV	Report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments	317 - 327 58
XV	Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	328 - 348 65
XVI	Question of conscientious objection to military service	349 - 364 67
XVII	The status of the individual and contemporary international law	365 - 375 69
XVIII	Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-fifth session	376 - 381 71
XIX	Adoption of the report	382 74
XX	Resolutions and decisions adopted by the Sub-Commission at its thirty-fourth session	75
<u>A. Resolutions</u>		
1 (XXXIV)	Question of the human rights of persons subjected to any form of detention or imprisonment	75
2 (XXXIV)	Study of the problem of discrimination against indigenous populations	76
3 (XXXIV)	Study of the problem of discrimination against indigenous populations	77
4 (XXXIV)	Question of the human rights of persons subjected to any form of detention or imprisonment	77

CONTENTS (continued)

A.	<u>Resolutions</u> (continued)	<u>Page</u>
5	(XXXIV) Measures to combat racism and racial discrimination and the role of the Sub-Commission	78
6	(XXXIV) 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	79
7	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	80
8	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	80
9	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	81
10	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	83
11	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	84
12	(XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	86

CONTENTS (continued)

Page

A. Resolutions (continued)

- 13 (XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 86
- 14 (XXXIV) Question of conscientious objection to military service 87
- 15 (XXXIV) Question of the human rights of persons subjected to any form of detention or imprisonment 88
- 16 (XXXIV) Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 89
- 17 (XXXIV) Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 90
- 18 (XXXIV) Exploitation of child labour 90
- 19 (XXXIV) Report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments 92
- 20 (XXXIV) Human rights and scientific and technological developments: Guidelines, principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder 93
- 21 (XXXIV) Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers 94
- 22 (XXXIV) The new international economic order and the promotion of human rights 94

B. Decisions

- 1 (XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 95
- 2 (XXXIV) Review of further developments in fields with which the Sub-Commission has been concerned 95

CONTENTS (continued)

	<u>Page</u>
B. <u>Decisions</u> (continued)	
3 (XXXIV) Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of <u>apartheid</u> , in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)	95
4 (XXXIV) The effects of gross violations of human rights on international peace and security	96
5 (XXXIV) Composition of working groups of the Sub-Commission	96

Annexes

- I Attendance
- II Financial implications of resolutions and decisions adopted by the Sub-Commission at its thirty-fourth session
- III List of documents issued for the thirty-fourth session of the Sub-Commission

I. ISSUES THAT REQUIRE ACTION OR CONSIDERATION BY THE
COMMISSION ON HUMAN RIGHTS

A. Draft resolutions proposed by the Sub-Commission for
adoption by the Commission on Human Rights

I. Study of the problem of discrimination against
indigenous populations ^{1/}

The Commission on Human Rights,

Recalling its resolution 22 (XXXVII) in which it recognized the great importance of the subject of the human rights of indigenous peoples and expressed its hope that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its thirty-fifth session, would be in a position to make recommendations to the Commission at its thirty-eighth session on the subject of the promotion and protection of the human rights of indigenous peoples, in the light of the study on the problem of discrimination against indigenous peoples,

Mindful of resolution 2 (XXXIV) of the Sub-Commission, which drew the attention of the Commission to the serious and pressing plight of indigenous populations and emphasized the need for special measures to be taken in order to promote and protect the human rights of indigenous populations,

Bearing in mind the work carried out by the Special Rapporteur,
Mr. José R. Martínez Cobo,

Recommends the following draft resolution to the Economic and Social Council for adoption:

The Economic and Social Council,

Recalling its resolution 1589 (L), Commission on Human Rights resolutions 22 (XXXVII) and ___ (XXXVIII) and resolutions 8 (XXIV), 5 (XXXIII) and 2 (XXXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recognizing the urgent need to promote and to protect the human rights and fundamental freedoms of indigenous populations,

Bearing in mind the concerns expressed in this regard at the World Conference to Combat Racism and Racial Discrimination in 1978,

Believing that special attention should be given to appropriate avenues of recourse at the national, regional and international levels in order to advance the promotion and protection of the human rights and fundamental freedoms of indigenous populations,

Mindful of the conclusions of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and of the Commission on Human Rights that the plight of indigenous peoples is of a serious and pressing nature and that special measures are urgently needed in order to promote and protect the human rights and fundamental freedom of indigenous populations,

^{1/} See chap. XX, sect. A, resolution 2 (XXXIV), and chap. X.

1. Decides to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a Working Group on Indigenous Populations which shall meet for up to five working days before the annual sessions of the Sub-Commission in order to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission bearing in mind the report of the Special Rapporteur of the Sub-Commission;
2. Further decides that the Working Group shall give special attention to the evolution of standards concerning the rights of indigenous populations, taking account both of the similarities and of the differences in the situations and aspirations of indigenous populations throughout the world;
3. Requests the Secretary-General to assist the Working Group on Indigenous Populations and make all necessary arrangements to enable it to carry out its functions.

II. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 2/

The Commission on Human Rights

1. Decides, pursuant to an invitation by the Government of Mauritania, to authorize the Sub-Commission to send a delegation not exceeding two persons to be appointed by the Chairman of the Sub-Commission in consultation with the Government of Mauritania, to visit Mauritania in order to study the situation and ascertain the country's needs;
2. Requests the United Nations Department of Public Information to take measures to create greater public awareness of the continued existence of slavery and slavery-like institutions and practices and to mobilize international action for their eradication;
3. Appeals to Member States of the United Nations;
 - (a) To ratify the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, 3/ if they have not yet done so, or to implement its provisions effectively if they have already ratified it;
 - (b) To undertake a concerted action against all enterprises which promote prostitution and the traffic in persons and to include relevant information in their reports concerning the Convention;
 - (c) To intensify research into the economic, social, psychological, sexual and emotional causes of prostitution and pimping and to promote the social reintegration of victims of prostitution and traffic;

2/ See chap. XX, sect. A, resolution 16 (XXXIV), and chap. XII.

3/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No.: E.78.XIV.2), p. 60.

4. Invites the Voluntary Fund for the United Nations Decade for Women to consider whether the Fund could provide support for projects aimed at the rehabilitation of prostitutes in poor areas, and to make this information available to the Working Group at its eighth session;

5. Recognizes that apartheid is a slavery-like practice and endorses the call for mandatory economic sanctions against South Africa and appeals to Member States of the Security Council to support proposals to this effect;

6. Requests the Secretary-General to transmit the statements submitted to the Working Group at its seventh session by the Anti-Slavery Society for the Protection of Human Rights, the Minority Rights Group and the International Abolitionist Federation containing allegations specifically on slavery-like practices in certain countries, together with the relevant parts and recommendations of the report of the Working Group on Slavery, to the Governments of those countries for information and such observations as they may wish to make, and to the intergovernmental organizations and agencies mentioned by the Working Group in its recommendations;

7. Requests the Secretary-General to call upon States parties to the Slavery Convention of 1926, 4/ the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 5/ and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 to submit regular reports on the situation in their countries, as provided for under the Conventions, and to call upon other States, intergovernmental organizations, relevant agencies of the United Nations and non-governmental organizations concerned and the International Criminal Police Organization (INTERPOL) to supply relevant information to the Working Group on Slavery.

III. Exploitation of child labour 6/

The Commission on Human Rights,

1. Recommends to the Economic and Social Council that the study prepared by Mr. A. Bouhdiba on the Exploitation of Child Labour 7/ should be printed and given the widest possible distribution, including distribution in Arabic;

2. Invites the Sub-Commission to present to the Council, through the Commission, a concrete programme of action to combat violations of human rights through the exploitation of child labour.

B. Sub-Commission resolutions and decisions requiring consideration by the Commission on Human Rights

Resolution 1 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment 8/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

1. Decides to draw the attention of the Commission on Human Rights to the increasing scale of politically-motivated executions and to inform the Commission of the

4/ Ibid., p. 49.

5/ Ibid., p. 52.

6/ See chap. XX sect. A, resolution 18 (XXXIV) and chap. XIII.

7/ E/CN.4/Sub.2/479.

8/ For the full text of the resolution see chap. XX, sect. A, resolution 1 (XXXIV).

Sub-Commission's view that this problem deserves the most urgent consideration in order to bring an end to these irreversible violations of human rights;

2. Recommends to the Commission to request the Economic and Social Council to call upon Governments to abolish capital punishment for political offences;

3. Requests the Secretary-General to inform the Sub-Commission, at its thirty-fifth session, of the consideration given to this matter by the Commission on Human Rights;

...

Resolution 4 (XXXIV), Question of the human rights of persons subjected to any form of detention or imprisonment 9/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

Requests the Commission on Human Rights to:

(a) Condemn Israeli violations of the Charter of the United Nations and the Universal Declaration of Human Rights, in particular the mass arrests, collective punishment, administrative detention and ill-treatment of the Arab population, the torture of persons under detention and the inhuman conditions in Israeli prisons;

(b) Call on Israel to release all Palestinian political detainees or prisoners and to ameliorate the conditions of all detainees and prisoners held in Israeli prisons, with a view to meeting international standards.

Resolution 6 (XXXIV). 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 10/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

4. Recommends to the Commission on Human Rights that the Committee which has been set up under the International Convention on the Suppression and Punishment of the Crime of Apartheid 11/ should be asked to examine whether the actions of transnational corporations which operate in South Africa come under the definition of the crime of apartheid, and whether or not some legal action could be taken under the Convention;

...

9/ For the full text of the resolution see chap. XX, sect. A, resolution 4 (XXXIV)

10/ For the full text of the resolution see chap. XX, sect. A, resolution 6 (XXXIV)

11/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No.: E.78.XIV.2), p.30.

Resolution 8 (XXXIV). Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 12/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

4. Draws the attention of the Commission on Human Rights to the perilous situation faced by the Baha'i Community of Iran and requests the Secretary-General to submit all relevant information about the treatment of Baha'is in Iran to the Commission on Human Rights at its thirty-eighth session.

Resolution 9 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 13/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

2. Recommends the Commission on Human Rights to:

(a) Reaffirm 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;

(b) Reaffirm the inalienable right of the Palestinians to return to their home and property, from which they have been displaced and uprooted, and call for their return in the exercise of their right to self-determination;

(c) Reaffirm the principle of the inadmissibility of the acquisition of territory by force and urge the Israeli authorities to withdraw from all the occupied Arab territories, including the Holy City of Jerusalem, and to stop immediately all excavation and works aimed at the destruction of the essential physical character, demographic composition, historical structure, institutional structure and status of the Holy City of Jerusalem;

(d) Deplore the violations of human rights committed by Israeli authorities in the occupied Arab territories, including the Holy City of Jerusalem;

12/ For the full text of the resolution see chap. XX, sect. A, resolution 8 (XXXIV).

13/ For the full text of the resolution see chap. XX, sect. A, resolution 9 (XXXIV).

(e) Condemn bombardment of Palestinian refugee camps in the south of Lebanon as well as in the heart of the city of Beirut which resulted in the loss of the lives of hundreds of civilians, both Palestinians and Lebanese, in complete disregard of all norms of international law, of human rights and the Geneva Conventions;

(f) Disapprove of and regret the refusal of Israel to implement the relevant resolutions and decisions of the General Assembly and the Security Council concerning the Holy City of Jerusalem;

3. Recommends the Commission on Human Rights and the Economic and Social Council to take, as a matter of urgency, the necessary measures for the implementation of this resolution.

Resolution 10 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 14/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

1. Recommends to the Commission that it continue to consider the situation of human rights violations in El Salvador as long as the necessary conditions for a just solution are not present;

2. Decides to request the Secretary-General to bring to the attention of the Commission and its Special Representative the information received by the Sub-Commission concerning the grave violations of human rights and fundamental freedoms;

...

4. Requests the Secretary-General to inform the Sub-Commission at its thirty-fifth session of the action of the Special Representative of the Commission and of the deliberations of the Commission on this matter as well as of any consideration which may be given to it by the General Assembly, the Economic and Social Council or the Security Council.

Resolution 11 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 15/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

3. Calls on the Commission on Human Rights to reaffirm the need for a political settlement of the situation in Afghanistan on the basis of the withdrawal of foreign

14/ For the full text of the resolution see chap. XX, sect. A, resolution 10 (XXXIV).

15/ For the full text of the resolution see chap. XX, sect. A, resolution 11 (XXXIV).

troops and full respect for the independence, sovereignty and territorial integrity and non-aligned status of Afghanistan and strict observance of the principle of non-intervention and non-interference;

4. Invites the Commission on Human Rights to urge all concerned to work towards a settlement which would ensure that the Afghan people would determine their destiny free from outside interference and which would enable the Afghan refugees to exercise their right to return to their homes in safety and honour;

5. Further invites the Commission on Human Rights to urge all concerned to co-operate with the Secretary-General of the United Nations and his personal representative in efforts to bring about such a political settlement of the situation in Afghanistan;

6. Requests the Commission on Human Rights to address an urgent appeal to all States and national and international organizations to extend humanitarian relief assistance with a view to alleviating the hardship of the Afghan refugees, in co-ordination with the United Nations High Commissioner for Refugees;

7. Recommends that the Commission on Human Rights continue to give special attention and high priority to the situation in Afghanistan at its thirty-eighth session.

Resolution 12 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 3 (XXIII) 16/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

1. Decides to inform the Commission on Human Rights of the Sub-Commission's conviction that the number and scale of gross violations of human rights occurring in many parts of the world requires urgent and effective forms of action by the United Nations and, to this end, decides to inform the Commission that in the view of the Sub-Commission the establishment of a post of United Nations High Commissioner for Human Rights would be highly valuable in advancing the promotion and protection of human rights in the world;

2. Requests the Secretary-General to inform the Sub-Commission at its thirty-fifth session of the deliberations of the Commission on Human Rights on this question at its thirty-eighth session.

16/ For the full text of the resolution see chap. XX, sect. A, resolution 12 (XXXIV).

Resolution 13 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 17/

[The Sub-Commission on Prevention to Discrimination and Protection of Minorities]

- ...
1. Expresses its appreciation to Mr. A. Eide for his very conscientious work in analysing the situation of human rights in Kampuchea;
 2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-eighth session the further materials reviewed by Mr. Eide, together with summary records of the Sub-Commission's consideration of the matter at its thirty-fourth session;
 3. Endorses the relevant resolutions of the United Nations on Kampuchea designed to bring about the withdrawal of foreign forces from that country and to enable its people freely to determine their own form of Government without any coercion or domination;
 4. Reiterates its recommendation to the Commission on Human Rights to keep the situation of human rights in Kampuchea under continuing review with a view to restoring full respect for human rights and fundamental freedoms as speedily as possible in Kampuchea.

Resolution 15 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment 18/

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

- ...
5. Expresses its conviction to the Commission on Human Rights that, in view of the persistence of violations resulting from the many cases of disappearance of persons which are still occurring in the world, the extension of the mandate of the Working Group on Enforced or Involuntary Disappearances is indispensable;
 6. Recommends to the Commission on Human Rights, pursuant to the request made in its resolution 10 (XXXVII), to give consideration to the following courses of action aimed at improving the prevention and elimination of enforced or involuntary disappearances of persons:
 - (a) To take the necessary steps so that world public opinion becomes aware of the grave nature of the contemporary phenomenon of enforced or involuntary disappearances and of United Nations actions to eliminate this practice;

^{17/} For the full text of the resolution see chap. XX, sect. A, resolution 13 (XXXIV).

^{18/} For the full text of the resolution see chap. XX, sect. A, resolution 15 (XXXIV).

(b) To consider that the occurrence of events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied the relevant information within a reasonable period of time after the request, provided always that the veracity of the denunciation is not invalidated by other evidence;

(c) To urge States in which persons have been reported to have disappeared to repeal or refrain from adopting laws which could impede inquiries concerning such disappearances;

(d) To give attention to the need for special measures for the protection of persons including relatives, giving information related to the fate of disappeared persons;

(e) To request the Working Group to prepare for the Sub-Commission at its thirty-fifth session a report containing elements of a general nature based on information available to the Working Group and on the Group's own experience in order to permit the Sub-Commission to continue to make appropriate recommendations concerning the issues referred to in paragraph 4 of its resolution 18 (XXXIII);

...

Resolution 18 (XXXIV). Exploitation of child labour 19/ X

[The Sub-Commission on Prevention of Discrimination and Protection of Minorities]

...

2. Decides to transmit the study to the Commission on Human Rights at its thirty-eighth session and to draw the attention of the Commission to the conclusions and recommendations of the Special Rapporteur, which the Sub-Commission fully endorses;

3. Requests the Special Rapporteur to present the study to the Commission on Human Rights at its thirty-eighth session;

4. Recommends to the Commission on Human Rights that it transmit the study to the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund, the Commission on Social Development and the Commission on the Status of Women, drawing particular attention to the conclusions and recommendations, and request those bodies to submit any comments they may wish to make to the Secretary-General for transmission to the Special Rapporteur;

...

9. Strongly recommends that the Division of Human Rights devote a seminar under the Programme of Advisory Services in the Field of Human Rights to the topic "Violations of human rights through the exploitation of child labour" and consider holding this seminar as soon as possible;

...

19/ For the full text of the resolution see chap. XX, sect. A, resolution 18 (XXXIV).

Decision 2 (XXXIV). Review of further developments in fields with which the Sub-Commission has been concerned 20/

The Sub-Commission decided, in view of the wealth of experience it has gained over the past 34 years, and mindful of the need to maximize the efficiency and productivity of the Sub-Commission, with a view to enabling it to study the status of other comparable expert bodies set up within the United Nations system; (a) To introduce into the agenda of its thirty-fifth session a new item entitled "Review of the status and activities of the Sub-Commission and its relationships with the Commission and other United Nations bodies"; (b) That this new item should be given high priority on the agenda.

Decision 3 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 21/

The Sub-Commission decided: (a) To consider at its thirty-fifth session the positive role a High Commissioner for Human Rights as a United Nations official should play in the full enjoyment of human rights; (b) To request the Secretary-General to provide to the Sub-Commission all relevant information on the establishment of the Office of the High Commissioner for Human Rights.

Decision 4 (XXXIV). The effects of gross violations of human rights on international peace and security 22/

The Sub-Commission decided to include in the provisional agenda for its thirty-fifth session a new item entitled "The effects of gross violations of human rights on international peace and security".

20/ See chap. XX, sect. B, decision 2 (XXXIV) and chap. III.

21/ See chap. XX, sect. B, decision 3 (XXXIV) and chap. VI.

22/ See chap. XX, sect. B, decision 4 (XXXIV) and chap. XVIII.

II. ORGANIZATION OF THE SESSION

Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its thirty-fourth session at the United Nations Office from 17 August to 11 September 1981.
2. The session was opened (395th meeting) by the Director of the Division of Human Rights who made an introductory statement.

Attendance

3. The session was attended by members of the Sub-Commission, by observers for Member States, by an observer for a non-member State, by a representative of the United Nations Children's Fund, a representative of the Office of the United Nations High Commissioner for Refugees, and by representatives of specialized agencies, regional intergovernmental organizations, a national liberation movement and non-governmental organizations. Details of attendance appear in annex I.
4. Some members informed the Secretary-General that they were unable to attend the whole or part of the session and, in accordance with rule 13, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, and with the consent of their Governments, appointed alternates (see annex I). The Secretary-General concurred with these nominations, and the alternates were therefore granted during the session the same status as members of the Sub-Commission, including the right to vote.

Election of officers

5. At its 395th meeting, the Sub-Commission unanimously elected the following officers:

Chairman: Mr. Raúl Ferrero

Vice-Chairmen: Mr. Syed S.A. Masud
Mr. Mohamed Yousif Hudawi
Mr. Ivan Toševski

Rapporteur: Mrs. Erica-Irene Daes

6. At its 396th meeting, the Sub-Commission unanimously adopted the following agenda:

1. Election of officers.
2. Adoption of the agenda.
3. Review of further developments in fields with which the Sub-Commission has been concerned.
4. Measures to combat racism and racial discrimination and the role of the Sub-Commission.
5. 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.

6. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII).
7. Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII).
8. Question of the human rights of persons subjected to any form of detention or imprisonment.
9. Human rights and scientific and technological developments.
10. Study of the problem of discrimination against indigenous populations.
11. The New International Economic Order and the Promotion of Human Rights.
12. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism.
13. Exploitation of child labour.
14. Report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments.
15. Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers.
16. Question of conscientious objection to military service.
17. The status of the individual and contemporary international law.
18. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-fifth session of the Sub-Commission.
19. Report of the thirty-fourth session.

Organization of work

7. The Sub-Commission took up the items of its agenda in the following order: 3, 4, 8, 10, 12, 6, 9, 16, 11, 5, 13, 7, 14, 15, 17, 18 and 19.

Meetings, resolutions and documentation

8. The Sub-Commission held 40 meetings (895th to 934th). The views expressed during the discussion on substantive items are summarized in the records of those meetings (E/CN.4/Sub.2/DR.895 - E/CN.4/Sub.2/DR.934), 23/

23/ No record was prepared of the 933rd meeting.

9. The Sub-Commission heard statements by observers from Argentina (907th, 911th, 913th and 915th meetings), Bangladesh (907th meeting), Brazil (907th meeting), China (915th meeting), Democratic Kampuchea (913th and 915th meetings), Ethiopia (909th meeting), German Democratic Republic (921st meeting), Greece (909th meeting), Iraq (915th meeting), Israel (915th meeting), Mauritania (909th meeting), Morocco (915th and 928th meetings), Spain (922nd meeting), Syrian Arab Republic (913th and 928th meetings), Union of Soviet Socialist Republics (921st meeting), United Kingdom of Great Britain and Northern Ireland (915th meeting), United States of America (915th meeting) and Viet Nam (915th meeting).

10. Statements were made by the representative of the Centre for Social Development and Humanitarian Affairs (902nd and 912th meetings).

11. Statements were made by the representative of the International Labour Organisation (898th, 906th and 922nd meetings) and the representative of the United Nations Educational, Scientific and Cultural Organization (906th and 910th meetings).

12. Statements were also made by the representative of the Palestine Liberation Organization (905th and 913rd meetings).

13. The Sub-Commission heard a statement by the representative of the Organization of African Unity (921st meeting).

14. The Sub-Commission also heard statements by the representatives of the following non-governmental organizations in consultative status:

Category I: World Muslim Congress (915th meeting);

Category II: Amnesty International (90th and 915th meetings), Anti-Slavery Society for the Protection of Human Rights (906th, 907th, 910th and 922nd meetings), Arab Lawyers' Union (928th meeting), Bahá'í International Community (901st and 913rd meetings), Friends' World Committee for Consultation (917th meeting), Pax Romana (905th meeting), International Association of Penal Law (916th meeting), International Commission of Jurists (903rd, 906th, 911th, 915th, 916th and 920th meetings), International Council of Jewish Women (915th meeting), International Federation of Human Rights (913th meeting), International Indian Treaty Council (905th, 910th and 915th meetings), International League for Human Rights (907th, 915th and 917th meetings), International Movement for Fraternal Union among Races and Peoples (903rd and 907th meetings), War Resisters International (917th meeting), Women's International League for Peace and Freedom (906th and 915th meetings);

Roster: Indian Law Resource Centre (906th and 915th meetings), International Abolitionist Federation (922nd meeting), International League for the Rights and Liberation of Peoples (915th meeting), Procedural Aspects of International Law Institute - International Human Rights Law Group (915th and 917th meetings), World Association for the School as an Instrument of Peace (920th meeting), World Council of Indigenous People (907th meeting).

15. The Sub-Commission adopted resolutions 1 (XXXIV) to 22 (XXXIV) and took several decisions. The texts of these resolutions and decisions appear in chapter 20. Draft resolutions and decisions for action by the Commission on Human Rights and other matters of concern to the Commission are set out in chapter I.

16. Statements of the administrative and financial implications of certain resolutions and decisions appear in annex II.

17. A list of the documents submitted to the Sub-Commission for consideration appears in annex III.

III. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

18. The Sub-Commission considered agenda item 3 at its 896th, 897th, 898th and 922nd meetings, held on 18 and 19 August and 4 September 1981.

19. The Sub-Commission had before it a note by the Secretary-General relating to developments between 16 June 1980 and 15 June 1981 in fields with which the Sub-Commission has been concerned (E/CN.4/Sub.2/463), a memorandum summarizing the recent activities of the International Labour Office (ILO) in combating discrimination in respect of employment and occupation (E/CN.4/Sub.2/464), and an aide-mémoire summarizing the recent activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in combating discrimination in education and in the field of race relations (E/CN.4/Sub.2/465).

20. In his introductory statement, the representative of the Secretary-General said that discussion of the item would enable the Sub-Commission to pursue a double objective: to ensure that it would constantly be informed of the activities of other United Nations bodies and specialized agencies on matters falling within its competence; and, to evaluate the effectiveness of its work while inquiring into the way in which the different bodies gave effect to its recommendations. The note by the Secretary-General (E/CN.4/Sub.2/463) had been established along those lines.

21. Many speakers paid tribute to the efforts of the ILO and UNESCO in the field of human rights as reflected in documents E/CN.4/Sub.2/464 and E/CN.4/Sub.2/465. It was said that both organizations should be encouraged to redouble their activities in their respective fields to eliminate all forms of discrimination and further the promotion of human rights.

22. Reference was made to Commission on Human Rights resolution 17 (XXXVII), in which the Commission, inter alia, expressed appreciation of the very valuable contribution of the Sub-Commission to the work of the Commission. One member referred to the criticisms expressed by some members of the Commission at its thirty-seventh session on this subject.

23. The role and competence of the Sub-Commission was discussed, particularly in relation to its composition as a body of experts acting in their individual capacity, which ensured its impartiality, unlike the Commission which is composed of Government representatives. It was suggested that perhaps the Sub-Commission should become more autonomous and its name and status changed to that of a "committee of experts on human rights", which would report directly to the Economic and Social Council, even though it would continue to communicate its recommendations and reports to the Commission. Examples of such changes did exist. For instance, the Committee on Crime Prevention and Control had originally been set up as a special committee under the Commission for Social Development. Several speakers supported these suggestions

as being necessary steps in the evolution of the Sub-Commission whose membership and terms of reference had been enlarged over the years and the duration of whose sessions had been extended. It was clear that changing the Sub-Commission into an expert committee on human rights would obviate difficulties and advance the cause of human rights.

24. Some speakers felt that the Sub-Commission should not be separated from the Commission and that the Sub-Commission should continue to be guided by the resolutions of the Commission. Also, the Sub-Commission, like any other subsidiary body, should be bound to follow the directives of its parent body.

25. It was further stated that the potential of the Sub-Commission has not yet been fully realized and that the Sub-Commission should make a greater effort to strengthen its activities in the field of human rights and to ensure that its resolutions and reports are aimed at the establishment of practical and effective legal norms. In this connection, it was said that the work of the Sub-Commission should retain its expert rather than political character.

26. Some speakers referred to the practice of permitting alternates to represent members of the Sub-Commission which, according to resolution 17 (XXXVII) of the Commission on Human Rights, "might not on occasion be in keeping with the character" of the Sub-Commission. One speaker noted, however, that the Commission had not provided any criteria for determining when such practices become excessive, nor had it indicated means to end any abuses. Another speaker recalled the statement made by the Director of the Division (E/CN.4/Sub.2/SR.895, para. 19) to the effect that the practice of designating alternates is in accordance with the rules of procedure.

27. It was proposed that the question of the review of the role and status of the Sub-Commission should be given a thorough examination and be included in the agenda as a separate item at the next session. It was also suggested that greater publicity should be given to the deliberations of the Sub-Commission.

28. Other proposals related to the introduction of voting by secret ballot, the establishment of emergency machinery to enable the Sub-Commission to deal with urgent cases of violation of human rights, and the study of the application of sanctions against those States which persistently and grossly violate human rights. It was recalled, in this regard, that the Commission had not acted upon similar proposals made in the past.

29. Speakers expressed satisfaction at the increasing number of ratifications of the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenants on Human Rights and the Convention on All Forms of Discrimination against Women. Despite the progress made by Member States in ratifying the various Conventions and Covenants, it was stated that more ratifications were needed in order fully to ensure universal acceptance of those instruments for the better protection of human rights and fundamental freedoms.

30. It was observed that the completion of the work on the Draft Declaration on the Elimination of All Forms of Religious Intolerance at its thirty-seventh session was one of the most significant achievements of the Commission on Human Rights.

31. Regarding the question of Cyprus, regret was expressed by one member that the resolutions already adopted by the Sub-Commission - resolutions 1 (XXVIII) and 8 (XXXI) - have not yet been implemented. The same member proposed therefore that the situation of human rights in Cyprus should continue to be reviewed under this item and that the Secretary-General's report for 1982 should contain information concerning, in

particular, implementation of those resolutions. It was further proposed that a new item concerning the effects of gross violations of human rights on international peace and security should be added to the Sub-Commission's agenda.

32. Many speakers expressed grave concern at the escalation in the build-up of nuclear weapons. The improved technical quality of these weapons, their destructive potential and the contemporary military approach to armaments threatened the survival of mankind. It was also pointed out that an obsession with international security, and by inference national security, brought about by the threat of the arms race, eroded the democratic practices essential to the realization of human rights. It was further stated that the enormous financial burden of the arms race meant the diversion of resources from more desirable objectives, such as the implementation of human rights. It was emphasized that the problems of human rights could not be separated from the problems of peace and development and that the Sub-Commission should accept the challenge of examining the practical issues involved in the relations between peace and development and also the problems posed by the arms build-up. One speaker also pointed out that the right to life had been increasingly threatened in recent years by events such as the return to the cold war and the arms race.

33. Satisfaction was expressed at the progress reported, in particular in Section G of the Secretary-General's note (E/CN.4/Sub.2/463), concerning the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation notably the peoples of South Africa, Namibia and the other countries mentioned in the above-mentioned document.

34. It was stated that most countries have now achieved political independence, through the right to self-determination, and that this achievement could lead to further progress in the field of human rights. It was said, in this regard, that the right to self-determination may be examined in the future in the context of article 25 of the Convention on Civil and Political Rights. This article provides, inter alia, for every citizen to have the right to take part in the conduct of public affairs, to vote and to be elected at genuine periodic elections, and to have access to public service in his country.

35. The view was expressed that the mandate of the Working Group on Slavery should be extended to cover indigenous groups and its title changed into Working Group to Consider Violations of the Rights of Exploited Groups.

36. With regard to the problems confronting women, it was suggested that this question should be discussed as a separate item on the agenda, as the topic is not given sufficient attention by the Sub-Commission. In this connection, it was said that on the Sub-Commission, as on many other bodies, women were insufficiently represented.

37. On 26 August 1981, a draft decision (E/CN.4/Sub.2/L.768) was submitted by Mr. Akram, Mr. Martinez Baez, Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Poli, Mr. Jimeta, Mr. Joinet, Mr. Kaddour, Mr. Khalifa, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker and Mr. Yimer.

38. The Sub-Commission considered the draft decision at its 922nd meeting, on 4 September 1981, when it was introduced by Mr. Carter.

39. At the same meeting the Sub-Commission adopted the draft decision by 20 votes to 2.

40. The text of the decision as adopted appears in chapter XX, section B, as decision 2 (XXXIV).

IV. MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION
AND THE ROLE OF THE SUB-COMMISSION

41. The Sub-Commission considered agenda item 4 at its 898th, 899th, 900th, 901st and 929th meetings held on 19 and 20 August and 9 September 1981. It had before it a note prepared by the Secretary-General in accordance with paragraph 3 of its resolution 3 (XXXIII) on information on measures taken with a view to eliminating racism and racial discrimination, if any, in employment and with respect to voting and election to public office (E/CN.4/Sub.2/466); a note prepared by the Secretary-General pursuant to its resolution 4 B (XXXIII) on pertinent materials relating to causes of racism and action for eradicating them (E/CN.4/Sub.2/467); and a note prepared by the Secretary-General pursuant to its resolution 4 D (XXXIII) on information relating to the proposed study on ways and means of implementing United Nations resolutions on apartheid, racism and racial discrimination (E/CN.4/Sub.2/468). It also had before it a draft report (E/CN.4/Sub.2/L.766) by Mr. Justice Abu Sayeed Chowdhury, Special Rapporteur, prepared in accordance with its resolution 4 A (XXXIII) on discriminatory treatment of members of racial, ethnic, religious or linguistic groups at various levels in the administration of criminal justice.

42. In introducing the item, the representative of the Secretary-General drew attention to the relevant documentation before the Sub-Commission. He recalled some of the action recently taken by the General Assembly, the Economic and Social Council and the Sub-Commission itself with a view to strengthening and broadening their respective fields of activity in supporting the aims and objectives of the Decade. In this connection, particular mention was made of resolution 4 A (XXXIII) of the Sub-Commission regarding the preparation of a study on discrimination in the administration of criminal justice. Mention was also made of decision E/1981/130 of the Economic and Social Council relating to the establishment of a sub-committee of the Council whose task would be to complete, in consultation with the Secretary-General, the preparations for a second world conference to combat racism and racial discrimination provided for by the General Assembly in its resolution 35/33. In view of the approaching end of the Decade, the representative of the Secretary-General suggested that the Sub-Commission might wish to give some thought to post-Decade activities that could be undertaken in the context of a continuing struggle to combat racism and racial discrimination.

43. With respect to implementation of the Programme for the Decade, the representative of the Secretary-General mentioned seminars recently organized by the Secretary-General which had provided extremely useful ideas, the first in 1980 at Nairobi entitled "Political, economic, cultural and other factors underlying situations leading to racism including a survey of the increase or decline of racism and racial discrimination", and the second in 1981 at Geneva which had dealt with the question of effective measures to prevent transnational corporations and other established interests from collaborating with the racist régime of South Africa. He also referred to the UNITAR colloquium on the prohibition of apartheid, racism and racial discrimination and the achievement of self-determination in international law, which had been held at Geneva from 20 to 24 October 1980.

44. Members of the Sub-Commission were unanimous in their condemnation of all forms of racism, racial discrimination and apartheid. They noted that while the Decade for Action to Combat Racism and Racial Discrimination was approaching its end,

racial discrimination and apartheid continued to exist despite the efforts and activities of the international community. Racial discrimination was characterized as perhaps the most unjust of all violations of human rights, particularly since, in many cases, victims were often affected from the day of their birth. Such victims can rarely escape the adverse effects of such discrimination. Participants spoke of de jure and de facto discrimination. It was pointed out that the latter form of discrimination was still prevalent in many parts of the world. In this connection, it was suggested that a commitment to non-discrimination at the highest levels of Government could serve effectively to counteract tendencies to, or acts of, racial discrimination. In the same sense, it was felt that the United Nations, at the federal level of the world, so to speak, could exert some influence in this regard.

45. While members agreed that the attention of the Sub-Commission should be directed to the elimination of all forms of racism and racial discrimination, they nevertheless felt that the eradication of apartheid, which represented the most dangerous and pernicious form of racism in the world today, should be its immediate and prime concern. It was pointed out that apartheid was the greatest shame of the twentieth century, and that the racist régime in South Africa continued to throw a challenge to the world community by violating even the most elementary human rights and fundamental freedoms in South Africa and Namibia. The view was further expressed that the experience gained in the elimination of apartheid might be applied to lesser forms of racism and racial discrimination. It was stated that the task of combating racism and racial discrimination was indeed a difficult one and that the need to come to grips with the problem was becoming increasingly crucial as the Sub-Commission approached the end of the Decade for Action to Combat Racism and Racial Discrimination.

46. In seeking to identify the causes of racism and racial discrimination a number of members stressed economic and social factors. It was felt that racial prejudice often had its basis in economic exploitation and that what was needed, to deal with the problem, were ways and means of an economic nature, as well as the political will to eradicate the problem of racism. It was also felt that economic inequality carried connotations of racism and racial discrimination. The denial to people of the right to self-determination was also cited as a contributing factor of racism and racial discrimination. In this connection, one member was of the opinion that despite the efforts of mass media to enlighten and disseminate information on racism and racial discrimination those phenomena would continue to exist as long as people were deprived of their right to self-determination.

47. It was stated that most Governments would claim that, under their constitution, all men were equal before the law. While that might be so in theory it was frequently not so in practice. It was essential to abolish not only racial discrimination but all types of discrimination and it was intolerable that discrimination of any kind should occur under the pretext of law.

48. Some speakers stated that the role of the police force was a difficult one because it was subject to opposing pressures. Mention was also made of the abuses of its authority by the police force during the period of arrest, investigation and pre-trial detention.

49. A number of members stressed that education and law had important roles to play in the process of eliminating racism, racial discrimination and apartheid. It was stated that out-of-date and biased textbooks were largely responsible for the perpetuation of negative racial attitudes.

50. In this regard, it was felt that UNESCO could play a valuable role in expediting the publication of accurate and unbiased textbooks. Mention was made of the great contribution that the press, radio and television could make in the quest for the elimination of racism and racial discrimination. A stronger role by non-governmental organizations in educating public opinion and putting pressure on those who support the apartheid régime was urged.

51. At the 898th meeting, Mr. Justice Abu Sayeed Chowdhury, Special Rapporteur, introduced his draft report (E/CN.4/Sub.2/L.766) on the study on discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice, 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 administration of criminal justice. He described in detail the scope and the objectives of the study, which, in accordance with resolution 4 A (XXXIII) of the Sub-Commission, will examine, in particular, the discriminatory treatment against members of racial, ethnic, religious or linguistic groups at various levels in the administration of criminal justice proceedings, including the ideologies or beliefs which contribute or lead to all forms of racism. He emphasized that the aforesaid report was a very preliminary one and stated that he had not received as much information from Governments as he had hoped and thus he had had to rely on legal instruments. He further explained how he will proceed in the elaboration of his final report. He also informed the Sub-Commission that the study would cover all levels of criminal proceedings from arrest to execution of sentences.

52. Members of the Sub-Commission expressed their deep appreciation to the Special Rapporteur and welcomed the orientation of the study, particularly since it was felt that it was during the time of arrest and detention that many discriminatory activities occurred in the administration of criminal justice. It was said, inter alia, that a tremendous amount of work had gone into the preparation of the preliminary report and that the orientation of the study as a whole, as envisaged, was very important, since there was great potential for a negative type of administration of justice at the very early stages, over which there was very little, if any, effective control.

53. The Special Rapporteur indicated that in the preparation of the final report he would take into account the observations and suggestions made during the debate.

54. It was further stated that the Sub-Commission should begin to give some thought to the study requested by the Commission on Human Rights in its resolution 14 D (XXXVI) on ways and means of ensuring the implementation of the United Nations resolutions on apartheid, racism and racial discrimination. Such a study, it was said, could be a new point of departure in combating racism and racial discrimination through economic, political and other measures. It was suggested that a working group should be established to look into the modalities for the study.

55. Speakers regretted the meagre response to the request made by the Sub-Commission, in its resolution 3 (XXXIII), for information on measures taken to eliminate discrimination in public and private employment and with respect to voting and election to public office. It was suggested that any information received could also be made available to the Committee on the Elimination of Racial Discrimination.

56. Many members suggested that action should be speedily taken to establish the post of a United Nations High Commissioner for Human Rights and an international Court of Human Rights modelled on the European Court of Human Rights.

57. Regarding the second world conference to combat racism and racial discrimination, it was suggested that a document evaluating the Decade be prepared for the second conference and it was hoped that a plan of action, unanimously supported, would be drawn up.

58. On 1 September 1981, a draft resolution (E/CN.4/Sub.2/L.776) was submitted by Mr. Ceausu, Mr. Eide, Mr. Ferrero, Mr. Khalifa, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Toševski, Mr. Whitaker and Mr. Yimer.

59. The Sub-Commission considered the draft resolution at its 929th meeting, on 9 September 1981, when it was introduced by Mr. Martinez Baez.

60. At the same meeting the Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

61. Also at the same meeting the draft resolution was adopted without a vote.

62. The text of the resolution as adopted appears in chapter XX, section A, as resolution 5 (XXXIV).

V. 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

63. The Sub-Commission considered agenda item 5 at its 920th, 921st and 929th meetings on 3 and 9 September 1981.
64. The Sub-Commission had before it the following documents: E/CN.4/Sub.2/425 and Corr.1-3 and Add.1-7, a revised report containing a provisional general list of banks, firms and other organizations which give assistance to South Africa, submitted to the Sub-Commission at its thirty-second session, an updated report (E/CN.4/Sub.2/469) submitted to the Sub-Commission at its current session and a written statement submitted by the Procedural Aspects of International Law Institute.
65. In introducing the updated report (E/CN.4/Sub.2/469), the Special Rapporteur stated that it should be considered together with his previous report (E/CN.4/Sub.2/425 and Corr.1-3 and Add.1-7) and his study entitled "Assistance to Racist Régimes in southern Africa: Impact on the Enjoyment of Human Rights" (United Nations publication sales No. E.79.XIV.3). He pointed out that his study had been the subject of critical comments in the Third and Fourth Committees at the thirty-fifth session of the General Assembly. It had also been said, in the above-mentioned forums, that, for instance, the USSR and other socialist countries were reported to be dealing with the racist régime of South Africa. In that connection, he had invited the Governments concerned for comments, as he was duly bound to do as Special Rapporteur, and he had received relevant replies.
66. The Special Rapporteur further observed that the mere listing of names of banks and companies in the updated report did not mean that those organizations were engaged in illegal acts. It did suggest, however, a certain amount of responsibility on the part of those organizations and their Governments. When Governments condemn apartheid and at the same time continue to have trade and other relations with South Africa, this implies a certain amount of hypocrisy.
67. Noting that some of the Governments which continue to give assistance to South Africa often state that they do so on the grounds of the principle of free trade, he wondered whether such Governments should place this principle above the freedom and dignity of man.
68. The main factors which allowed the continuation of the apartheid régime were, he stated, of an economic and political nature. It was, therefore, only through economic and political pressures that South Africa would ever be forced to bring about a change in its policies. Although some minor changes had taken place in South Africa, it was clear that the objective of the Pretoria régime was not to move towards full equality for all the peoples of South Africa. Such a policy might result in a confrontation between forces of law and order and black revolution.
69. The Special Rapporteur then appealed to the members of the Sub-Commission, to observers and to representatives of non-governmental organizations to provide him with substantive material for future updated reports.

70. Many speakers welcomed the updated report prepared by the Special Rapporteur. Referring to the justification given by some Governments for their continued economic relations with South Africa, namely that they adhered to the principle of free trade, it was agreed that that principle could be quite useful if everyone lived in a free world. But in countries like South Africa, the large majority of the population is not free. They cannot, by political participation, influence the policies of their own Government. They cannot therefore influence the conditions of labour or of the use of natural resources, both of which are factors which influence the nature and consequences of international trade. The free trade principle, when applied to trade with countries where oppression is the general rule, could indeed encourage human rights violations. The kind of oppression carried out in South Africa is in fact a sinister form of protectionism, contrary to the principle of free economic interaction. The purpose of that protectionism is to maintain the benefits of cheap labour and the socially irresponsible exploitation of the natural wealth of the country concerned.

71. The question of sanctions against South Africa was raised, and grave concern was expressed about the continued reluctance of certain countries to agree to impose sanctions despite the many United Nations resolutions and recommendations on this subject.

72. It was pointed out that although sanctions are not always effective, they have never been fully applied against the Pretoria régime. Certain Governments, it was maintained, reject the concept of sanctions on the grounds that the black population of South Africa would suffer. It was stressed that sanctions may require sacrifice and hardship on the part of the black peoples of South Africa, but nothing could be worse than the sufferings and hardship those people experience daily under the present apartheid régime.

73. It was said, however, that sanctions should not be regarded as the only, or the decisive, measure for bringing about change in South Africa and abolishing the monstrous régime of apartheid. It was emphasized that even if the sanctions already imposed on South Africa are not completely effective, further attempts should be made to enlarge them and bring about a total embargo on trade relations. The non-implementation of the General Assembly and Security Council resolutions regarding sanctions against South Africa would affect the credibility of the United Nations and might weaken confidence in the usefulness of the Organization.

74. The continued support of certain Governments and of the numerous companies and banks which provide economic assistance to South Africa encourages, it was stated, the increased build-up of South Africa's nuclear capability. This will not only allow the Pretoria régime to blackmail black African States and the world community, but it also constitutes a threat to world peace and stability.

75. The view was expressed that if peaceful actions, such as total economic and diplomatic sanctions, were not used effectively in the struggle against apartheid, the victims of discrimination in that country would have no other recourse but to turn to violence. In this connection, the activities of trade union and liberation movements were commended.

76. Tribute was also paid to the courage of the black South Africans who struggle daily against the racist régime, and it was suggested that the time had come for the world community to take concrete steps to reveal its determination to bring about the elimination of apartheid.

77. The suggestion was made that the Special Rapporteur's updated report should be given the widest publicity, as had been done with the previous report. It was further suggested by some speakers that the Committee which has been set up under the Convention on the Suppression and Punishment of the Crime of Apartheid should be asked to examine whether the actions of transnational corporations operating in South Africa come under the definition of the crime of apartheid, and whether or not some legal action can be taken under the Convention. Furthermore, appeals should continue to be made to those countries which persistently support the Pretoria régime requesting them to recognize the adverse consequences of such support and to agree to sanctions against South Africa.

78. At the 921st meeting statements were made by the observers for the German Democratic Republic and the Union of Soviet Socialist Republics, and by the representative of the Organization of African Unity.

79. On 4 September 1981, a draft resolution (E/CN.4/Sub.2/L.784) was submitted by Mr. Akram, Mr. Ceausu, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Jimeta, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Perdomo de Sousa, Mr. Sofinsky, Mr. Toševski and Mr. Yimer. Mrs. Warzazi subsequently became a sponsor of the draft resolution.

80. The Sub-Commission considered the draft resolution at its 929th meeting, on 9 September 1981, when it was introduced by Mr. Chowdhury.

81. At the same meeting the Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

82. Also at the same meeting, the draft resolution was adopted without a vote.

83. The text of the resolution as adopted appears in chapter XX, section A, as resolution 6 (XXXIV).

VI. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS INCLUDING POLICIES OF RACIAL
DISCRIMINATION AND SEGREGATION AND OF APARTHEID,
IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO
COLONIAL AND OTHER DEPENDENT COUNTRIES AND
TERRITORIES

84. The Sub-Commission considered item 6 of its agenda at its 912th to 915th meetings held on 28 and 31 August and at its 929th and 930th meetings on 9 and 10 September 1981.

85. In his introduction of the item, the Deputy Director of the Division of Human Rights referred to a number of resolutions adopted by the Sub-Commission under this item at its thirty-third session. In this regard, mention was made of Sub-Commission resolution 19 (XXXIII) on the question of an information-gathering service within the Division of Human Rights, Sub-Commission resolution 22 (XXXIII) requesting the Commission to authorize the Chairman of the Sub-Commission to make arrangements for one or more members of the Sub-Commission to visit countries which were the subject of discussion at the Sub-Commission's thirty-third session, and Sub-Commission resolution 25 (XXXIII) relating to United Nations responses to urgent situations of violations of human rights. The Deputy Director informed the Sub-Commission that the Commission had not taken action on any of those resolutions. The Deputy Director also referred to Sub-Commission resolution 20 (XXXIII) concerning the occupied Arab territories, pursuant to which document E/CN.4/Sub.2/483 was before the Sub-Commission, and to Sub-Commission resolution 24 (XXXIII) concerning the human rights situation in Democratic Kampuchea and Commission resolution 11 (XXXVII) requesting the Sub-Commission to review, at its thirty-fourth session, any further material on the human rights situation in Kampuchea. It was pointed out that, pursuant to those resolutions, the Sub-Commission at its current session had appointed Mr. Eide to review the materials in question. Finally, mention was made of Sub-Commission resolution 26 (XXXIII) by which the Sub-Commission had reaffirmed that universal respect for the right of peoples to self-determination is the most fundamental condition for the preservation and promotion of human rights.

86. The Sub-Commission also had before it: (a) the report of the Working Group established under Commission on Human Rights resolution 28 (XXXVI) concerning further promotion and encouragement of human rights and fundamental freedoms (E/CN.4/L.1577); (b) a communication dated 15 July 1981 from the Permanent Mission of Democratic Kampuchea (E/CN.4/Sub.2/487) and two communications dated 10 August 1981 from the Permanent Missions of Canada and Australia, respectively (E/CN.4/Sub.2/488 and 472); and, (c) a submission from the Indian Law Resource Center, a non-governmental organization in consultative status with the Economic and Social Council (E/CN.4/Sub.2/NGO/98).

87. During the debate on this item members emphasized the importance of the right to self-determination and pointed out that once this right is denied and/or suppressed violations of other human rights and fundamental freedoms follow. Some members considered the denial and/or suppression of the right to self-determination as of two types: (a) the result of the legacy of colonialism; and (b) the result of foreign intervention.

88. Most members referred to the human rights situation in southern Africa, which was described as a classical example of flagrant and systematic violation of human rights. In this respect, it was pointed out that in the Republic of South Africa full right of self-determination had not been achieved in 1910 when the Union of South Africa was formed, because the majority of the inhabitants of that country had been excluded from exercising their right to self-determination.

89. Several members referred to the testimony given by former inmates of the notorious Robin Island Prison in the Republic of South Africa before the Ad Hoc Working Group of Experts on Southern Africa, which held its public hearings in London from 29 June to 3 July 1981, as further evidence of the total disregard for the human rights and fundamental freedoms of the African people by the authorities of the Republic of South Africa. In this connection and in view of the continuous gross violation of human rights and fundamental freedoms as a result of the apartheid policy of the Republic of South Africa, the Sub-Commission decided to request the Chairman of the Commission on Human Rights to appeal to the South African authorities to commute the death sentences imposed recently upon three members of the African National Congress. Pursuant to this decision of the Sub-Commission, the Chairman of the Commission on Human Rights sent the following telegram to South African Minister of Foreign Affairs:

CHAIRMAN UNITED NATIONS COMMISSION ON HUMAN RIGHTS ACTING ON HUMANITARIAN GROUNDS AND CONVINCED INTERPRETING SENTIMENTS OF COMMISSION AND OF MILLIONS OF PEOPLE AROUND THE WORLD, MOST EARNESTLY APPEAL TO YOUR GOVERNMENT NOT TO PROCEED WITH APPLICATION OF DEATH PENALTY IMPOSED ON ANTHONY TSOTOSOBE, NATHANIEL SHABANGU AND DAVID MOISE.

90. Members emphasized that the Republic of South Africa no longer had any legal right to be in Namibia and called for the implementation of the plan of the Five Western Powers (the Contact Group), contained in Security Council resolution 435 (1978), as the only way that would give the people of Namibia the opportunity genuinely to exercise their right to self-determination.

91. Almost all members condemned the invasion of Angola by the armed forces of the Republic of South Africa. Several members considered this invasion to be a direct result of the denial of the right to self-determination in Namibia, and pointed out that the South African authorities have now extended their gross violations of human rights to an independent neighbouring country.

92. The situation of human rights in the occupied Arab territories was considered by many members as resulting from the legacy of colonialism. Members referred to document E/CN.4/Sub.2/483 and emphasized that the situation of human rights in the occupied Arab territories will not improve until and unless the Palestinian people can genuinely and freely exercise their right to self-determination. Many members condemned the Israeli bombardment of Lebanon and of the non-military nuclear reactor in Iraq.

93. Another type of denial and/or suppression of the right to self-determination of people as a result of foreign intervention, was considered by many members to be exemplified by the situation of human rights in Afghanistan and Kampuchea. With respect to Afghanistan, several members emphasized the need for a political solution based on the withdrawal of foreign forces and mentioned the plight of the Afghan refugees. The conviction was also expressed that the proposals of the Government of Afghanistan of 14 May 1980, confirmed and made more specific in August 1981, constituted a good basis for a political settlement of the situation surrounding Afghanistan.

94. Mr. Eide, who had been entrusted with the task of reviewing the material on Kampuchea, made an oral statement. He pointed out that the problem of human rights violations in Kampuchea had not yet been solved and was unlikely to be solved until the conditions for the realization of the right to self-determination had been achieved. This would require the holding of genuine and free elections under United Nations auspices and the withdrawal of all foreign troops. Also, the problem of refugees had to be solved, by their return if they so desire. Many members expressed deep appreciation to Mr. Eide for the work he has accomplished so far and supported his proposals.

95. Several members emphasized that the withdrawal of foreign forces from Kampuchea is indispensable if the problem is to be solved. On the other hand, the view was expressed that there had been great progress in the process of strengthening human rights in Kampuchea and that it would be appropriate to take a decision to delete that item from the Sub-Commission's agenda, as had been done in other similar cases.

96. According to several members, human rights are in a deplorable state in Iran. In their view, the situation in that country constitutes a typical example of situations in which small groups of people oppress the majority of the inhabitants and thereby prevent genuine exercise of the right to self-determination. Many members further stated that they deplored the denial of the right to freedom of thought, conscience and religion of the Baha'is in that country. In the opinion of several members the summary executions which are taking place in that country are unjustifiable. They emphasized that unjust trials and executions are totally contrary to the teachings of Islam. Two members pointed out that violations of human rights are inevitable in revolutionary situations such as that prevailing in Iran. Two other members pointed out that revolutionary situations do not permit any Government to go beyond the limits of derogation contained in the relevant international instruments on human rights.

97. Many speakers deplored the deterioration in the situation of human rights in a number of Latin American countries, particularly El Salvador and Guatemala. Also, several members considered that the principle of proportionality, which Mrs. N. Questiaux had earlier propounded in her study on the implications for human rights of recent development concerning situations known as states of siege or emergency, was not adhered to. The principle of proportionality, as explained by Mrs. Questiaux, is that measures of exception that a State may take in time of siege or emergency must remain in force only as long as the actual situation warrants.

98. In addition to the issues referred to above, reference was made to particular human rights situations in the following countries: Argentina, Bolivia, Brazil, Chile, Czechoslovakia, Equatorial Guinea, Haiti, Iraq, Morocco, Paraguay, the Philippines, the Republic of Korea, Sri Lanka, Tunisia, Uganda, the Union of Soviet Socialist Republics, the United Kingdom (concerning Northern Ireland), the United States of America, Uruguay and Zaire. The contents of the statements and of replies or observations by the observers for Argentina, Democratic Kampuchea, Iraq, Israel, Morocco, the People's Republic of China, (in response to allegations made by the observer of Viet Nam in relation to the consideration of the human rights situation in Kampuchea), the Union of Soviet Socialist Republics, the United Kingdom, the United States of America (in response to allegations made by a non-governmental organization) and Viet Nam (in response to allegations made by the observer of Democratic Kampuchea in relation to the consideration of the human rights situation in Kampuchea) rejecting the allegations relating to their countries, are reflected in the relevant summary records, (E/CN.4/Sub.2/SR.913 and SR.915). In connection with the accusations levelled against Uruguay, a note verbale dated 4 September 1981 from the Permanent Mission of Uruguay addressed to the Chairman of the Sub-Commission was circulated as document E/CN.4/Sub.2/480.

99. In the course of the debate on the item, the Sub-Commission heard a statement by the representative of the United Nations Centre for Social Development and Humanitarian Affairs (E/CN.4/Sub.2/SR.912).

100. It also heard statements by the representatives of a number of non-governmental organizations in consultative status with the Economic and Social Council concerning alleged violations of human rights in various countries.

101. A number of members in the debate on this item emphasized the need for establishing an information-gathering service within the Division of Human Rights as well as an effective procedure which would enable the United Nations to respond immediately to urgent situations of violations of human rights. One member suggested that it would be appropriate to attenuate the confidentiality of the procedure governed by resolution 1503 (XLVIII) of the Economic and Social Council.

102. On 1 September 1981, a draft resolution (E/CN.4/Sub.2/L.775) was submitted by Mr. Bossuyt, Mr. Carter, Mr. Eide, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito and Mr. Whitaker.

103. The Sub-Commission considered the draft resolution at its 929th meeting, on 9 September 1981, when it was introduced by Mr. Carter.

104. One member objected to the draft on the grounds that it did not arise out of work done by the Sub-Commission at its thirty-fourth session.

105. At the same meeting, the draft resolution was adopted by 16 votes to 1, with 3 abstentions.

106. The text of the resolution as adopted appears in chapter XX, section A, as resolution 7 (XXXIV).

107. On 2 September 1981, a draft resolution (E/CN.4/Sub.2/L.778) was submitted by Mr. Eide, Mr. Foli, Mr. Joinet, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mrs. Odio Benito, Mrs. Perdomo da Sousa, Mr. Whitaker and Mr. Yimer. Mr. Ferrero later became a sponsor of the draft resolution.

108. The Sub-Commission considered the draft resolution at its 929th meeting, on 9 September 1981, when it was introduced by Mr. Martinez Baez.

109. One member proposed oral amendments to the text. They were not accepted by the sponsors.

110. At the same meeting the draft resolution was adopted by 19 votes to none, with 5 abstentions.

111. The text of the resolution as adopted appears in chapter XX, section A, as resolution 8 (XXXIV).

112. On 3 September 1981, a draft resolution (E/CN.4/Sub.2/L.779) was submitted by Mr. Akram, Mr. Chowdhury, Mr. Foli, Mr. Khalifa, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Sayadi, Mr. Sofinsky, Mr. Whitaker and Mr. Yimer. Mr. Jimeta, Mr. Tosevski and Mrs. Warzazi subsequently became sponsors of the draft resolution.

113. At its 929th meeting, on 9 September 1981, the Sub-Commission considered the draft resolution, which was introduced by Mr. Masud.

114. One member proposed oral amendments to the draft. They were not accepted by the sponsors.

115. At the same meeting, the draft resolution was adopted by 20 votes to 1, with 4 abstentions.

116. The text of the resolution as adopted appears in chapter XX, section A, as resolution 9 (XXXIV).

117. On 4 September 1981, a draft resolution (E/CN.4/Sub.2/L.781) was submitted by Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Tosevski, Mr. Whitaker and Mr. Yimer.

118. At the 929th meeting, on 9 September 1981, the draft resolution was introduced by Mr. Tosevski.

119. The Sub-Commission considered the draft resolution at its 929th and 930th meetings, on 9 September 1981.

120. Following a lengthy debate in the course of which many oral amendments were proposed (see E/CN.4/Sub.2/SR.929 and SR.930), the sponsors agreed to revise the seventh and tenth preambular paragraphs and operative paragraph 3, taking into account the oral amendments proposed by Mr. Carter, Mrs. Warzazi and Mr. Whitaker.

121. At the 930th meeting the draft resolution, as revised, was adopted by 23 votes to 1.

122. The text of the draft resolution as adopted appears in chapter XX, section A, as resolution 10 (XXXIV).

123. On 7 September 1981, a draft resolution (E/CN.4/Sub.2/L.782) was submitted by Mr. Eide, Mr. Martinez Baez, Mr. Mudawi and Mr. Whitaker. Mrs. Warzazi subsequently became a sponsor of the draft resolution.

124. The Sub-Commission considered the draft resolution at its 930th meeting, on 9 September 1981, when it was introduced by Mrs. Warzazi.

125. At the same meeting, the draft resolution was adopted by 19 votes to 1, with 2 abstentions.

126. The text of the resolution as adopted appears in chapter XX, section A, as resolution 11 (XXXIV).

127. On 3 August 1981, a draft resolution (E/CN.4/Sub.2/L.771) was submitted by Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, and Mr. Whitaker. Mrs. Warzazi subsequently became a sponsor of the draft resolution.

128. On 8 September 1981, an amendment (E/CN.4/Sub.2/L.792) to the draft resolution was submitted by Mr. Jimeta.

129. The Sub-Commission considered the draft resolution at its 930th meeting on 9 September 1981, when it was introduced by Mr. Mubanga-Chipoya, and at its 931st meeting on 10 September 1981.

130. At the 931st meeting, Mr. Jimeta introduced his amendment to the draft resolution.

131. At the suggestion of two members, the Sub-Commission decided that Mr. Jimeta's amendment should more appropriately be regarded as a separate draft decision.

132. At the same meeting, draft resolution E/CN.4/Sub.2/L.771 was adopted by 15 votes to 2, with 5 abstentions.

133. The text of the resolution as adopted appears in chapter XX, section A, as resolution 12 (XXXIV).

134. At the same meeting, the text proposed by Mr. Jimeta in document E/CN.4/Sub.2/L.792, was adopted as a decision of the Sub-Commission by 15 votes to 4 with 4 abstentions.

135. The text of the decision as adopted appears in chapter XX, section B, as decision 3 (XXXIV).

136. On 4 September 1981, a draft resolution (E/CN.4/Sub.2/L.783) was submitted by Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martinez Baez, Mrs. Odio Benito, Mrs. Perdomo de Sousa and Mr. Tosevski. Mr. Mubanga-Chipoya, Mrs. Warzazi and Mr. Whitaker subsequently became sponsors of the draft resolution.

137. The Sub-Commission considered the draft resolution at its 931st meeting, on 10 September, when it was introduced by Mr. Chowdhury.

138. At the same meeting the Sub-Commission rejected, by 16 votes to 1, with 3 abstentions, an oral amendment proposed by Mr. Sofinsky whereby operative paragraph 3 would have been replaced by a new text. The Sub-Commission adopted by 9 votes to 8, with 3 abstentions, an oral amendment proposed by Mr. Akram whereby a new operative paragraph 3 was inserted in the text.

139. The Sub-Commission then adopted the draft resolution as a whole as amended by 17 votes to 4.

140. The text of the resolution as adopted appears in chapter XX, section A, as resolution 13 (XXXIV).

VII. COMMUNICATIONS CONCERNING HUMAN RIGHTS: REPORT
OF THE WORKING GROUP ESTABLISHED UNDER SUB-COMMISSION
RESOLUTION 2 (XXIV) IN ACCORDANCE WITH ECONOMIC AND
SOCIAL COUNCIL RESOLUTION 1503 (XLVIII)

141. The Sub-Commission considered agenda item 7 at its 923rd to 926th closed meetings, held on 4 and 7 September 1981. A draft resolution concerning a procedural matter was considered at the 932nd public meeting on 10 September 1981.

142. By resolution 1503 (XLVIII) of 27 May 1970 the Economic and Social Council authorized the Sub-Commission to appoint a working group of not more than five of its members to meet annually for 10 days, immediately before each session of the Sub-Commission, to consider all communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959, including replies of Governments thereon, with a view to bringing to the attention of the Sub-Commission those communications, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.

143. The procedure to be followed by the Working Group in deciding on the admissibility of communications was established by Sub-Commission resolution 1 (XXIV) of 13 August 1971, and the Working Group itself was set up in accordance with Sub-Commission resolution 2 (XXIV) of 16 August 1971.

144. Four of the five members of the Working Group, Mr. Beverly Carter Jr., Mr. Antonio Martínez Baez, Mr. Sharifuddin Pirzada and Mr. Vsevolod N. Sofinsky attended the tenth annual session of the Working Group, to consider communications, together with replies of Governments, received by the Secretary-General. The fifth member of the Working Group and his alternate were unable to attend the meetings. The Sub-Commission had before it a confidential report of the Working Group, (E/CN.4/Sub.2/R.41 and addenda). The Chairman-Rapporteur of the Working Group, Mr. Martínez Baez introduced the report. A detailed examination of the report followed.

145. At the closed part of its 934th meeting the Sub-Commission adopted a confidential report, by which it communicates its findings to the Commission on Human Rights.

146. On 7 September 1981 a draft resolution (E/CN.4/Sub.2/L.789) was submitted by Mr. Sofinsky, proposing a change in paragraph 5 of Council resolution 1503 (XLVIII) to the effect that the Sub-Commission's Working Group on Communications should take its decisions by consensus instead of by majority vote. The draft resolution was considered by the Sub-Commission at its 932nd public meeting. The draft resolution was rejected by 15 votes to 2, with 5 abstentions.

147. At its 934th meeting on 11 September 1981 the Sub-Commission decided on the composition of its Working Group on Communications to meet prior to its thirty-fifth session. For the composition of the Working Group, see chapter XX, section B, decision 5 (XXXIV).

VIII. QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY
FORM OF DETENTION OR IMPRISONMENT

148. The Sub-Commission considered item 8 of its agenda at its 901st to 905th meetings, held on 20, 21 and 24 August, at its 910th meeting on 27 August and at its 920th, 928th and 932nd meetings held on 3, 8 and 10 September.

149. It had before it the following documents: a report by the Secretary-General containing information communicated by Governments in accordance with Sub-Commission resolution 7 (XXVII) (E/CN.4/Sub.2/470 and Add.1 to 3): a synopsis of material received from non-governmental organizations in accordance with same resolution of the Sub-Commission (E/CN.4/Sub.2/471); and a report by the Secretary-General containing information provided by Governments in accordance with Sub-Commission resolution 18 (XXXIII) concerning missing or disappeared persons (E/CN.4/Sub.2/473 and Add.1 and 2).

150. At its 897th meeting on 18 August 1981, the Sub-Commission decided to establish a Working Group on agenda item 8. The Working Group consisted of five members: Mr. Eide, Mr. Masud, Mrs. Odio-Benito, Mr. Sofinsky and Mrs. Warzazi. Mrs. Warzazi was elected Chairman-Rapporteur of the Group. The report of the Working Group (E/CN.4/L.774 and Corr.1) is reproduced in paragraph 175 below.

Annual review of developments concerning the human rights of persons subjected to any form of detention or imprisonment

151. This item was introduced by the Director of the Division of Human Rights, who gave an account of the work accomplished by the Sub-Commission in this area since 1974. He mentioned, in particular, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, unanimously adopted by the General Assembly in 1975. Also, in 1979, a Code of Conduct for Law Enforcement Officials and a draft body of principles for the protection of all persons under any form of detention or imprisonment had been prepared by the General Assembly and were still under consideration. Also a draft code of medical ethics was at present being studied by the Commission on Human Rights. The Director of the Division went on to say that, despite all those efforts, arbitrary arrest, political murders, disappearances and torture continued. The information submitted to the Sub-Commission provided striking evidence of the contradiction between law and practice, between obligations assumed and their fulfilment.

152. Several speakers expressed the view that this item was one of the most important on the Sub-Commission's agenda. It was for that reason, they recalled, that the Sub-Commission had, in the previous year, adopted resolution 17 (XXXIII) in which it had recommended that the Commission on Human Rights should request the Economic and Social Council to authorize the Chairman of the Sub-Commission to appoint a group of five of its members to meet for five days prior to each session of the Sub-Commission to analyse the material received in connection with the human rights of persons subjected to any form of detention or imprisonment and to prepare the Sub-Commission's annual review of developments in that field. They also noted that the Commission had not responded to that request.

153. The Director of the Division observed that the convening of a working group prior to the session raised certain problems in view of the financial implications, but that the Sub-Commission was free to establish sessional working groups to consider particular items on the agenda.

154. Several members of the Sub-Commission expressed a keen interest in the work of the Committee on Crime Prevention and Control; one member requested the Sub-Commission to authorize the sending of an observer to the next session of the Committee, which is to be held in January 1982.

155. One speaker maintained that the principal problem for detained persons was the effective exercise of the right of defence; and in that connection, he denounced the practice of placing lawyers in charge of their clients' cases. Reference was also made to the question that no retroactivity of penal laws should be allowed. It was also said that when cases were shifted from one jurisdiction to another, particularly in political trials, that could have the effect of depriving accused persons of the guarantees that basic principle was supposed to afford them.

156. A number of speakers emphasized that the Sub-Commission should concentrate its efforts not on establishing new standards but rather on making the existing instruments effective.

157. Reference was made to the question of the completion of the work on the draft Convention against Torture. With regard to that Convention, it was noted that two basic problems were being encountered: first, the principle of universal competence provided for in the Convention; secondly, the problem of setting up machinery for its application. According to one member, the first obstacle was not insuperable since universal competence had already been accepted in other international instruments. With regard to application, it was considered that the Convention should be as strict as possible. It should provide for the creation of an international body to monitor its application.

158. One member took the view that a number of problems concerning detention could be solved by the application of the following rules: every arrest must be made public; no detained person must remain incommunicado for more than 48 hours; and the authorities must submit to a number of controls.

159. The problem of extrajudicial enforcements was also mentioned, and reference was made to allegations of wrongful detention. The opinion was expressed that extrajudicial enforcement was a new way of escaping the control which the United Nations was endeavouring to establish, and that it was therefore essential to extend the control network so that no one could circumvent it on the pretext of mental ill-health or mental disorder. Mention was also made of the possibility of appointing an international ombudsman to carry out inspections of places of detention without giving notice in advance.

160. It was also suggested that the United Nations should encourage regional organizations to take action in the field of human rights, since a dialogue was easier at the regional level. It was further pointed out that negotiations on economic questions provided an opportunity of bringing pressure to bear on countries in which situations of violations of human rights existed.

161. Several speakers referred to the death penalty, and said they were in favour of abolishing it in view of the inhuman, irrevocable, non-deterrent nature of such a penalty, which should, in their opinion, be abolished in all cases in which political motives were involved. Other speakers expressed the view that the problem did not present itself in the same terms in every country, and that the death penalty was - alas - still necessary in certain countries.

Missing or disappeared persons

162. A number of speakers emphasized that the tragedy of missing or disappeared persons still persisted and was one of the most acute and urgent problems of modern times. United Nations bodies should therefore continue their action in that area. The same speakers expressed satisfaction at the extension of the mandate of the Working Group on Enforced or Involuntary Disappearances and said they hoped that its terms of reference would be widened and embrace all cases of missing and disappeared persons in all parts of the world.

163. One member of the Sub-Commission pointed out that the Commission had requested the Sub-Commission to study the most effective machinery for preventing such disappearances; and that it was therefore wrong to go on making general recommendations to the Commission; specific proposals were needed now. For example, when a Government refused to provide necessary information, the onus of proof might be placed on the Government, and absence of proof might be considered as an implicit admission of the truth of the allegations made.

164. In this connection, it was noted that while the situation had improved in certain countries, it was still very serious in others. It was suggested that Governments should be requested by the Commission on Human Rights to continue to collaborate with members of the Working Group on this problem.

165. Another speaker expressed the view that the international community should ensure the strict application of the procedures provided for at the international level, that the United Nations should expedite the adoption of the draft body of principles and that, in order to prevent further disappearances, the international community should insist that those responsible for the fact that persons were missing or had disappeared should be placed on trial. Also, regular inspections should be arranged, and refusal by a Government to open an inquiry should be considered as prima facie evidence that the allegations were well-founded.

166. All speakers agreed that the United Nations should be provided with sufficient means to take the necessary action, and they stressed the overriding need to put an end to such practices.

Study of the implications for human rights of recent developments concerning situations known as states of siege or emergency

167. Mrs. Questiaux, Special Rapporteur for the study of the implications for human rights of recent developments concerning situations known as states of siege or emergency, orally introduced an interim report on her study at the 910th meeting on 27 August 1981.

168. In the course of her statement, the Special Rapporteur referred to the sources of her study, in which she included the useful work done by Mrs. Erica-Irene A. Daes on the protection of human rights in time of public emergency (E/CN.4/Sub.2/432/Add.7). She also presented a summary of the main points in her study and informed members of the Sub-Commission that the final text would be submitted to the Sub-Commission at its next session.

169. After considering the limits placed on the application of states of emergency, the Special Rapporteur went on to describe the irregularities observed, their characteristics and the possible effects of such situations on the rights of the human person. By decision of the Sub-Commission, the Special Rapporteur's statement was reproduced as a Sub-Commission document (E/CN.4/Sub.2/490).

170. Several members of the Sub-Commission expressed their deepest appreciation to the Special Rapporteur for her brilliant and comprehensive presentation of the item and said they hoped that the study would illustrate the manner in which certain States abused the state of emergency, thus facilitating violations of human rights. It was suggested that the fundamental principle of the rule of law should be included among the principles which should prevail in a state of emergency or siege. One member expressed the view that it was essential not only that the power to declare a state of emergency should be subjected to conditions and limitations; in addition, the judiciary must be able to verify the accuracy and relevance of the facts invoked.

171. It was also stated that there should be laws to regulate the conditions for the detention of persons once a state of emergency had been declared. Also, it was essential to determine the conditions in which persons were detained.

172. At the 905th meeting, the representative of the Palestine Liberation Organization made a statement. Statements were also made by the representatives of the following non-governmental organizations in consultative status with the Economic and Social Council, Amnesty International and Pax Romana.

173. At its 928th meeting on 8 September 1981, the Sub-Commission had before it the report of the Working Group on Detention (E/CN.4/Sub.2/L.774 and Corr.1).

174. The report was submitted to the Sub-Commission by the Chairman-Rapporteur, Mrs. Halima E. Warzazi, who drew special attention to paragraphs 4 and 5 of the report reflecting the view of the majority of the Group that if there were difficulties in the way of a pre-sessional meeting of the future working group on detention it would be in favour of a sessional meeting. If a sessional meeting of the Group was to be held, it should take place, preferably, before consideration of the item in plenary in order to study all the documentation related to the item and eventually to present recommendations to the Sub-Commission.

175. The report of the Working Group as it appears in document E/CN.4/Sub.2/L.774 and Corr.1, and as orally revised by the Chairman-Rapporteur, reads as follows:

"1. At the 897th meeting of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, dealing with the organization of work and held on 18 August 1981, it was decided to establish a Working Group on Detention. The following members were nominated to the Group:

Mr. Eide
Mr. Masud
Mrs. Odio Benito
Mr. Sofinsky
Mrs. Warzazi

"2. Mrs. H.E. Warzazi was elected Chairman-Rapporteur of the Working Group by acclamation.

"3. Several members asked questions concerning the terms of reference of the Working Group and the methods to be adopted within the Group in order to achieve concrete results.

- "4. The discussion then turned to the need for such a Group to meet for five days before the Sub-Commission's sessions, as had been requested at the previous session of the Sub-Commission. Some members of the Group were in favour of that solution while others thought that it was unnecessary and that, in any case, its financial implications made it very unlikely that the proposal would be accepted by the Commission on Human Rights.
- "5. The Working Group finally abandoned the idea of holding a meeting before the Sub-Commission's sessions.
- "6. With regard to a meeting of the Working Group on Detention during the Sub-Commission's session, several members of the Working Group considered that if such a meeting was to be held, it should preferably take place before the item was discussed by the Sub-Commission. In the event that the Sub-Commission should decide to maintain a working group in the future, the desire was expressed that the members of the group should receive throughout the year all information which the Division might receive on the subject of detention, so that the members would be able to consider it in good time before meeting the following year. One member of the Working Group considered that the constitution of such a group was unlawful.
- "7. One member of the Working Group requested that, when detention was mentioned, it should always be specified whether pre-trial detention or detention after sentence was meant. He also pointed out that pre-trial detention was provided for in virtually all legislations; what must be secured from Governments was that such detention should be as short as possible, even in a state of emergency.
- "8. Another problem brought up by the Working Group was that of arbitrary or summary executions, which all too often took place during detention.
- "9. Reference was then made to the question of missing or disappeared persons; it was reaffirmed that such practices constituted an odious crime and that they were very closely connected with the question of summary executions. It was finally decided that the question of disappeared persons should be left to the Working Group established by the Commission on Human Rights to consider that question. Nevertheless, one member of the Working Group proposed that the Group should ask the Sub-Commission to continue the high priority given at its thirty-third session to the question of disappeared persons.
- "10. Another problem mentioned was that of holding a detainee incommunicado, particularly during a state of siege. In the view of several members of the Group, nothing could justify such detention, and even if there were exceptional cases in which a justification could be found, such detention should in no circumstances exceed 24 hours.
- "11. One member of the Group then brought up the question of detainees' confessions which, to be admissible, should be made before a magistrate. The same member also recalled that every detainee was entitled to an impartial trial, whatever his political opinions. That principle should be applied in all circumstances, including the context of federal States.

"12. It was recalled that in 1977, the General Assembly had adopted resolution 32/121 on the human rights of certain categories of prisoners, and in 1978, resolution 33/169 on detained trade union activists. Attention was also drawn to the General Assembly resolutions concerning the rights of persons detained or imprisoned because of their opinions or political beliefs or their struggle against colonialism, aggression or foreign occupation or in favour of self-determination, independence or the elimination of apartheid and all forms of racial discrimination and racism. It was then suggested that the Group should consider possible ways of establishing machinery to implement those resolutions. One member of the Group was against that suggestion.

"13. Several speakers mentioned the problems that arose at the stage of arrest and interrogation by the police before the person was charged. In those speakers' view, it was essential that an arrested person should have the possibility, from the moment of his arrest, of appealing to a legal authority which would reach a decision concerning the reasons for and duration of the detention.

"14. One member of the Group recalled the need to apply to any person liable to arrest or detention the protection procedures provided for in a number of countries, such as the habeas corpus or amparo procedures or release pending trial.

"15. One speaker having suggested that a register should be kept in each prison so that every detainee should be recorded therein with all the details needed for his identification, a member of the Group reminded him that such a provision was already contained in rule 7 of the Standard Minimum Rules for the Treatment of Prisoners adopted in 1955, including persons detained by the police services, and that it would be quite sufficient if such a rule were actually applied. It would be an improvement if the name of the police officer responsible for each arrest was also included in such a register.

"16. The Working Group examined the problem of the death penalty. Some members suggested that, as a minimum measure, the death penalty should be completely abolished in the case of political crimes, particularly when the persons accused had not taken part in acts of violence.

"17. Having completed its discussions, the Working Group decided to bring the contents of its discussions to the attention of the Sub-Commission".

176. On 31 August 1981, a draft resolution (E/CN.4/Sub.2/L.769*) was submitted by Mr. Bossuyt, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Whitaker and Mr. Yimer.

177. The Sub-Commission considered the draft resolution at its 920th meeting, on 3 September 1981, when it was introduced by Mrs. Odio Benito.

178. At the same meeting, the draft resolution was adopted without a vote.

179. The text of the resolution as adopted appears in chapter XX, section A, as resolution 1 (XXXIV).

180. On 2 September 1981, a draft resolution (E/CN.4/Sub.2/L.777) was submitted by Mr. Akram, Mr. Ceausu, Mr. Chowdhury, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Sayadi, Mr. Sofinsky, Mr. Tosevski, Mr. Whitaker and Mr. Yimer. Mrs. Warzazi subsequently became a sponsor of the draft resolution.

181. The Sub-Commission considered the draft resolution at its 928th meeting, on 8 September, when it was introduced by Mr. Chowdhury.

182. At the same meeting, the draft resolution was adopted by 22 votes to 1, with 1 abstention.

183. The text of the resolution as adopted appears in chapter XX, section A, as resolution 4 (XXXIV).

184. On 9 September 1981, a draft resolution (E/CN.4/Sub.2/L.793 (a preliminary version of which had been issued in document E/CN.4/Sub.2/L.767)) was submitted by Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Joinet, Mr. Hanafi, Mr. Martinez Baez, Mr. Masud, Mr. Mudawi, Mrs. Odio-Benito, Mrs. Perdomo de Sousa, Mrs. Warzazi and Mr. Whitaker. Mr. Mubanga-Chipoya subsequently became a sponsor of the draft resolution.

185. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by Mr. Joinet.

186. Mr. Foli and Mr. Tosevski said that they would not participate in the vote as they were members of the Working Group.

187. At the same meeting, the Sub-Commission adopted the draft resolution as orally revised by 15 votes to 3, with 2 abstentions.

188. The text of the resolution as adopted appears in chapter XX, section A, as resolution 15 (XXXIV).

IX. HUMAN RIGHTS AND SCIENTIFIC AND
TECHNOLOGICAL DEVELOPMENTS

189. The Sub-Commission considered agenda item 9 at its 916th, 917th and 932nd meetings on 1 and 10 September 1981.

190. The Sub-Commission had before it a preliminary report (E/CN.4/Sub.2/474) by the Special Rapporteur, Mrs. Erica-Irene Daes, on "Guidelines and principles for the protection of persons detained on the grounds of mental ill-health or suffering from mental disorder", and a written statement submitted by the International Association of Penal Law and the International Commission of Jurists (E/CN.4/Sub.2/NGO/85).

191. In her introductory statement, the Special Rapporteur said that document E/CN.4/Sub.2/474 contained her preliminary report and should be considered as such by the Sub-Commission. The final report had not been prepared because very few replies had been received from Governments. The final report would contain a draft body of (a) guidelines relating to procedures for determining whether adequate grounds exist for detaining persons on the grounds of mental ill-health, (b) principles for the treatment and protection, in general, of persons suffering from mental disorder and (c) guarantees for the protection of the human rights of persons suffering from mental ill-health, or mental disorder, and in particular, against the involuntary admission to and detention in mental hospital of persons exercising their human rights.

192. It was within the framework of the basic provisions of the United Nations Charter, particularly articles 16 and 62, and relevant resolutions and recommendations of the General Assembly, the Economic and Social Council, the Commission of Human Rights and the Sub-Commission that the task would be undertaken with a view to providing the international community with principles, guidelines and guarantees for the protection of large, vulnerable groups of persons detained on the pretext of or really on grounds of mental ill-health or suffering from mental disorder.

193. The information on which the report would be based would be obtained through responses to a questionnaire sent to Governments, specialized agencies, intergovernmental organizations and non-governmental organizations, as well as on data supplied by other reliable sources.

194. The Special Rapporteur stated that the law and practice relating to the issue under consideration have been the subject of considerable controversy in many States of the world community. It is contended that, first, involuntary admission to and detention in mental hospitals is unjustifiable and should be abolished; second, that abuses of involuntary admission and detention in psychiatric hospitals are taking place in several parts of the world, especially against persons who are exercising their human rights; and third, that in some circumstances involuntary admission, detention and treatment of persons on the ground of mental illness is justifiable, but should be subject to certain legal, humanitarian and medical conditions or limitations and therefore new or additional guidelines, principles and basic guarantees should be adopted at international, regional and national levels. The importance and urgency of these questions embrace, inter alia, the protection of the basic rights and fundamental freedoms of persons suffering from mental ill-health or mental disorder. Such problems exist in almost all countries of the world community both East and the West. The basic difference lies in the legal and administrative procedures for determining "mental illness", the criteria which have to be met, the number of cases within a period of time, the type of treatment given to persons categorized as "mentally ill", the right of appeal of the patient or his family,

condition and number of mental institutions existing within a State. There is evidence suggesting that psychiatry is systematically used for political purposes against individuals.

195. The term "mental illness" is difficult to define. In the opinion of many psychiatrists, the term "mental illness" is not a descriptive term, but is merely an unproven theory used to "explain" behaviour. In the opinion of others, including psychiatrists, "mental illness" is either a physical disease or a disease of the psychological process which can be diagnosed and treated in much the same way as any other physical illness. But for the purpose of the present study, such differences do not matter, the legal and human rights of persons suffering from either physical or mental illness are the same.

196. The report will refer, in particular, to the involuntary hospitalization of persons on the pretext of or because they really are suffering from mental ill-health or mental disorder. It could be said that although no court has yet entirely prohibited involuntary hospitalization, many courts are moving in that direction. The need for stronger action in the field of the protection of the human rights and in particular of the treatment of mentally-ill persons in every part of the world community is clear and urgent.

197. The Rapporteur clarified that the aforesaid guidelines, principles and guarantees will supplement the Draft Code of Medical Ethics, which is under consideration by the General Assembly.

198. All speakers expressed deepest appreciation to the Special Rapporteur for her excellent work and the excellent presentation of her preliminary report. They approved the questionnaire, requested the Secretary-General to give to the Rapporteur all the assistance she may require for the completion of her work and endorsed her suggestions.

199. Some speakers expressed the conviction that the Rapporteur would bring her work to a successful conclusion, even if the replies to the questionnaire received so far were inadequate. They expressed the hope that additional replies would arrive in the near future. Among the suggestions which were made regarding the points to be included in the final report are the following. First, it was observed that whenever the question of involuntary detention arises, all matters relating to the treatment of the patient should be dealt with jointly by an independent medical practitioner selected by the patient or his family, and a Government doctor. In particular, there was agreement with the Rapporteur that in all cases of involuntary detention, judicial procedures, including the right of appeal, should be applied before final decisions are taken. In addition, provisions should be made for periodic re-examination in cases of involuntary detention or hospitalization. The second point to be included in the final report concerns the question of the authority or person who has the right to give consent to the detention of a mentally-ill person. The third point concerns the decision-making process as regards the type of treatment to be given to patients, and the fourth point concerns the question of the abuse of the civil and social rights of a person considered to be suffering from mental ill-health.

200. The view was expressed that attention should also be given to the situation of people who are described as deviants by their own society, or even by their own families. Such a situation is particularly poignant in the case of minorities in multi-cultural societies who would not be considered as deviants by their own group. In this connection, it was suggested that statistics regarding race or ethnic origin of persons detained on grounds of mental ill-health should be mentioned

in the study. It was said that statistics on the percentage of criminal offenders who are detained in mental institutions, or prisons, should also be mentioned.

201. Reference was made to the various kinds of mental institutions which exist, and it was suggested that particular attention should be given to those in which the most difficult cases of mental illness are placed and manifestations of intolerance are likely to occur.

202. Reference was also made to a large number of people who, in some countries, do not have access to any kind of medical treatment for mental illness for economic, social or other reasons. It was stated, in this regard, that very often crimes committed by mentally-ill persons might not have been committed if such persons had received adequate medical treatment.

203. The Special Rapporteur thanked all speakers for their contributions and suggestions, which she would take into consideration in the final report. She also thanked the specialized agencies, regional organizations, in particular the Council of Europe, and the non-governmental organizations, especially the International Association of Penal Law, the International Commission of Jurists, for their replies and important contribution to the subject-matter.

204. Finally, she suggested that a sessional working group should be established to consider the draft body of guidelines, principles and guarantees which she will elaborate, as requested, and submit to the Sub-Commission at its thirty-fifth session.

Study on relevant guidelines in the field of computerized personal files, particularly as they effect the privacy of the individual

205. On behalf of the Special Rapporteur, Madame Questiaux, her alternate, Mr. Louis Joinet, made a statement on the study.

206. He stated that the study was not designed to analyse the problem in all its aspects but, with due regard for the many studies that had already been made, to examine guidelines which might be taken into account in that field. Data processing had assumed a planetary dimension, although it was practised to different extents in different parts of the world; and many developing countries participated in international conferences on the subject. The whole of the international community was involved. In accordance with the Special Rapporteur's terms of reference, it was essential to make a distinction between two kinds of situations considering the problems raised by the development of data processing: firstly, the specific problems posed by the development of computerized records kept by international organizations; and secondly, the general problems for States arising out of the use of computerized personnel files on their territory, whether in the public or the private sector.

207. With regard to files kept by international organizations, the investigations in progress had led to the following observations: some of the files concerned, particularly those referring to personnel questions, were for internal use. Others had been established for statutory purposes, i.e., to help the organization to improve the performance of its task. In that connection Mr. Joinet noted in particular that WHO and the Council of Europe had already made arrangements for their own staff members to have access to all or part of the computer records concerning them. He then suggested that international organizations might perhaps be invited to devise common standards. The elaboration of standards which international organizations would apply of their own accord would enable them to

retain - if not their independence - at least their autonomy with respect to the host State since, in the absence of provisions to the contrary in the headquarters agreements of the organizations, the local law would apply.

208. With regard to files within the jurisdiction of States, Mr. Joinet stated that a comparative study of legislation in force or in preparation showed that certain principles were commonly accepted - in particular the principle of honesty in the collection of information, the principle of accuracy and the principle of objective. The objective of establishing a file had to be specified before it was set up so that checks could be made to determine whether the information collected was relevant and whether it was being abused.

209. Mr. Joinet, further stated that problems which arose from the movement of individual files across frontiers would be examined in the final report. He noted in that connection that, pending an international agreement and in order to ensure that national legislation was not evaded by the export of files to the territory of States without protective regulations, certain Governments had taken protective measures under their domestic law. Such measures might lead to a certain protectionism which could be avoided only by an appropriate international instrument which would ensure the free flow of information.

General observations on the item as a whole

210. Several speakers agreed that the item "Human Rights and Scientific and Technological Developments" should cover the whole range of topics included in this field, as revealed by the history of the item within the United Nations system.

211. In addition to the field of electronics, covered by the report being prepared by Madame Questiaux, it was suggested that other topics of concern to the Sub-Commission could include advances in the field of chemistry, particularly drugs which alter the human mind or those which reduce fertility; the effects of the arms race, particularly regarding advances in nuclear weapons, on human rights; the effects of the mass media on the development of young people, particularly from the point of view of the drug culture; and the dangers involved in the handling of uranium and the need for effective measures to safeguard the people who handle this material.

212. Specific suggestions for further studies which might be considered by the Sub-Commission under this item were made. In the view of some speakers, one such study could analyse the effects of the nuclear arms race on the economic and social rights of people. A further suggestion was made concerning a study on the use of bacterial, chemical or nuclear weapons, including the use of nuclear weapons in space.

213. It was also recalled in this connection that the Commission on Human Rights, in resolution 38 (XXXVII), in recognizing that the establishment of the new international economic order calls for a substantial contribution to be made by science and technology to economic and social progress, had instructed the Sub-Commission to prepare a study on the use of the results of scientific and technological progress for the realization of the rights to work and to development.

214. Statements were made by the representatives of the following non-governmental organizations; International Commission of Jurists, International Association of Penal Law, International League for Human Rights, and the Procedural Aspects of International Law Institute.

215. On 7 September 1981, a draft resolution (E/CN.4/Sub.2/L.786) was submitted by Mr. Carter, Mr. Chowdhury, Mr. Ferrero, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Masud, Mr. Mudawi, Mrs. Warzazi and Mr. Whitaker. Mr. Akran, Mr. Martinez Baez and Mrs. Odio Benito subsequently became sponsors of the draft resolution.

216. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by Mr. Chowdhury.

217. A statement concerning the administrative and financial implications of the draft resolution was made by the Deputy Director of the Division of Human Rights.

218. At the same meeting the draft resolution was adopted without a vote.

219. The text of the resolution as adopted appears in chapter XX, section A, as resolution 20 (XXXIV).

X. STUDY OF THE PROBLEM OF DISCRIMINATION
AGAINST INDIGENOUS POPULATIONS

220. The Sub-Commission considered item 10 of its agenda at its 905th, 906th, 907th, 908th and 927th meetings on 24, 25, 26 August and 8 September 1981.

221. The Sub-Commission had before it the report (E/CN.4/Sub.2/476 and Add.1-6) submitted by the Special Rapporteur, Mr. José R. Martínez Cobo, in accordance with Sub-Commission resolution 5 (XXXIII) and written statements by two non-governmental organizations in consultative status with the Economic and Social Council, the International Indian Treaty Council (E/CN.4/Sub.2/NGO/88) and the Indian Law Resource Center (E/CN.4/Sub.2/NGO/89).

222. In introducing his report, the Special Rapporteur said 24/ he shared the view that indigenous populations were among those human groups that up to now had not been in a position effectively to exert pressure on their respective national communities as well as on the international community to put an end to the discrimination, inhuman treatment and violations of their rights which they suffer on a daily basis. He supported the idea of the creation of adequate machinery to deal with situations calling for urgent attention. The suggested machinery might well take the form of a working group under the Sub-Commission, similar to existing groups of that type. He recalled that the creation of such a group had been explicitly requested in the resolutions of the International Non-Governmental Organizations Conference on Discrimination against Indigenous Populations held in 1977 in the Americas and in the conclusions of the Fourth Russel Tribunal, 1980, as reflected in the report. He also referred to the fact that at the thirty-first and thirty-second sessions of the Sub-Commission in 1978 and 1979, he himself had suggested that it was time for the Sub-Commission to establish such a working group under the Sub-Commission. He saw no incompatibility between the study being prepared under his responsibility and the proposed machinery. International instruments of human rights now in force formed an adequate basis for the protection of general human rights and fundamental freedoms. The recommendations and proposals which will be included in the study would provide, if adopted, an additional basis for the protection of the basic and particular rights of indigenous populations.

223. The Special Rapporteur further indicated that the report now before the Sub-Commission was based on data contained in the summaries of information relating to the 37 countries covered by the study.

224. The consideration of the item centred around the following questions: the report submitted in connection with the study; the establishment of a working group on indigenous populations in the context of the Sub-Commission and the situation of indigenous populations in different parts of the world.

225. All speakers thanked the Special Rapporteur for his report and congratulated him on his excellent work. It was said that the report contained a wealth of material and very valuable information. Several speakers said that it would form a landmark in the work of the Sub-Commission and should be used whenever action concerning indigenous populations is envisaged.

24/ A fuller summary of the Special Rapporteur's statement appears in document E/CN.4/Sub.2/SR.905.

226. It was stated, in this connection, that work on the study itself had already contributed to the protection of the rights of indigenous populations as the report showed that efforts toward improving their conditions were already in progress in various parts of the world. The study had thus created a momentum in favour of the rights and freedoms of indigenous populations which should be maintained.

227. It was noted that the report had revealed how widespread discrimination against indigenous populations was in many parts of the world. The problem was a very complex one. No single solution was appropriate to all situations.

228. Some speakers commended the attention given in the report to the question of the use of vernacular languages, the right to education and equal treatment of all people, whether indigenous or not. It was said that while an official or national language was needed in all countries, it was also necessary to recognize and encourage regional and indigenous languages and to ensure that the initial stages of education, at least, were carried out in the mother tongue.

229. Reference was made to the confusion sometimes made between the problems of indigenous populations and the problems of ethnic, linguistic and religious minorities. It was also said in this regard that the problems of indigenous populations had even been interpreted by some exclusively in terms of the indigenous populations of the American continent and, more particularly, the aboriginal populations of Latin America. It was therefore important to define clearly who the indigenous populations were so that action concerning them could be undertaken on solid grounds.

230. The way indigenous people perceive land ownership and self-determination was mentioned among the elements which differentiate them from ethnic, linguistic and religious minority groups. Self-determination, it was stressed, was an important matter for indigenous populations.

231. One member, after noting that the study on indigenous populations was still not completed after 10 years, expressed the hope that the Special Rapporteur would submit his final report to the Sub-Commission at its thirty-fifth session. It was, however, said in this connection that in accordance with the guidelines for the study, the work had to be done on a vast scale and should be as comprehensive as possible.

232. Many speakers, including the representatives of ILO and UNESCO, supported the idea of establishing a working group on indigenous populations within the context of the Sub-Commission as was also suggested by the Director of the Division of Human Rights in his statement at the opening of the session. It was said that the plight of indigenous populations fully warranted undertaking various courses of action as in the case of indigenous populations, the basic question was one of survival and the action to be taken should be given precedence over considerations of administrative convenience or cost. Machinery was necessary at the national and at the international levels so that members of the indigenous populations would not continue to be excluded from due participation in the formulation of decisions that would affect their future.

233. It was stressed that the setting-up within the United Nations of an appropriate body to which indigenous people could have recourse on a regular basis and which would further study their problems, would be an important step. Ultimately the adoption of standards for the human rights of indigenous populations, in the form of a multilateral convention and the establishment of a system for the implementation of the convention, should be envisaged. In this connection the Sub-Commission was

informed that the working group on indigenous populations set up by the nordic countries has indicated that it supported the idea of establishing a working group on indigenous populations by the Sub-Commission, which should engage in gathering and fact-finding activities and make relevant recommendations.

234. Some speakers however expressed some reservations as regard the establishment of such a working group. It was stated, in particular, that the working group should be given a clear mandate.

235. However, one member expressed the view that it was not necessary to establish a working group on indigenous populations. Proliferation of working groups, it was said, should be avoided. Working groups were needed only for preliminary examination of a question, as, for example, in the case of communications.

236. It was stated that every effort should be made to promote, in the United Nations, the rights of oppressed groups in order to prevent them from resorting in desperation to other means, which often included violence. Many speakers pointed out that indigenous populations were among the most vulnerable groups in the world, unable to put pressure on Governments in an effective way and unable to participate in the institutions which affected their lives.

237. It was stressed that the situation was different in each country concerned and that manifest violations of the human rights of the indigenous populations were either practised or allowed in some countries. The elimination of legal discrimination was not enough to put an end to the problem. Efforts should be made to modify the customs and the political, economic and social structures of the countries concerned.

238. Respect for the culture of indigenous populations, the protection of the right of association and the right to form trade unions were also important. In this connection, reference was made to the problem that historically the indigenous populations have to face in the economic, social, cultural and political fields. The view was expressed that in some countries, even now so called development projects funded by international financing agencies constitute a threat to the existence of indigenous populations. In particular the responsibility and accountability of these agencies are not adequately defined. Furthermore they are not open to independent scrutiny.

239. Reference was also made to the question of reservations for indigenous populations. It was said that while reservations might help preserve their identity, they might also be considered as being incompatible with the provisions of the International Convention for the Suppression and Punishment of the Crime of Apartheid. On the other hand, a policy of integration could result in the loss of identity.

240. Mention was also made of certain aspects of the situation of indigenous populations in a number of countries.

241. The opinion was expressed that the rights to be specifically granted to indigenous populations should include inter alia (a) the right to carry on within their areas of settlement, their traditional economic structure, way of life and culture; (b) the right not to be dispossessed of their land and natural resources; (c) the right to maintain and use their own language as an official language; (d) the right to call themselves by their own proper name and to express freely their ethnic, cultural and other special characteristics; (e) the right to have an official status and to form their own representative organizations; and, (f) the right to receive education and information in their own language.

242. The observers for Argentina, Bangladesh and Brazil also made statements.

243. References were made to ILO's work in this field, to UNESCO's current programme of regional meetings of experts to discuss ways conducive to ethnodevelopment, and to a recent publication of the World Bank on economic development and tribal peoples. The representatives of those specialized agencies also made statements.

244. References were further made to the International NGO conference on Indigenous Populations to be held in Geneva from 15 to 18 September 1981 and to the Fourth Russel Tribunal and the current initiatives of its secretariat.

245. The Sub-Commission also heard statements by the following non-governmental organizations in consultative status with the Economic and Social Council: the Anti-Slavery Society, the Indian Law Resource Centre, the International Commission of Jurists, the International Indian Treaty Council, the International League for Human Rights, the International Movement for Fraternal Union between Races and Peoples, the International Women's League for Peace and Freedom and the World Council of Indigenous Peoples.

246. The Special Rapporteur, in response to the comments made during the debate thanked all speakers for their interesting and useful comments and suggestions, which he would certainly take duly into account. He added that the preparation of the report had taken a long time but this was due in great part to the fact that Governments and non-governmental organizations had not co-operated in its preparation as positively as had been expected. He added that the study was one that had to be based on summaries of information relating to the countries covered in it, and this had proved to be a very complex and arduous aspect of the work in this case. He also stated that in accordance with the relevant resolution of the Economic and Social Council he was obliged to prepare "a complete and comprehensive" study on the subject. He further noted that although he had in the past opposed the establishment of the working group on slavery, he had now considered it his duty to convey to the Sub-Commission the request made by indigenous organizations and representatives to establish a working group which would be entrusted with the task of dealing with the situation of indigenous populations. Finally he promised that, with adequate assistance, he would complete the study in time for the next session of the Sub-Commission.

247. On 1 September 1981, a draft resolution (E/CN.4/Sub.2/L.772) was submitted by Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Tosevski, Mr. Whitaker and Mr. Yimer. Mr. Joinet subsequently became a sponsor of the draft resolution.

248. The Sub-Commission considered the draft resolution at its 927th meeting, on 8 September 1981, when it was introduced by Mr. Eide.

249. At the same meeting, the Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

250. Also at the same meeting, the draft resolution, as revised, was adopted without a vote.

251. The text of the resolution as adopted appears in chapter XX, section A, as resolution 2 (XXXIV).

252. On 1 September 1981, a draft resolution (E/CN.4/Sub.2/L.773) was submitted by Mr. Bossuyt, Mr. Ferrero, Mr. Joinet, Mr. Martinez Baez, Mrs. Odio Benito and Mrs. Warzazi.

253. The Sub-Commission considered the draft resolution at its 927th meeting, on 8 September 1981, when it was introduced by Mr. Martinez Baez.

254. At the same meeting, the Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

255. The draft resolution was then adopted without a vote.

256. The text of the resolution as adopted appears in chapter XX, section A, as resolution 3 (XXXIV).

XI. THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS

257. The Sub-Commission considered agenda item 11 at its 918th to 920th meetings held on 2 and 3 September 1981 and at its 932nd meeting on 10 September 1981. The Sub-Commission had before it the progress report on the new international economic order and the promotion of human rights (E/CN.4/Sub.2/477) prepared by Mr. Raúl Ferrero, Special Rapporteur, in accordance with Sub-Commission resolution 8 (XXXII). It also had as a background paper the report of the Secretary-General on the international dimensions of the right to development (E/CN.4/1334) and a submission by the World Association for the School as an Instrument of Peace, a non-governmental organization in consultative status with the Economic and Social Council (E/CN.4/Sub.2/NGO/97).

258. In presenting his progress report the Special Rapporteur stated inter alia that he had sought to avoid any duplication of other reports and studies undertaken by the United Nations both in the field of human rights and with regard to issues of a technical nature. He stated that because the present economic order had been imposed at a time when the vast majority of developing countries were still dependent territories and therefore unable to take part in its establishment, it was perforce inequitable and contrary to their interests. The poor could not be expected to accept principles which profited the powerful alone and harmed the weak; in such conditions, principles which profited the powerful alone and harmed the weak; in such conditions, the relationship tends to give rise to exploitation, legal equality to produce material inequality and reciprocal concessions to widen the already immense gap between the rich and the poor countries. Reference was made to General Assembly resolution 3201 (S-VI) on the Declaration on the Establishment of a New International Economic Order, which pointed out that current events have brought into sharp focus the realization that the interests of the developed countries and those of the developing countries could no longer be isolated from each other and that there was a close interrelationship between the prosperity of the developed countries and the growth and development of the developing countries.

259. The Special Rapporteur observed that the level of living of countless millions of people in the developing regions continued to be pitifully low and that while one part of the world lived in comfort and affluence, the great majority lived in abject poverty. He noted that the existing unjust international economic order was a major obstacle to realization of human rights. He called for the establishment of a new and more just international order based on equity, sovereignty, equality, interdependence, mutual benefit and co-operation from all States irrespective of their economic and social system. In the design of a new and more just order, underprivileged indigenous and ethnic groups should not be neglected. They must be given the opportunity of development, through control over their territories and natural resources, as well as their own system of participation, in accordance with appropriate Government policies. The role of disarmament should not be forgotten. It was said that it was difficult for the developing countries, in view of the world's armaments-oriented structure, to pursue their own paths towards progress if at the same time they were confronted with threats of intervention and intimidation from outside. He further observed that the enjoyment of economic, social and cultural rights depended in some measure on the efforts made by States. But it also depended on international solidarity which would make it possible to redress the unequal distribution of wealth among nations and the widening gap between the rich and the poor countries.

260. All speakers congratulated and thanked warmly the Special Rapporteur for the excellent quality of his progress report. It was said to be a balanced and clear exposé which thoroughly reflected all the issues raised in the Sub-Commission's debate on the item at its previous sessions. It was generally agreed that the new international economic order was not yet a reality and that the concept itself had still to mature and evolve. Some speakers were of the opinion that the report should include more consideration of the technical economic issues raised by the new international economic order. Thus it was suggested that the final report should include a separate chapter enumerating policy decisions and obligations implied in various new international economic order resolutions, particularly with regard to the liberalization of trade, transfer of resources and transfer of technology. However, it was also said that the report should not simply duplicate economic analyses already undertaken elsewhere within the United Nations system.

261. Many members agreed with the Special Rapporteur that the present economic order had come into being when the developing countries were still dependent colonies of the European powers and that these countries were now demanding a just economic order. It was said that most developing countries were saddled with huge debts that had been incurred in the effort to provide basic facilities for their populations. Most countries were now spending their meagre resources in servicing those debts which continued to impose a great strain on their economies. The first step in efforts to promote human rights in the world was for the rich nations to consider cancelling the debts of the poor countries. Mention was also made of the importance of establishing a common fund to finance buffer stocks and stabilize the prices of primary products. It was noted that those developing countries which succeeded in producing enough were in many cases unable to export their products because of protectionist policies. It was also said that both developed and developing countries were increasingly aware of their inter-dependence; they should revitalize the North/South dialogue in a spirit of partnership and mutual interest rather than of inequality and charity and tackle the causes rather than the symptoms of global problems.

262. The view was expressed that with regard to the question of development in the context of the new economic order, the question was development for whom and development of what kind. The new international economic order was a slogan built on certain assumptions, mainly that the old or existing economic order was not satisfactory because it was inherently unjust. The reasons could be found in the indicators used in the progress report; differences in length of life, infant mortality, per capita gross national product, levels of education. Underlying those indices were the structures of power and of powerlessness. The development policies actually pursued today were based on the resources available in, and the power controlled by, each State, so that the most powerful were also the most developed and the gap was growing because their power was increasing and they were openly ready to use military power to maintain their existing economic power.

263. Several speakers stressed the moral and legal duty of the developed countries towards the under-developed countries. The developed countries, especially the colonial powers, had for a long time exploited the under-developed countries. They tapped their resources and created an economic system which served only the interests of the metropolitan Governments. Decolonization had brought about new States but the colonial legacy had left their leaders with a national economy which could not compete

with that of industrialized countries. In the view of some speakers, the former colonial powers should offer appropriate compensation for the exploitation and degradation of the former colonies' natural resources, for the losses caused by the distortion of their economies and for the unprecedented poverty in which the formerly colonized peoples were forced to go on living. It was suggested that the Special Rapporteur should give consideration to the concept of restitution, in particular relating to world cultural heritage. However, one speaker rejected the notion that reparation was owed by former colonial powers and suggested that such an approach was neither helpful nor realistic.

264. Many speakers referred to the concept of the right to development and the duty to promote that right. The opinion was expressed that the Special Rapporteur should not rely too heavily on the notion of the right to development because of its controversial nature and because it was still on the drawing board. According to another view, resolution of the political aspects of the establishment of a new international economic order would have to precede consideration of the relevant legal norms, including the right to development. A wide variety of views was expressed on the scope and nature of the right to development. One speaker emphasized the need to differentiate between the right to development on the one hand, and economic, social and cultural rights on the other hand. Other speakers said that the right to development was based on the introduction of greater justice in international relationships and the duty of help and solidarity between States, whereas the promotion of economic, social and cultural rights, as defined in the 1966 International Covenant, was a duty which it was incumbent on each State to fulfil through its domestic legislation. Although there was obviously a relationship between the two types of right their implementation posed two different problems. It was observed that while the promotion of economic, social and cultural rights within each individual State was a necessary condition for the introduction of the New International Economic Order, it was not by itself sufficient and there was a danger inherent in the confusion between the rights to development and economic, social and cultural rights. There was a danger that the developed countries might reject their duty of solidarity on the pretext that such and such poor country was not capable of installing a régime conducive to the development of economic and social rights. In that connection, until the developed countries were prepared to question their own internal economic order, the solidarity between countries, which constituted the basis of the right to development, would remain mere assistance from rich to poor. It was observed that while economic, social and cultural rights were basically a domestic matter for each State, the right to development was essentially international and political in nature.

265. The importance of considering the changes required in the national orders of States, not only in developing countries but in all States, was stressed. It was said that developed countries which consumed an exceedingly large part of the world resources proceeded with an economic pillage of developing countries in order to satisfy their needs. The study should therefore focus on the need for fundamental adjustments within developed countries as regards their patterns of consumption and production and on changes that were required within developing countries with regard to the satisfaction of basic elementary needs in the field of nutrition, education, health, housing etc. It should point to the fact that developing countries were being obliged increasingly to rely on commercial financing for development, thus discouraging investment in social sectors and accentuating their dependence on the developed countries.

266. The view was also expressed that the right to development was a right of any individual as well as a right of a group, a nation or a State. In addition, it was stated that the right to development was a collective right of a group, a nation or a State. While the concept of the right to development might be utilized by developing countries in their claims for economic assistance, it could also lead the developed countries to envisage a separate development and to impose a kind of economic apartheid upon developing countries. It was emphasized that if the establishment of a new international economic order should result in a redistribution of world resources in favour of the poorest countries, it should also bring about benefits to the poorest segments of their population.

267. Many speakers noted the importance of the concept of "solidarity", without which true development could not be achieved. It was noted that the right to development for a country meant first that the third world countries, which were lagging behind, should not be blocked in their development efforts and should have the right to control and process their own resources and market the products; and secondly, that they should have the right to fair treatment on international markets and to be assisted in their development when their own resources were inadequate for their own needs. It was further stressed the right to development implied the right to be free from blockages for those who were lagging behind, the right to equal access and the opportunity to realize their own needs and potential, without hindrance from those with greater resources. It was also contended that the three traditional approaches to human rights: the traditional Western liberal notion of freedom; the socialist concept of economic and social rights; and the third world concern with self-development, control of natural resources and rights of the people could no longer be viewed as competing with one another. They were part of the collection of human rights which everyone adhered to, although some were reluctant to embrace the whole. There were, of course, differences of approach.

268. Some members were of the view that basic human rights were indissolubly linked with the right to development. It was observed that there was a risk that under-development and the consequent critical economic situation might in some cases be taken as a pretext to justify the imposition of unconstitutional measures and illegal restriction of individual rights. It has also emphasized that there should be no question of economic and social development being a justification for the infringement of human rights. One speaker asked whether the International Covenant on Economic, Social and Cultural Rights should not include an article similar to article 4 of the International Covenant on Civil and Political Rights concerning derogations from the Covenant under certain conditions. Such an article should define certain economic and social rights which could not be infringed even in cases of emergency due to under-development. Experience showed that when such rights were violated it was always in the interests of the privileged minority. According to another speaker the establishment of priorities in the field of human rights, which already exist in some countries, was necessary in order to bridge the gap between rich and poor nations.

269. With respect to the legal aspects of the report it was suggested that the title of chapter II should be revised to read "International Development Law" and that consideration should be given to the duties of the individual in the development process. In this regard reference was made to several studies, including the report of the Special Rapporteur Mrs. Erica-Irene A. Daes on the individual's duties to the community (E/CN.4/Sub.2/432/Rev.1 and Add.1-7).

270. Many speakers also referred to the strongly detrimental impact of the arms race on the achievement of a new international economic order and to the importance of transferring resource allocations from armaments to development. One speaker also proposed that the study should consider the impact of private investment by corporations of developed countries in developing countries.

271. In connection with the consideration of item 11 as a whole, reference was made to the United Nations Conference on the Least Developed Countries which was being held in Paris from 1 to 14 September 1981. Further, the members of the Sub-Commission appealed to the leaders of the developed countries to help the poor countries to implement their own development programmes, a need that had been recognized by President Mitterand in his statement at the opening meeting of the above-mentioned Conference.

272. The observer for Argentina made a statement on this item.

273. At the close of the debate the Special Rapporteur replied to the main issues raised with respect to his progress report and assured members of the Sub-Commission that the comments and suggestions made during the debate would be taken carefully into account in the preparation of the final report.

274. On 9 September 1981, a draft resolution (E/CN.4/Sub.2/L.795) was submitted by Mr. Akram, Mr. Bossuyt, Mr. Carter, Mr. Ceausu, Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Sayadi, Mr. Hanafi, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Sofinsky, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker and Mr. Yimer.

275. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by Mr. Bossuyt.

276. At the same meeting, the draft resolution was adopted without a vote.

277. The text of the resolution as adopted appears in chapter XX, section A, as resolution 22 (XXXVI).

XII. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM

278. The Sub-Commission considered agenda item 12 at its 908th, 909th, 910th, 911th and 932nd meetings, held on 26 and 27 August and 10 September 1981.

279. In connection with this item, the Sub-Commission had before it the report of the Working Group on Slavery on its seventh session (E/CN.4/Sub.2/486 and Corr.1) and a preliminary report by Mr. Benjamin Whitaker, Special Rapporteur, appointed by the Economic and Social Council by decision 1980/123 of 2 May 1980 (E/CN.4/Sub.2/478). The Sub-Commission also had before it observations transmitted by certain Governments to the Secretary-General concerning reports submitted by non-governmental organizations to the Working Group on Slavery (E/CN.4/Sub.2/AC.2/44; E/CN.4/Sub.2/460; E/CN.4/Sub.2/461; E/CN.4/Sub.2/489); information submitted by INTERPOL in conformity with Economic and Social Council resolution 1695 (LIII) of 2 June 1972 (E/CN.4/Sub.2/482 and Add.1); information submitted by the International Labour Organisation (E/CN.4/Sub.2/484 and Add.1); and a note by the Secretary-General on "Apartheid as a collective form of slavery" (E/CN.4/Sub.2/485).

280. In his introductory statement on the report of the Working Group on Slavery, the Chairman/Rapporteur of the Working Group, Mr. Justice Abu Sayeed Chowdhury, pointed out that the Working Group had received disturbing evidence of the continuation and even increase of slavery and slavery-like practices in many parts of the world, and of the emergence of new forms of slavery. The Working Group had considered information on slavery; forced labour; debt bondage; exploitation of children, including child labour, child prostitution, and the sexual mutilation of female children; traffic in persons and exploitation of prostitution; and apartheid and colonialism. In addition, the plight of the Biharis in Bangladesh had been raised before the Working Group as an urgent humanitarian issue requiring attention by the international community. In conclusion, the Chairman/Rapporteur expressed the hope that the recommendations contained in the report, particularly those relating to slavery, forced labour, debt bondage, child prostitution and the sexual mutilation of female children, would be adopted by the Sub-Commission.

281. The Sub-Commission also heard an introductory statement on his preliminary report by Mr. Benjamin Whitaker, Special Rapporteur entrusted with the task of updating the report on slavery prepared in 1966 by Mr. Awad. He indicated that only limited progress had been made in his work, since the response by Governments to the updated questionnaire on slavery had so far been limited and he had not felt justified in formulating conclusions on that basis. He pointed out that the exercise so far had entailed no expense to the United Nations since the work had been done on the occasion of other commitments in Geneva.

282. All speakers expressed their deep appreciation to Mr. Whitaker for the work he has accomplished so far and requested him to continue his valuable work and to complete the updating of the report as soon as possible.

283. In the course of the debate on the item, the importance and seriousness of the institutions and practices examined by the Working Group on Slavery were emphasized. It was stated that although traditional slavery as practised in ancient times and during the period of colonial expansion and conquest had nearly disappeared other forms of slavery and slavery-like practices, involving the exploitation and oppression of vulnerable groups for the profit of a few, remained. The economic basis of current forms of slavery and slavery-like practices was pointed out, and it was emphasized

that the eradication of these problems required long-term structural reforms in the countries concerned, and the establishment of a more just and equitable social and economic order at both the national and the international level, in order to put an end to all forms of exploitation of man by man.

284. Many speakers stressed that apartheid is a modern form of collective slavery which derives directly from colonial rule, and that South Africa is the only country where slavery, under the guise of apartheid, exists both in law and in practice.

285. One member stated that he had not been present at the 9th meeting of the Working Group when the recommendations and the report as a whole had been adopted.

286. While the Sub-Commission in general expressed its appreciation of the work done by the Working Group, in particular by its Chairman/Rapporteur, Mr. Justice Abu Sayeed Chowdhury, some members expressed reservations concerning some aspects of the procedure followed by the Working Group at its seventh session. It was said that the Working Group had exceeded its mandate, as laid down in Sub-Commission resolution 11 (XXVII) of 21 August 1974, in considering and making recommendations to the Sub-Commission on such issues as the plight of the Biharis in Bangladesh and the question of the sexual mutilation of female children. It was felt that such issues would have been handled more properly under other items of the Sub-Commission's agenda. The suggestion was made that the Sub-Commission should consider establishing rules of procedure and guidelines to govern the work of its working groups.

287. Further, some members felt that the Working Group had exceeded its powers in receiving politically motivated submissions from non-governmental organizations. The view was expressed that not only the substance of a communication but also the identity of its authors and their relationship with the Governments of the countries concerned should be taken into account by the Working Group in assessing the validity of submissions by non-governmental organizations. On the other hand, it was stated that the function of non-governmental organizations is precisely to submit information and evidence concerning slavery and the slave trade in all these practices and manifestations and violations of human rights in general to the attention of Governments, international bodies and regional organizations and to enlighten public opinion.

288. Several members expressed satisfaction at the presence of observers from States at the meetings of the Working Group and emphasized the importance of alerting the Governments concerned when information about their countries was submitted to the Working Group, in order to give them an opportunity to participate in the debate if they so wished.

289. Referring to allegations made by non-governmental organizations, some members stressed that it was important that the Working Group should receive replies from the Governments concerned before adopting any recommendations. They emphasized the value of establishing a continuing dialogue between the Working Group and Governments.

290. In the course of the debate the Sub-Commission heard a statement by the observer for Mauritania concerning statements made by non-governmental organizations before the Working Group on Slavery. The observer for Mauritania, while denying the allegations against his country, invited, on behalf of his Government, the Sub-Commission to send experts to verify the effort made by the Government in this matter. The observer for

Ethiopia stated that the communication from the Anti-Slavery Society was politically motivated and as such should be rejected as inadmissible. This was supported by one other member. The observer for Greece also made a statement on the allegations concerning the exploitation of child labour in his country. He provided important information and valid data and requested that the allegations against his country be totally rejected and proposed the deletion of paragraph 4 (a), page 35, of the Working Group's report.

291. The Sub-Commission also heard a statement by the observer for the United Nations Educational, Scientific and Cultural Organization.

292. Statements were also made by the representatives of a number of non-governmental organizations in consultative status.

293. The Chairman/Rapporteur of the Working Group replied in detail to the comments made by the members of the Sub-Commission and the observers, and defended the work of the Working Group. Referring in particular to the statement made by the observer for Greece, he said that he appreciated the detailed information, facts and figures provided by that observer and that he considered his statement satisfactory.

294. On 28 August 1981, a draft resolution (E/CN.4/Sub.2/L.770) was submitted by Mr. Martinez Baez, Mrs. Odio Benito, Mr. Eide, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Sayadi and Mr. Tosevski.

295. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced and orally revised by Mr. Eide.

296. A statement concerning the administrative and financial implications of the draft resolution was made by the Deputy Director of the Division of Human Rights.

297. The draft resolution as revised was adopted by 22 votes to none.

298. The text of the resolution as adopted appears in chapter XX, section A, as resolution 16 (XXXIV).

299. On 9 September 1981, a draft resolution (E/CN.4/Sub.2/L.796) was submitted by Mr. Akram, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Martinez Baez, Mr. Masud, Mrs. Odio Benito and Mrs. Warzezi.

300. The Sub-Commission considered the draft resolution at its 932nd meeting, when it was introduced by Mrs. Odio Benito.

301. The Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

302. At the same meeting the draft resolution was adopted without a vote.

303. The text of the resolution as adopted appears in chapter XX, section A, as resolution 17 (XXXIV).

XIII. EXPLOITATION OF CHILD LABOUR

304. The Sub-Commission considered agenda item 13 at its 921st, 922nd and 932nd meetings, held on 3, 4 and 10 September 1981.

305. In connection with this item, the Sub-Commission had before it the final report of Mr. Abdelwahab Bouhdiba, Special Rapporteur appointed by the Economic and Social Council by decision 1980/125 of 2 May 1980 to prepare a report on the exploitation of child labour (E/CN.4/Sub.2/479). It also had before it the relevant parts of the report of the Working Group on Slavery on its seventh session (E/CN.4/Sub.2/486 and Corr.1); replies submitted by certain Governments concerning statements on child labour and child exploitation in their countries made by non-governmental organizations before the Working Group on Slavery (E/CN.4/Sub.2/AC.2/36; E/CN.4/Sub.2/AC.2/37; E/CN.4/Sub.2/AC.2/47; E/CN.4/Sub.2/461); information submitted by specialized agencies of the United Nations (E/CN.4/Sub.2/AC.2/51 and E/CN.4/Sub.2/484 and Add.1); and information submitted by non-governmental organizations (E/CN.4/Sub.2/50 and Add.3).

306. In his statement, the Special Rapporteur indicated that it had not been his intention to carry out new research on the question of the exploitation of child labour. Instead, he had sought to study and analyse the existing mass of documentation prepared by international agencies and non-governmental organizations in order to achieve a deeper understanding of the problem and to develop guidelines for future action. He emphasized that, while he had based his study on available statistics, such figures were only estimates and the magnitude of the problem was in all likelihood much greater. His study had revealed that great numbers of children were exploited under horrible conditions in very large areas of the world, and not one country could be said fully to escape the problem. He emphasized, however, the particular gravity of the situation faced by children in the developing countries where extreme poverty forces children on to the labour market at a very early age, depriving them not only of the joys of childhood but also of any possibility to realize their full potential as adults. He pointed to the structural relationship between underdevelopment and the exploitation of child labour and to the correlation between the exploitation of child labour and such factors as illiteracy, lack of educational facilities, malnutrition, unemployment, and the breakup of the family in traditional societies undergoing industrialization. It was necessary, he stated, to develop a global conception of the problem of the exploitation of child labour so that it could be analysed in both its national and its international dimensions. In the study, he had elaborated a typology of kinds of child labour based on a number of variables in order to permit a differentiated analysis and the formulation of programmes of action which would be flexible and country-specific. Accordingly, he listed 11 types of child labour: family farming; family craftwork; craft piece-work; small tasks carried out by the child on its own account; small tasks carried out for third parties; seasonal workers in agriculture; apprenticeship; the sweat-shop system; maid of all work in a situation of virtual bondage; bondservice; and child prostitution.

307. In conclusion, the Special Rapporteur reviewed international efforts aimed at the elimination of child labour and urged that such work should continue and be increased, and that the question of child labour be made an integral part of the action for the establishment of a new international economic order. He emphasized the need for energetic repressive action, both by international bodies and by States, against the worst abuses, such as the sale of children, bonded service, and the exploitation of children for prostitution and pornography. On the other hand, the problem of the exploitation of child labour required a long-term global strategy involving co-ordinated action by the international organizations concerned, States, the trade unions and non-governmental organizations and he expressed the hope that the Sub-Commission would endorse the recommendations contained in his report.

308. Many members of the Sub-Commission warmly congratulated the Special Rapporteur on, thanked him for, the excellent, thorough and penetrating analysis in his final report of the legal, economic, social and cultural aspects of the exploitation of child labour and commended his clear and remarkable introductory statement. Speakers voiced full support for the conclusions and recommendations included in the report. Expressing agreement with the Special Rapporteur, they emphasized that the adoption of legislative measures was insufficient to solve the problem, which required concrete action at all levels, with the assistance of the international organizations concerned. It was pointed out that the exploitation of children for prostitution and pornography, and the sale of children, were particularly grave examples of the perverted use of resources by certain rich countries, and that all efforts should be made to put an end to such abuses. The importance of the role of the non-governmental organizations in exposing these and other oppressive practices was emphasized. It was also suggested that the report of the Special Rapporteur should be printed and given the widest possible publicity.

309. Other speakers felt that it would be advisable for the Special Rapporteur to supplement his report, if he so wished, with additional data and information for reconsideration by the Sub-Commission at its thirty-fifth session. It was also suggested that the Special Rapporteur should be invited to present his report to the Commission on Human Rights at its thirty-eighth session.

310. In connection with this item, the Sub-Commission also heard a statement by the observer for the International Labour Office, who reviewed the work of the International Labour Organisation in the field of child labour. A statement was also made by the observer for Spain, as well as by observers for the Anti-Slavery Society for the Protection of Human Rights and the International Abolitionist Federation.

311. Summing up, the Special Rapporteur again emphasized the historical, legal, economic, social and cultural dimensions of the problem, which required deep-reaching structural reforms at both the international and the national level for its solution. Since the International Year of the Child, the problem had been posed with increasing urgency in an ever-wider number of forums and the conspiracy of silence had been broken. Effective concerted action was now required by the international community.

312. On 4 September 1981, a draft resolution (E/CN.4/Sub.2/L.787) was submitted by Mr. Akram, Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martinez Baez, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Masud, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Tosevski and Mr. Whitaker. Mrs. Warzezi subsequently became a sponsor of the draft resolution.

313. The Sub-Commission considered the draft resolution at its 932nd meeting, when it was introduced by Mr. Whitaker.

314. The Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

315. The draft resolution, as revised, was adopted by 22 votes to none.

316. The text of the resolution as adopted appears in chapter XX, section A, as resolution 18 (XXXIV).

XIV. REPORT OF THE SESSIONAL WORKING GROUP ON
THE ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE
OF HUMAN RIGHTS INSTRUMENTS

317. The Sub-Commission considered agenda item 14 at its 928th and 930th meetings on 8 and 9 September 1981.

318. The Sub-Commission had before it the following documentation: (a) a note by the Secretary-General containing a summary of information submitted by Governments in accordance with paragraph 2 of Sub-Commission resolution 1 B (XXXII) (E/CN.4/Sub.2/452 and Add. 1-4); a document prepared by the Division of Human Rights entitled (b) "Human Rights International Instruments: Signatures, Ratifications, Accessions, etc., 1 January 1980" (ST/HR/4/Rev.2); (c) a written statement submitted by the International Alliance of Women, the International Council of Women, the International Federation of Business and Professional Women, the International Council of Jewish Women, the International Federation of University Women, the International Federation of Women Lawyers, the Pan-Pacific and South East Asia Women's Association, the Soroptomist International, the Women's International League of Peace and Freedom, the World Association of Girl Guides and Girl Scouts and the World Young Women's Christian Association (E/CN.4/Sub.2/NGO/87); (d) a written statement submitted by the International Abolitionist Federation (E/CN.4/Sub.2/NGO/92); and (e) the report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments (E/CN.4/Sub.2/L.785).

319. In accordance with Sub-Commission resolution 1 B (XXXII) of 5 September 1979 a sessional Working Group of five on the encouragement of universal acceptance of human rights instruments had been established by the Sub-Commission, and Mr. I. Jimeta was appointed Chairman-Rapporteur of the Group. The other members appointed were: Mr. M. Bossuyt, Mr. S.S.A. Masud, Mr. J. Oyhanarte and Mr. I. Toševski. Mr. J.F. Gomensoro represented Mr. J. Oyhanarte at several meetings.

320. The Group held six meetings on 19, 20, 21, 25 and 26 August 1981 and 4 September 1981. The report of the Working Group (E/CN.4/Sub.2/L.785) was submitted to the Sub-Commission by the Chairman-Rapporteur of the Working Group, who noted that, as requested by the Sub-Commission in resolution 1 B (XXXII), the Working Group had examined replies received from certain Governments. In addition, the Working Group had held a preliminary discussion regarding some issues involved in the non-ratification of or non-accession to certain human rights instruments. Mr. Jimeta expressed gratitude to those Governments which had sent the information requested in paragraph 2 of resolution 1 B (XXXII) and thanked the representatives of Sweden and the Syrian Arab Republic, who had clarified orally the positions of their Governments.

321. As a result of the intervention of a member on new ratifications, Mr. Jimeta indicated to the Sub-Commission the names of 13 additional States which had ratified various conventions on human rights in 1980.

322. The Sub-Commission, without a vote, took note of the report of the Working Group as orally revised by Mr. Jimeta.

323. Paragraphs 5-34 of the report as revised read as follows:

"1. ...

2. ...

"3. ...

4. ...

"II. Documentation

"5. The Working Group had before it the following documentation:

(a) A note of the Secretary-General containing a summary of the information submitted by Governments in accordance with paragraph 2 of Sub-Commission resolution 1 B (XXXII) (E/CN.4/Sub.2/452 and Add. 1-4);

(b) Human Rights International Instruments: Signatures, Ratifications, Accessions, etc., 1 January 1980 (ST/HR/4/Rev.2). The Working Group noted that between 1 January 1980 and 15 June 1981 the following ratifications and accessions had been received, according to information available to the Secretariat of the Working Group: (i) International Covenant on Economic, Social and Cultural Rights: Central African Republic, France, Honduras, Mexico, Nicaragua, Sri Lanka; (ii) International Covenant on Civil and Political Rights: Australia, Central African Republic, France, Mexico, Nicaragua, Sri Lanka; (iii) Optional Protocol to the International Covenant on Civil and Political Rights: Central African Republic, Nicaragua, Peru, Trinidad and Tobago; (iv) International Convention on the Elimination of all Forms of Racial Discrimination: Gabon, Uganda; (v) Convention on the Prevention and Punishment of the Crime of Genocide: Barbados, Viet Nam; (vi) International Convention on the Suppression and Punishment of the Crime of Apartheid: Bahamas, Central African Republic, Gabon, Mexico, Nicaragua, Rwanda, Suriname, Viet Nam; (vii) Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery: Togo. The Working Group expressed the opinion that the above-mentioned document (ST/HR/4/Rev.2) was of great value for its work and for use by Governments and that efforts should be made by the Secretariat to keep that document up to date;

"(c) A written statement submitted by the following non-governmental organizations in consultative status with the Economic and Social Council: International Alliance of Women, International Council of Women, International Federation of Business and Professional Women (Category I); International Council of Jewish Women, International Federation of University Women, International Federation of Women Lawyers, Pan-Pacific and South East Asia Women's Association, Soroptomist International, Women's International League for Peace and Freedom, the World Association of Girl Guides and Girl Scouts and the World Young Women's Christian Association (Category II), (E/CN.4/Sub.2/NGO/87).

"(d) A written statement submitted by the International Abolitionist Federation, a non-governmental organization on the Roster (E/CN.4/Sub.2/NGO/92).

"III. Summary of debates

"(a) Mandate

"6. A brief debate took place on the question of the competence of the Sub-Commission regarding the subject-matter of Sub-Commission resolution 1 B (XXXII). While several speakers affirmed the competence of the Sub-Commission, some other participants raised objections in this respect. It was generally agreed that such a debate was outside the mandate of the Working Group.

- "7. The view was expressed by the members that the Working Group was empowered to request additional information and clarification if the replies received from Governments so required. In accordance with paragraph 3 of Sub-Commission resolution 1 B (XXXII), it could also invite, for the same purpose; representatives of the Governments concerned to participate in the discussions of the Working Group. Reference was made to the practice of the Working Group at its first (1990) session as well as to the practice of the Human Rights Committee and of the Committee on the Elimination of Racial Discrimination. An observer from a State, however, expressed reservations as to the competence of the Working Group to request additional information and clarification.
- "8. It was suggested that, under Sub-Commission resolution 1 B (XXXII), Governments might be requested by the Working Group to submit information on the specific difficulties they faced with respect to adhering to particular human rights instruments. A further suggestion was that the Working Group should consider lists of signatories and try to ascertain why States which had signed certain instruments had not subsequently ratified them.
- "9. It was felt by some members that the Working Group should attempt to carry out its tasks in three stages. The first would comprise the examination of written replies received from Governments. At the second stage the Working Group might request additional information from Governments, if such information were deemed necessary. At the third stage the Working Group would identify the main issues involved in non-ratification or non-accession by States to human rights instruments and would attempt to assist States by making concrete proposals as to ways of overcoming various types of difficulties.

"(b) Question of designating other human rights instruments under paragraph 1 of Sub-Commission resolution 1 B (XXXII)

- "10. The Working Group held a discussion on the question of designating other instruments under paragraph 1 of Sub-Commission resolution 1 B (XXXII), including the question of designating the International Convention against the Taking of Hostages and the Convention on the Elimination of All Forms of Discrimination against Women. The observer from a non-governmental organization suggested that the Working Group might also wish to consider designating the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.
- "11. It was pointed out that, in order to ensure the efficiency of the Working Group, it would be preferable not to broaden as yet the list of instruments under review. The Group should, at this stage, try to obtain complete information from States regarding the instruments already included in the present list. Furthermore, a member of the Working Group pointed out that the instruments included in the list under paragraph 1 of Sub-Commission resolution 1 B (XXXII) had been based mostly on drafts elaborated by the Commission on Human Rights, which was not the case for the International Convention against the Taking of Hostages, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. It was also said that it would be premature to review the question of non-ratification of instruments as recent as the two former ones which had been adopted in 1979 and had not yet come into force.

"12. In connection with the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Working Group took note of document E/CN.4/Sub.2/AC.2/43 concerning the status of that Convention. Moreover, it was pointed out that the above-mentioned Convention: (a) had been adopted in 1949 and had already been in force since 1951; and (b) concerned a form of slavery and thus belonged to a group of instruments already under consideration by the Working Group. On these grounds, the members of the Working Group agreed to recommend to the Sub-Commission the inclusion of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in the list of instruments under review.

"(c) Examination of replies received from Governments

"13. The Working Group had before it replies of Governments which had responded to the notes verbales addressed by the Secretary-General on 12 December 1979 and 29 December 1980. During 1980 the replies of the following States to the first note verbale of the Secretary-General were received: Australia, Denmark, Ethiopia, Finland, France, Germany, Federal Republic of, Iran, Iraq, Mexico, Morocco, Netherlands, Philippines, Rwanda, Solomon Islands, Suriname, Sweden, Syrian Arab Republic, United Republic of Cameroon, United States of America, and Uruguay. As of August 1981, the replies of the following States to the second note verbale of the Secretary-General had been received: Bahamas, Barbados, Belgium, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, India, Italy, Luxembourg, New Zealand, Panama, Papua New Guinea, Spain, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and Venezuela.

"14. The Working Group continued the country-by-country examination of the information received from Governments and considered, in E/CN.4/Sub.2/452, replies from the Netherlands, Iran, the Philippines, Rwanda, the Solomon Islands, Suriname, Sweden and the Syrian Arab Republic. The Working Group also heard statements from the representatives of the Governments of Sweden and the Syrian Arab Republic.

"15. The Working Group expressed its appreciation to the Governments that had co-operated with the Sub-Commission by replying to the notes of the Secretary-General (E/CN.4/Sub.2/452 and Add.1-4) and to the representatives of the Governments of Sweden and the Syrian Arab Republic, who participated in the discussion and provided clarifications.

"16. Concerning the reply from the Netherlands, members of the Working Group expressed their satisfaction with the concise information contained in that reply.

"17. With respect to the reply from the Philippines, more information was requested as to the circumstances which so far had prevented the Government from ratifying or adhering to the International Covenant on Civil and Political Rights, the Optional Protocol to that Covenant and the Protocol amending the Slavery Convention signed in Geneva on 25 September 1926.

"18. Turning to the reply from Rwanda, the Working Group requested information regarding the non-adherence of that State to the Optional Protocol to the International Covenant on Civil and Political Rights, the Slavery Convention, the Protocol amending the Slavery Convention signed in Geneva on 25 September 1926 and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and the Institutions and Practices similar to Slavery.

- "19. The Working Group took note of the reply from Iran in which reference was made to the exceptional situation in that country and to the intention of the Government to ratify or adhere to certain human rights instruments in the future. In that connection, information was requested concerning the instruments to which Iran was not yet a party, namely the Optional Protocol to the International Covenant on Civil and Political Rights, the Slavery Convention, the Protocol amending the Slavery Convention signed in Geneva on 25 September 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and the Institutions and Practices similar to Slavery and the International Convention on the Suppression and Punishment of the Crime of Apartheid.
- "20. With respect to the reply from the Solomon Islands, the Working Group requested information as to any further developments regarding the accession of that State to human rights instruments.
- "21. In connection with the reply from Suriname, the Working Group requested additional information regarding any recent steps that the Government may have taken with a view to ratifying or acceding to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Prevention and Punishment of the Crime of Genocide.
- "22. Commenting on the reply from Sweden, members expressed their satisfaction regarding the substantial information contained in that reply. In respect to the non-accession of Sweden to the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Working Group felt that some clarification would facilitate its task and it decided therefore to invite a representative from Sweden to participate in its discussions.
- "23. The representative of Sweden made a statement on 24 August 1981. He stated that although his Government had always strongly disapproved of apartheid, there were legal reasons which prevented Sweden from becoming a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid. It would be difficult to incorporate articles II and III of the Convention into the Swedish Penal Code because the definition of the offence based on these articles would not satisfy the normal requirements of Swedish penal law as to precision. Besides, it would be unusual to incorporate into the Swedish Penal Code an offence which had never been and was most unlikely to be committed in Sweden. Moreover, it was not considered appropriate to establish universal criminal jurisdiction in respect of an offence whose definition was as vague and as wide as that of apartheid. The Swedish Government also considered that apartheid was adequately dealt with in the International Convention on the Elimination of All Forms of Racial Discrimination, to which Sweden was already a party.
- "24. The Working Group took note of this statement by the Swedish representative and expressed its appreciation to the Government of Sweden for co-operating with the Working Group.
- "25. Turning to the reply from the Syrian Arab Republic, the Working Group considered that some additional information would be necessary regarding the Optional Protocol to the International Covenant on Civil and Political Rights and invited the observer from Syria to participate in its discussions.

"26. The representative of the Syrian Arab Republic stated, on 24 August 1981, that Syria was a party to all the human rights instruments mentioned in Sub-Commission resolution 1 B (XXXII) with the exception of the Optional Protocol to the International Covenant on Civil and Political Rights, which was under study. He also pointed out that the Syrian Constitution contained twenty-four articles dealing with the protection of human rights.

"27. The Working Group took note of the statement of the Syrian representative and expressed its appreciation to the Government of the Syrian Arab Republic for co-operating with the Working Group. One member requested further information as to the reasons for which the Syrian Arab Republic had not ratified the Optional Protocol to the International Covenant on Civil and Political Rights.

"(d) Identification of some issues regarding non-ratification or non-accession by States to human rights instruments

"28. The Working Group held a preliminary discussion regarding the issues involved in the non-ratification of or non-accession to certain human rights instruments.

"29. With respect to the International Covenants, federal States had expressed their difficulties due to their federal structure. As to the Optional Protocol to the International Covenant on Civil and Political Rights, Governments had considered as reasons for not becoming parties to it; inter alia: (a) the term "optional" in the title of the Protocol itself; (b) the possibility given to individuals to file complaints against States; and (c) the overlap of the procedure established with regional human rights procedures. Finally, with regard to the Slavery Convention, it was pointed out that Governments had expressed reservations as to the compulsory jurisdiction of the International Court of Justice. With respect to the International Convention on the Suppression and Punishment of the Crime of Apartheid, it was noted that the reasons often given by States for not having become parties to it were that: (a) such States had already become parties to the International Convention on the Elimination of All Forms of Racial Discrimination; (b) in their view, the definition of the crime of apartheid itself was rather vague; (c) the Convention established extra-territorial criminal jurisdiction for the crime of apartheid; and (d) there was incompatibility between the obligations imposed by the Convention and domestic legislation. Incompatibility with domestic legislation was evoked by States as a reason for not adhering to several other instruments as well. It was considered by several members of the Working Group that: (a) the provisions of extra-territorial jurisdiction, and (b) the previous adherence to the International Convention on the Elimination of All Forms of Racial Discrimination were not sufficient reasons for States not becoming parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid.

"30. With respect to the difficulties expressed by States for not becoming parties to various instruments, a member felt that such difficulties were not always technical or legal. Another member suggested that Governments which faced the obstacle of incompatibility with domestic law in respect of certain conventions could still ratify or accede to those conventions by including in their instruments of ratification or accession the sentence: '... unless the Constitution or the State or Federal Law provides to the contrary'. Other speakers, however, expressed their disagreement regarding that suggestion. In their view, by becoming party to a human rights instrument, a State undertook to comply with the provisions of that instrument by adapting, if necessary, its domestic law to international human rights law.

"IV. Recommendations of the Working Group

"31. The Working Group recommends that the Secretary-General be requested to renew the invitation communicated by his notes verbales, dated 12 December 1979 and 29 December 1980, to the Governments of Member States which have not so far replied to those communications. In the note verbale to be sent to each Government: (i) particular reference should be made to the human rights instruments which that Government has not as yet ratified or acceded to; and (ii) the attention of each Government should be drawn to the instruments which it has already signed but not yet ratified. The signatory Governments should be requested to furnish information as to any particular difficulties which they may face regarding such ratification.

"32. The Working Group recommends that the Secretary-General be requested to write to the Governments of the Philippines, Rwanda, Iran, the Solomon Islands and Suriname requesting them to furnish additional information as to the circumstances which have so far not enabled them to ratify or adhere to certain human rights instruments identified by the Group during the examination of their replies.

"33. The Working Group draws the attention of the Sub-Commission to its comments concerning the question of designating other human rights instruments under paragraph 1 of Sub-Commission resolution 1 B (XXXII), including the question of adding to the list the International Convention against the Taking of Hostages, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (paragraphs 10 to 12 above).

"34. The Working Group recommends that the Sub-Commission designate the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others for inclusion in the list of instruments under paragraph 1 of Sub-Commission resolution 1 B (XXXII)."

324. On 8 September 1981, a draft resolution (E/CN.4/Sub.2/L.790) was submitted by Mr. Bossuyt, Mr. Jimeta, Mr. Joinet, Mr. Masud and Mr. Toševski.

325. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by Mr. Joinet.

326. At the same meeting, the draft resolution was adopted by 20 votes to none, with 1 abstention.

327. The text of the resolution as adopted appears in chapter XX, section A, as resolution 19 (XXXIV).

XV. STUDY ON THE INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY,
JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS

328. The Sub-Commission considered agenda item 15 at its 927th, 928th and 932nd meetings on 8 and 10 September 1981.
329. The Sub-Commission had before it a progress report by the Special Rapporteur (E/CN.4/Sub.2/481 and Add.1).
330. In introducing his report, Mr. Singhvi described the mandate entrusted to him as fundamental in the field of human rights. The most progressive laws would remain dead letters if not applied and monitored by a competent, vigilant and independent judiciary. There were, however, indications that this principle was being increasingly denied or arbitrarily restricted today in a number of countries. Information had been received, for instance, concerning stringent time limitations being placed upon the terms of office of judges, forcible transfers of magistrates, the elimination of certain courts, and the murder or disappearance in suspicious circumstances of judges. Alarming reports were received, in particular, regarding the fate of the judicial system under states of emergency.
331. Mr. Singhvi considered that such problems might be related to the major economic, social and cultural changes and the ensuing political upheavals which characterized today's world. Indeed, judges and lawyers should develop an awareness of social change and be attuned to the aspirations of peoples for social justice. At the same time, they should maintain high standards of competence and enjoy guarantees of independence so as to provide a sense of legal security amidst contemporary turmoils. Thus, the judicial system could truly remain one of the main agents of the implementation of human rights.
332. Mr. Singhvi referred to the world-wide interest raised by the study at some United Nations conferences, within professional bodies and academic institutions and among individual scholars, as well as their willingness to contribute to the proposed study. With this in mind, a detailed questionnaire had been prepared by the Special Rapporteur with a view to soliciting responses from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, as well as from certain academic institutions and professional bodies.
333. Mr. Singhvi drew attention to the Draft Principles prepared by a Committee of Experts convened in May 1981 in Syracuse, Sicily, under the auspices of the International Association of Penal Law and the International Commission of Jurists dealing with the qualifications, selection and training of the judiciary, the posting, transfer and promotion of judges, as well as their condition of work, retirement, discipline, removal and immunities (E/CN.4/Sub.2/481/Add.1).
334. Many speakers expressed their deep appreciation of Mr. Singhvi's progress report as well as of his introductory statement. They voiced their continuing interest in this fundamental study.
335. Several participants emphasized the importance of effective guarantees concerning the independence, selection, transfer and removal of judges. The opinion was expressed, in this regard, that collegiality in terms of appointments and

other matters relating to the status of the judiciary was an important guarantee of its independence. Attention was drawn to the institution of the Supreme Judicial Council: such a body, where it existed, should have jurisdiction as general custodian of judicial conduct, and it should be consulted for judicial appointments, at least to superior courts.

336. It was felt that the principle of judicial independence should apply to administrative courts and quasi-judicial tribunals, and that the Special Rapporteur should cover such courts and tribunals in his study.

337. The wish was expressed that, in selecting judges, more attention be paid to making the judicial system widely representative of all sectors and classes of society. In this regard, the role of law assessors (échevinage) in the administration of justice might be strengthened.

338. Some speakers emphasized that, in their view, safeguarding the freedom of association of judges was an essential means of protecting their independence.

339. Attention was drawn to the need to develop the power of the courts to review the growing body of administrative decisions affecting human rights.

340. Several members expressed their concern at the subversion of the judicial system which too often characterized régimes of emergency. They emphasized the need for maintaining basic judicial safeguards under such régimes.

341. Some speakers declared themselves alarmed by what appeared to them as a growing trend in various countries to hold lawyers responsible for the crimes, especially the political offences, imputed to their clients. Measures of intimidation and persecution of lawyers for political motives were alleged in respect of several countries. Attention was drawn by various members to the need for safeguarding the freedoms of association and expression of lawyers.

342. The Special Rapporteur welcomed the observations and suggestions addressed to him and expressed his intention to take them fully into account in the preparation of his study.

343. Statements were made at the 928th meeting by the observers for Morocco and the Syrian Arab Republic. At the same meeting a statement was also made by the representative of the Union of Arab Lawyers, a non-governmental organization in consultative status with the Economic and Social Council.

344. On 9 September 1981, a draft resolution (E/CN.4/Sub.2/L.794) was submitted by Mr. Mudawi.

345. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by the sponsor.

346. The Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

347. At the same meeting, the draft resolution was adopted without a vote.

348. The text of the resolution as adopted appears in chapter XX, section A, as resolution 21 (XXXIV).

XVI. QUESTION OF CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

349. The Sub-Commission considered agenda item 16 at its 917th and 932nd meetings on 1 and 10 September 1981.

350. The Sub-Commission had before it a report of the Secretary-General (E/CN.4/1419 and Add.1-4) on the role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service.

351. At its thirty-seventh session, the Commission on Human Rights, by resolution 40 (XXXVII), had requested the Sub-Commission to study the question of conscientious objection to military service in general, and in particular the implementation of General Assembly resolution 33/165 with a view to making recommendations to the Commission. The Assembly in that resolution had, inter alia, recognized the right of all persons to refuse service in military or police forces which are used to enforce apartheid.

352. Several speakers welcomed the inclusion of the question of conscientious objection to military service in the agenda of the Sub-Commission. It was observed that this issue is a complex one which should be submitted to a thorough and dispassionate study. The issue, it was stated, is not only related to the protection of human rights; it also involves the defence capacity of States and their national security.

353. The view was expressed that just as there are moral objections to the arms race, so there are objections, on the part of some individuals, to carrying out military service. Such objections are based on various grounds: religious, moral, humanitarian and philosophical. It was said in this regard that while concern with national security is legitimate, it often results in problems of conscience for many individuals regarding both the object and the means used to achieve national security. For example, the launching, under the pretext of protecting national security, of an aggressive war, possibly involving the use of nuclear weapons, could pose a grave moral dilemma for some individuals.

354. The need for the Sub-Commission to be informed of administrative and legal measures relating to the question of conscientious objection was stressed. It was stated that military authorities acting alone sometimes lack the necessary impartiality to take decisions on these questions. In this connection, the opinion was expressed that conscientious objection is a right which should be fully protected. Adequate machinery should therefore be established at the national level with a view to ensuring its enjoyment.

355. Some speakers also expressed the opinion that States should envisage alternatives to military service. It was said, in this regard, that the opportunity should be given to young people to perform alternate service, such as building roads, working in hospitals or looking after the mentally ill. Such alternatives would allow young people to engage in more useful, productive and peaceful tasks. It was, however, noted that in some countries the type of alternate service available was not always in the social and humanitarian fields.

356. The need to clarify the issues involved and to find practical ways of dealing with this particular problem was emphasized. In this connection, it was suggested that the Sub-Commission should designate one of its members to undertake an analysis of the various aspects of the problem.

357. Statements were made by representatives of the following non-governmental organizations in consultative status with the Economic and Social Council, Friends World Committee for Consultation and War Resisters International.

358. On 8 September 1981, a draft resolution (E/CN.4/Sub.2/L.791) was submitted by Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Martinez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Perdomo de Sousa, Mr. Toševski, Mr. Whitaker and Mr. Yimer.

359. The Sub-Commission considered the draft resolution at its 932nd meeting, on 10 September 1981, when it was introduced by Mr. Foli.

360. At the same meeting, the Deputy Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolution.

361. Mrs. Warzazi and Mr. Hanafi stated that they could accept the first preambular paragraph. However, if the draft resolution was put to the vote they would have to abstain.

362. Mr. Sofinsky stated that he had not participated in the discussion of the draft resolution.

363. At the same meeting, the draft resolution was adopted without a vote.

364. The text of the resolution as adopted appears in chapter XX, section A, as resolution 14 (XXXIV).

XVII. THE STATUS OF THE INDIVIDUAL AND CONTEMPORARY INTERNATIONAL LAW

365. The Sub-Commission considered item 17 at its 930th meeting on 9 September 1981.

366. It recalled that the Economic and Social Council, endorsing Commission resolution 18 (XXXVII) of 10 March 1981, had authorized the Sub-Commission to appoint Mrs. Erica-Irene A. Daes as Special Rapporteur to prepare a study on "The status of the individual and contemporary international law". The Special Rapporteur, in preparing her study, should take into account the doctrines and practices existing in the various legal systems in the world and the relevant comments made by members of the Sub-Commission.

367. In her statement, the Special Rapporteur recalled that the decision to prepare this new study was based on a recommendation in her report "The duties of the individual to the community" (E/CN.4/Sub.2/432/Rev.1, para. 674C). She would make every effort, with the co-operation of the Secretariat, to meet the expectations of the Sub-Commission. She would also comply fully with the guidelines contained in the resolution.

368. Mrs. Daes expressed the view that the study was important and timely, since there had been, in fact, a marked trend since the end of the First World War towards asserting the role of the individual on the international stage. The contemporary international community should attempt to clarify the main aspects of this trend and to foresee its implications in the field of human rights. Such implications were of great practical importance, for the Special Rapporteur was convinced that the procedural capacity of the individual to defend his cause, as a last resort, before competent and impartial international bodies constituted a decisive guarantee of his human rights. The Special Rapporteur considered as relevant to her study, in particular, the Preamble and Articles 1 (3), 55, 56, 73, 76 (b) and (c) and 87 (b) of the United Nations Charter, as well as the International Covenants on Human Rights, the Optional Protocol and many other international instruments of the specialized agencies, in particular of the International Labour Organisation, and regional organizations. She recalled the experiment of the individual complaint procedures under the German-Polish Upper Silesian Convention of 15 May 1922.

369. At the same time, the Special Rapporteur fully recognized the plurality of theses on the subject in international legal circles, including the view that the Charter provisions on human rights bore directly upon Member States only, the individual being the beneficiary, but not the immediate subject, of international human rights law. She was mindful of the need to safeguard the legitimate procedural interests of the defending State in international litigations against its own citizens.

370. The Special Rapporteur further indicated that she intended to gather information mainly on the basis of replies to a brief questionnaire to Governments, specialized agencies, regional organizations and non-governmental organizations concerned. She also said that she would use, when appropriate, the relevant United Nations and specialized agencies reports and studies and the writings of recognized scholars and scientists. At the thirty-fifth session, she would present an outline with the following structure:

(a) An historical and comparative analysis of the problem in various legal systems;

- (b) The status of the individual in the theory of international law;
- (c) The status of the individual in the practice of international law;
- (d) The necessity of recognition of the status of the individual in international law for the protection of human rights;
- (e) Conclusions;
- (f) Recommendations; and
- (g) A bibliography.

371. The Special Rapporteur also stated that international societies are collectivities composed of individuals, subjects of law, and that international law is a legal order of the community of peoples or of the world association of men. She further pointed out that the present period of international law should be considered as a period of transition towards a new legal order in which the individual would be the subject of international rights and duties independent of his national law, and it was around the respect for human person that new developments and evolving tendencies converged in recognition of the individual as a passive and active subject of international responsibility as well as a subject of international law.

372. All speakers commended the Special Rapporteur for her excellent presentation and expressed their support for and full confidence in her. They also emphasized the importance of the study and displayed great interest in its subject-matter.

373. The opinion was expressed that, in all countries, including the developing world, it was both highly desirable and feasible to harmonize the principle of respect for individual rights with the duties of man towards his community. This view, which underlay Mrs. Daes's previous study (E/CN.4/Sub.2/432/Rev.1 and Add. 1-7) should also guide her in her new endeavour.

374. Some participants said that the Special Rapporteur should take into account the doctrines and practices existing in the various legal systems, as provided by Commission resolution 18 (XXXVII).

375. The wish was expressed that Mrs. Daes should receive all the necessary assistance from the Secretariat, as provided in resolutions 6 (XXXIII) of the Sub-Commission and 18 (XXXVII) of the Commission on Human Rights.

XVIII. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION AND
OF THE DRAFT PROVISIONAL AGENDA FOR THE THIRTY-FIFTH SESSION
OF THE SUB-COMMISSION

376. The Sub-Commission considered agenda item 18 at its 931st meeting on 10 September 1981.

377. The Sub-Commission had before it a note by the Secretary-General (E/CN.4/Sub.2/L.788), prepared in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII), containing a draft provisional agenda for the thirty-fifth session of the Sub-Commission and listing the documents to be submitted under each item and the legislative authority for their preparation.

378. One member expressed reservations about the inclusion of item 3.

379. The view was expressed that the report of the sessional working group which had been established by the Sub-Commission under item 8 of the agenda of the current session (E/CN.4/Sub.2/L.774) should also be submitted to the Sub-Commission at its thirty-fifth session under item 10.

380. The Sub-Commission decided unanimously to adopt the proposal made by Mrs. E.-I. Daes to include a new item in the provisional agenda for the thirty-fifth session. This proposal was seconded by Mr. A. Eide. Under the proposal, the Secretary-General would be requested to prepare a note to assist members of the Sub-Commission in the consideration of the item. The new item would read as follows: "The effects of gross violations of human rights on international peace and security".

381. The draft provisional agenda (E/CN.4/Sub.2/L.788) as amended and supplemented by the Sub-Commission, reads as follows:

1. Election of officers
2. Adoption of the agenda
3. Review of the status and activities of the Sub-Commission and its relationship with the Commission on Human Rights and other United Nations bodies
Legislative authority: Sub-Commission decision 2 (XXXIV)
4. Review of further developments in fields with which the Sub-Commission has been concerned
Reports by the Secretary-General, ILO and UNESCO
Legislative authority: Sub-Commission resolution 5 (XIV)
5. Measures to combat racism and racial discrimination and the role of the Sub-Commission
Report by Mr. Chowdhury
Reports by the Secretary-General
Legislative authority: General Assembly resolution 3377 (XXX); Economic and Social Council resolution 1980/28; Sub-Commission resolutions 1 (XXXI), 2 A (XXXII), 3 (XXXIII), 4 (XXXIII) and 5 (XXXIV)

6. 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

Report by Mr. Khalifa

Legislative authority: General Assembly resolution 33/23; Economic and Social Council decisions 1980/131 and 1981/141; Commission resolutions 7 (XXXIII), 11 (XXXVI) and 8 (XXXVII); Sub-Commission resolutions 2 (XXXI), 2 (XXXIII) and 6 (XXXIV)

7. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)

Legislative authority: Economic and Social Council resolution 1235 (XLII) and Commission resolution 8 (XXIII)

8. The effects of gross violations of human rights on international peace and security

Legislative authority: Sub-Commission decision 4 (XXXIV).

9. Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII)

Confidential report of the Working Group and supporting papers

Legislative authority: Economic and Social Council resolution 1503 (XLVIII) and Sub-Commission resolutions 1 (XXIV) and 2 (XXIV)

10. Question of the human rights of persons subjected to any form of detention or imprisonment

Report by Mrs. Questiaux

Reports by the Secretary-General

Legislative authority: Economic and Social Council resolution 1979/34; Commission resolutions 17 (XXXV) and 10 (XXXVII); Sub-Commission resolutions 7 (XXVII), 10 (XXX), 5 D (XXXI), 17 (XXXIII) and 13 (XXXIII)

11. Human Rights and scientific and technological developments

Report by Mrs. Daes

Report of the sessional Working Group

Report by Mrs. Questiaux

Legislative authority: General Assembly resolutions 33/53 and 35/130 B; Commission resolutions 10 A and 10 B (XXXIII) and 38 (XXXVII); Sub-Commission resolutions 11 (XXXIII), 12 (XXXIII) and 20 (XXXIV)

12. Study of the problem of discrimination against indigenous populations
Final report by the Special Rapporteur, Mr. Martínez Cobo
Legislative authority: Economic and Social Council resolution 1589 (L) and Sub-Commission resolutions 8 (XXIV), 5 (XXXIII) and 2 (XXXIV)
13. The New International Economic Order and the Promotion of Human Rights
Report by Mr. Ferrero
Legislative authority: Sub-Commission resolution 8 (XXXII); Commission resolution 18 (XXXVI); Economic and Social Council decision 1980/126 and Sub-Commission resolution 22 (XXXIV)
14. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism
Report by the Working Group on Slavery on its eighth session
Reports by the Secretary-General
Report by Mr. Whitaker
Legislative authority: Economic and Social Council decision 16 (LVI) of 17 May 1974; Commission resolution 13 (XXIII) and Sub-Commission resolutions 11 (XXVII), 5 (XXIX), 6 B (XXXI), 8 (XXXIII), 9 (XXXIII), 16 (XXXIV) and 17 (XXXIV)
15. Exploitation of child labour
Report by the Working Group on Slavery on its eighth session
Legislative authority: Sub-Commission resolutions 7 B (XXXII) and 18 (XXXIV)
16. Encouragement of Universal Acceptance of Human Rights Instruments
Reports by the Secretary-General
Report of the Sessional Working Group on the encouragement of universal acceptance of human rights instruments
Legislative authority: Sub-Commission resolution 1 B (XXXII), decision 2 (XXXIII) and resolution 19 (XXXIV)
17. Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers
Report by Mr. Singhvi
Legislative authority: Economic and Social Council decision 1980/124; Commission resolution 16 (XXXVI); Sub-Commission resolution 18 (XXXIII) and 21 (XXXIV)
18. Conscientious objection to military service
Reports by the Secretary-General
Legislative authority: Commission resolution 40 (XXXVII) and Sub-Commission 14 (XXXIV)

19. The status of the individual and contemporary international law

Preliminary report by Mrs. Daes

Legislative authority: Commission resolution 18 (XXXVII);
Sub-Commission resolution 6 (XXXIII)

20. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-sixth session of the Sub-Commission

A note by the Secretary-General

Legislative authority: Resolution adopted by the Sub-Commission at its tenth session and Economic and Social Council resolution 1894 (LVII)

21. Report on the thirty-fifth session

Report of the Sub-Commission on its thirty-fifth session.

XIX. ADOPTION OF THE REPORT

382. At its 933rd and 934th meetings, on 11 September 1981, the Sub-Commission considered the draft report on the work of its thirty-fourth session. The draft report, as amended during the course of the discussion, was adopted without a vote at the 934th meeting on 11 September 1981.

XX. RESOLUTIONS AND DECISIONS ADOPTED BY THE SUB-COMMISSION
AT ITS THIRTY-FOURTH SESSION

A. Resolutions

1 (XXXIV). Question of the human rights of persons subjected to
any form of detention or imprisonment 25/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having regard to article 3 of the Universal Declaration of Human Rights which affirms everyone's right to life, and article 6 of the International Covenant on Civil and Political Rights which also affirms the right to life as inherent to every human being,

Recalling General Assembly resolution 32/61 which expressed the desirability of continuing and expanding the consideration of the question of capital punishment by the United Nations and reaffirmed that the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment,

Welcoming the additional members of the United Nations which, during the past year, in furtherance of the above articles and resolution, have abolished capital punishment in their countries,

Concerned over information contained in documents submitted to it about the scale of executions in various parts of the world, particularly of political opponents and imprisoned and detained persons,

Seriously concerned also over the summary execution of persons who are subsequently frequently reported to have "disappeared",

Believing that the information before the Sub-Commission warrants further consideration of issues concerning human rights and capital punishment,

1. Decides to draw the attention of the Commission on Human Rights to the increasing scale of politically-motivated executions and to inform the Commission of the Sub-Commission's view that this problem deserves the most urgent consideration in order to bring an end to these irreversible violations of human rights;

2. Recommends to the Commission to request the Economic and Social Council to call upon Governments to abolish capital punishment for political offences;

3. Requests the Secretary-General to inform the Sub-Commission, at its thirty-fifth session, of the consideration given to this matter by the Commission on Human Rights;

4. Decides to consider the question of human rights and capital punishment at its thirty-fifth session, under the item entitled "question of the human rights of persons subjected to any form of detention or imprisonment".

25/ Adopted at the 920th meeting, on 3 September 1981, without a vote.
See chap. VIII.

2 (XXXIV). Study of the problem of discrimination
against indigenous populations 26/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 5 (XXXIII) as well as Commission on Human Rights resolution 22 (XXXVII) on the study of the problem of discrimination against indigenous populations,

Having heard the statement made by Mr. José R. Martínez Cobo, Special Rapporteur for the study on discrimination against indigenous populations

Expressing its thanks to the Special Rapporteur for his valuable work on the above-mentioned study,

Recognizing the great importance of the subject and of the need to protect and promote the human rights and fundamental freedoms of indigenous populations,

Bearing in mind the concerns expressed in this regard at the World Conference to Combat Racism and Racial Discrimination in 1978,

Believing that special attention should be given to appropriate avenues of recourse at the national, regional and international levels in order to advance the promotion and protection of the human rights of indigenous populations,

Having noted with satisfaction the parts of the report submitted by the Special Rapporteur, Mr. José Martínez Cobo, 27/

1. Decides to give high priority to the item on indigenous populations at its thirty-fifth session;
2. Draws the attention of the Commission on Human Rights to the serious plight of indigenous populations which is of a pressing nature;
3. Emphasizes the need for special measures to be taken urgently in order to promote and protect the human rights and fundamental freedoms of indigenous peoples;
4. To this end submits the following draft resolution to the Commission on Human Rights for consideration:

[For the text see chap. I, sect. A, draft resolution I.]

26/ Adopted at the 927th meeting, on 3 September 1981, without a vote.
See chap. X.

27/ E/CN.4/Sub.2/476 and Add.I-6.

3 (XXXIV). Study of the problem of discrimination against indigenous populations 28/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the report submitted by the Special Rapporteur, Mr. José R. Martínez Cobo, containing the First Part of the Final Report on the Study on the Problem of Discrimination against Indigenous Populations. 29/

1. Expresses its grateful appreciation to the Special Rapporteur for his excellent and valuable reports;
2. Requests the Special Rapporteur to continue his study and to submit to the Sub-Commission, at its thirty-fifth session, the supplementary parts of the final report;
3. Invites the Special Rapporteur to submit to the Sub-Commission, for consideration at its thirty-fifth session, as part of the conclusions and proposals in the final report, a text containing draft principles relating to the rights of indigenous populations;
4. Requests the Secretary-General to provide the Special Rapporteur with all possible assistance for the continuation of his work and for its completion at the earliest possible date.

4 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment 30/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Mindful of the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, and international instruments for the protection of human rights and fundamental freedoms,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the General Assembly on 9 December 1975, 31/

Recalling its resolution 15 (XXXIII) of 11 September 1980,

Recognizing 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,

Taking into consideration the report of the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, 32/

28/ Adopted at the 927th meeting, on 8 September 1981, without a vote.
See chap. X.

29/ E/CN.4/Sub.2/476 and Add.1-6.

30/ Adopted at the 928th meeting, on 8 September 1981, by 22 votes to 1, with 1 abstention. See chap. VIII.

31/ General Assembly resolution 3452 (XXX).

32/ A/35/425.

Requests the Commission on Human Rights to:

(a) Condemn Israeli violations of the Charter of the United Nations and the Universal Declaration of Human Rights, in particular the mass arrests, collective punishment, administrative detention and ill-treatment of the Arab population, the torture of persons under detention and the inhuman conditions in Israeli prisons;

(b) Call upon Israel to release all Palestinian political detainees or prisoners and to ameliorate the conditions of all detainees and prisoners held in Israeli prisons, with a view to meeting international standards.

5 (XXXIV). Measures to combat racism and racial discrimination and the role of the Sub-Commission 33/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 4 A (XXXVIII) on measures to combat racism and racial discrimination and the role of the Sub-Commission,

Having discussed the preliminary draft report 34/ of the study on discriminatory treatment against members of racial, ethnic, religious or linguistic groups at 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 all forms of racism in the administration of criminal justice,

Expressing its thanks to the Special Rapporteur, Mr. Justice Abu Sayeed Chowdhury, for his work in preparing the preliminary draft report,

Bearing in mind the urgent need to complete the above-mentioned study,

1. Requests the Special Rapporteur to continue his work and to submit the final report to the Sub-Commission at its thirty-fifth session;
2. Requests the Secretary-General to provide all possible assistance to the Special Rapporteur so as to facilitate his work;
3. Decides to consider the above-mentioned study at its thirty-fifth session, under the agenda item entitled "Measures to combat racism and racial discrimination and the role of the Sub-Commission".

33/ Adopted at the 929th meeting, on 9 September 1981, without a vote.
See chap. IV.

34/ E/CN.4/Sub.2/L.766.

6 (XXXIV). 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 35/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having noted with satisfaction the updated report submitted by the Special Rapporteur, Mr. Ahmed Khalifa, 36/

1. Invites, in accordance with resolution 8 (XXXVII) of the Commission on Human Rights and decision 1981/141 of the Economic and Social Council of 8 May 1981, the Special Rapporteur, Mr. Ahmed Khalifa;

(a) To continue to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the colonial and racist régime in South Africa, giving such details regarding enterprises listed as the Rapporteur may consider necessary and appropriate, and including explanations or responses, if any, and to submit the updated report through the Sub-Commission to the Commission on Human Rights;

(b) To use all available material from other United Nations organs, Member States, specialized agencies and other intergovernmental organizations, non-governmental organizations, and other relevant sources in order to demonstrate clearly the volume and nature of the assistance given to the racist régime in South Africa;

2. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in the exercise of his mandate, including the possible use of computerized assistance in the preparation of future updated reports;

3. Invites the Secretary-General to give the updated report of the Special Rapporteur the widest publicity;

4. Recommends to the Commission on Human Rights that the Committee which has been set up under the Convention on the Suppression and Punishment of the Crime of Apartheid should be asked to examine whether the actions of transnational corporations which operate in South Africa come under the definition of the crime of apartheid, and whether or not some legal action could be taken under the Convention;

5. Decides further to consider the item entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa" as a matter of high priority at its thirty-fifth session.

35/ Adopted at the 929th meeting, on 9 September 1981, without a vote.
See chap. V.

36/ E/CN.4/Sub.2/469.

- 7 (XXXIV) ~~X~~ Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 37/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering the question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories,

Recalling the "Study of Discrimination in Respect of the Right of Everyone to Leave Any Country, Including His Own, and to Return to His Country" 38/ presented to the Sub-Commission at its fifteenth session in 1963 by the Special Rapporteur, Mr. Jose D. Ingles, and the draft principles and recommendations adopted by the Sub-Commission and transmitted to the Commission on Human Rights at that same session,

1. Requests the Secretary-General to submit to the Sub-Commission at its thirty-fifth session a concise note informing the Sub-Commission of the consideration which has been given by the Commission on Human Rights and the Economic and Social Council to the report on the aforementioned study;

2. Decides to discuss this matter further at its thirty-fifth session.

- 8 (XXXIV). Question of the violation of human rights and fundamental freedoms including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 39/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Welcoming the adoption by the Commission on Human Rights at its thirty-seventh session and by the Economic and Social Council at its first regular session of 1981 of a Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief,

Recalling its resolution 10 (XXXVIII) in which it expressed its profound concern for the safety of the members of the Baha'i Community in Iran and requested the Secretary-General to invite the Government of Iran to grant full protection of fundamental rights and freedoms to this religious minority,

37/ Adopted at the 929th meeting, on 9 September, by 16 votes to 1, with 3 abstentions. See chap. VI.

38/ United Nations publication, Sales No. 64.XIV.2.

39/ Adopted at the 929th meeting, on 9 September 1981, by 19 votes to none, with 5 abstentions. See chap. VI.

Having now heard statements clearly demonstrating the systematic persecution of the Baha'is in Iran, including summary arrests, torture, beatings, executions, murders, kidnappings, disappearances, abductions, and many other forms of harassment,

Convinced that the treatment of the Baha'is is motivated by religious intolerance and a desire to eliminate the Baha'i Faith from the land of its birth,

Concerned that the Government of Iran appears to have ignored all previous approaches made on behalf of this Community,

1. Expresses its profound concern for the perilous situation facing this religious Community;

2. Appreciates the efforts already made by the Secretary-General on behalf of this Community;

3. Urges the Secretary-General to continue his efforts to persuade the Government of Iran to prevent further attacks on the Baha'i Community and to grant them religious freedom;

4. Draws the attention of the Commission on Human Rights to the perilous situation faced by the Baha'i Community of Iran and requests the Secretary-General to submit all relevant information about the treatment of the Baha'is in Iran to the Commission on Human Rights at its thirty-eighth session.

9 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 40/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles and purposes of the Charter of the United Nations, and the Universal Declaration of Human Rights and the principles and provisions of the Geneva Conventions, particularly the fourth Convention,

Guided also by resolutions ES-7/2 and ES-7/3 on the question of Palestine adopted by the General Assembly on 1 August 1980 at its seventh emergency special session and General Assembly resolutions 35/75 of 5 December 1980 and 35/122 of 11 December 1980,

Recalling its resolution 20 (XXXIII) of 11 September 1980,

Recalling Commission of Human Rights resolutions 1 (XXXVII) and 2 (XXXVII) of 11 February 1981,

Deploring the refusal of the Israeli authorities to abide by the relevant resolutions of the General Assembly and the resolutions of the Security Council, mainly resolutions 446 (1979), 465 (1980), 476 (1980), 478 (1980) and 484 (1980,

Gravely concerned by reports of continuing inhuman Israeli practices in the occupied Arab territories,

1. Expresses its thanks to the Secretary-General of the United Nations for having supplied the Sub-Commission with valuable reports, studies, documents, including document E/CN.4/Sub.2/483, statistics and the texts of relevant decisions and resolutions concerning the Palestinian question and describing the multiple violations of human rights committed by Israeli authorities against the Arab population in the occupied territories, and requests the Secretary-General to draw upon all the new documents and studies and to submit a detailed up-to-date and revised report to the Sub-Commission at its thirty-fifth session;

2. Recommends the Commission on Human Rights to:

(a) Reaffirm 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;

(b) Reaffirm the inalienable right of the Palestinians to return to their home and property, from which they have been displaced and uprooted, and call for their return in the exercise of their right to self-determination;

(c) Reaffirm the principle of the inadmissibility of the acquisition of territory by force and urge the Israeli authorities to withdraw from all the occupied Arab territories, including the Holy City of Jerusalem, and to stop immediately all excavation and works aimed at the destruction of the essential physical character, demographic composition, historical structure, institutional structure and status of the Holy City of Jerusalem;

(d) Deplore the violations of human rights committed by Israeli authorities in the occupied Arab territories, including the Holy City of Jerusalem;

(e) Condemn bombardment of Palestinian refugee camps in the south of Lebanon as well as in the heart of the city of Beirut which resulted in the loss of the lives of hundreds of civilians, both Palestinians and Lebanese, in complete disregard of all norms of international law, of human rights and the Geneva Conventions;

(f) Disapprove of and regret the refusal of Israel to implement the relevant resolutions and decisions of the General Assembly and the Security Council concerning the Holy City of Jerusalem;

3. Recommends the Commission on Human Rights and the Economic and Social Council to take, as a matter of urgency, the necessary measures for the implementation of this resolution.

- 10 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 41/.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Guided by the principles and purposes of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, particularly articles 1 and 25 of that Covenant which relate to the right to self-determination, and the provisions of the Geneva Conventions, particularly article 3 which is common to those Conventions,

Emphasizing that suppression of the will of a people or a group, and gross violations of their human rights are incompatible with the right to self-determination,

Recalling the well-recognized principle that peoples under suppression of any form, or under domination, have the right to resist such suppression or domination, and should be supported by the international community,

Recalling that in its resolution 35/192 the General Assembly expressed its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador and requested the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in that country,

Taking note of the decision taken by the Commission on Human Rights in its resolution 32 (XXXVII) of 11 March 1981 to designate a special representative with the mandate to investigate the reports about grave violations of human rights in El Salvador and make recommendations as to what steps the Commission could take to help to secure the enjoyment of human rights and fundamental freedoms, including economic, social and cultural rights,

Deeply alarmed by information submitted to the Sub-Commission at the present session from which it appears that the situation of human rights in El Salvador continues to gravely deteriorate,

Convinced that only respect for article 25 of the International Covenant on Civil and Political Rights will assure to the Salvadorian nation, through the participation of all its political forces, the full exercise of its fundamental rights in establishing a democratically elected Government,

Convinced also, however, that at the present time the conditions for holding truly democratic elections do not exist in El Salvador,

Agreeing with the call addressed by the Commission to all parties to bring about a peaceful settlement and to seek an end to acts of violence in order to end the loss of lives and the suffering of the people of El Salvador,

41/ Adopted at the 930th meeting, on 9 September 1981, by 23 votes to 1.
See chap. VI.

Expressing the need for all the Salvadorian political forces to contribute to the initiation of the peaceful settlement and that all efforts to this end should be welcomed,

Recalling meanwhile that the Commission referred, in its resolution 32 (XXXVII), to the rules of international law, particularly to article 3 common to the Geneva Conventions of 12 August 1949 concerning the law of war, which are applicable to armed conflicts not of an international character and which require the parties to the conflict to apply a minimum standard of protection of human rights and of human treatment,

Convinced in this respect of the necessity for urgent humanitarian intercession, in the spirit of the Geneva Conventions and the Protocols thereto, especially by the International Committee of the Red Cross,

1. Recommends to the Commission that it continue to consider the situation of human rights violations in El Salvador as long as the necessary conditions for a just solution are not present;

2. Decides to request the Secretary-General to bring the attention of the Commission and its Special Representative the information received by the Sub-Commission concerning the grave violations of human rights and fundamental freedoms;

3. Takes note of the co-operation shown the International Committee of the Red Cross, the humanitarian actions of which contribute to lessening the grave sufferings of numerous groups of civilian population and hopes that such action spreads to persons who are in conflict on both sides;

4. Requests the Secretary-General to inform the Sub-Commission at its thirty-fifth session of the action of the Special Representative of the Commission and of the deliberations of the Commission on this matter as well as of any consideration which may be given to it by the General Assembly, the Economic and Social Council or the Security Council.

11. (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 5 (XXIII) 42/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 26 (XXXIII) of 12 September 1980 as well as General Assembly resolution 35/35 B of 14 November 1980 which inter alia declared firm opposition to acts of foreign military intervention and occupation which result in the suppression of the right of self-determination and other human rights of peoples in various parts of the world and recommended that the Commission on Human Rights give special attention to this question,

Also recalling resolutions 3 (XXXVI) and 13 (XXXVII) of the Commission on Human Rights concerning the denial of the right of self-determination and other human rights of the people of Afghanistan as a result of foreign armed intervention,

Further recalling General Assembly resolutions ES-6/2 of 14 January 1980 and 35/37 of 20 November 1980 on the situation in Afghanistan, which inter alia reaffirmed the right of the Afghan people to determine their own form of Government and to choose their economic, political and social systems free from outside intervention, subversion, coercion or constraints of any kind whatsoever,

Noting that the above-mentioned resolutions of the General Assembly and the Commission on Human Rights have called for the immediate withdrawal of foreign troops from Afghanistan,

Deeply concerned at the increasing outflow of refugees from Afghanistan,

Also gravely concerned about the widespread reports of the violations of human rights in Afghanistan as a consequence of the foreign armed intervention,

Deeply conscious of the urgent need for a political solution of the grave situation in respect of Afghanistan,

1. Expresses its satisfaction at the call for the immediate withdrawal of foreign troops from Afghanistan;
2. Expresses its deep sympathy with and support for the more than two million refugees who have been driven from Afghanistan;
3. Calls on the Commission on Human Rights to reaffirm the need for a political settlement of the situation in Afghanistan on the basis of the withdrawal of foreign troops and full respect for the independence, sovereignty and territorial integrity and non-aligned status of Afghanistan and strict observance of the principle of non-intervention and non-interference;
4. Invites the Commission on Human Rights to urge all concerned to work towards a settlement which would ensure that the Afghan people would determine their destiny free from outside interference and which would enable the Afghan refugees to exercise their right to return to their homes in safety and honour;
5. Further invites the Commission on Human Rights to urge all concerned to co-operate with the Secretary-General of the United Nations and his personal representative in efforts to bring about such a political settlement of the situation in Afghanistan;
6. Requests the Commission on Human Rights to address an urgent appeal to all States and national and international organizations to extend humanitarian relief assistance with a view to alleviating the hardship of the Afghan refugees, in co-ordination with the United Nations High Commissioner for Refugees;
7. Recommends that the Commission on Human Rights continue to give special attention and high priority to the situation in Afghanistan at its thirty-eighth session.

- 12 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 43/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities;

Having reviewed at its thirty-fourth session information relating to the promotion and protection of human rights in the world,

Gravely concerned over the number and scale of violations of human rights in many parts of the world,

Deeply convinced that it is essential for the United Nations to develop effective ways and means of responding urgently to violations of human rights and fundamental freedoms,

1. Decides to inform the Commission on Human Rights of the Sub-Commission's conviction that the number and scale of gross violations of human rights occurring in many parts of the world requires urgent and effective forms of action by the United Nations and, to this end, decides to inform the Commission that in the view of the Sub-Commission the establishment of a post of United Nations High Commissioner for Human Rights would be highly valuable in advancing the promotion and protection of human rights in the world;

2. Requests the Secretary-General to inform the Sub-Commission at its thirty-fifth session of the deliberations of the Commission on Human Rights on this question at its thirty-eighth session.

- 13 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 44/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling Commission on Human Rights decision 9 (XXXIV) and Commission on Human Rights resolutions 29 (XXXVI) and 11 (XXXVII), as well as Sub-Commission resolutions 4 B (XXXII) and 24 (XXXIII) on the human rights situation in Democratic Kampuchea,

43/ Adopted at the 931st meeting, on 10 September 1981, by 15 votes to 2, with 5 abstentions. See chap. VI.

44/ Adopted at the 931st meeting, on 10 September 1981, by 17 votes to 4. See chap. VI.

Having considered, in accordance with paragraph 6 of resolution 11 (XXXVII) of the Commission on Human Rights, the careful and objective review of further materials on the human rights situation in Kampuchea which was undertaken by Mr. A. Eide, 45/

1. Expresses its appreciation to Mr. A. Eide for his very conscientious work in analysing the situation of human rights in Kampuchea;
2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-eighth session the further materials reviewed by Mr. Eide, together with summary records of the Sub-Commission's consideration of the matter at its thirty-fourth session;
3. Endorses the relevant resolutions of the United Nations on Kampuchea designed to bring about the withdrawal of foreign forces from that country and to enable its people freely to determine their own form of Government without any coercion or domination;
4. Reiterates its recommendation to the Commission on Human Rights to keep the situation of human rights in Kampuchea under continuing review with a view to restoring full respect for human rights and fundamental freedoms as speedily as possible in Kampuchea.

14 (XXXIV). Question of conscientious objection to military service 46/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolution 33/165 in which the Assembly, inter alia, recognized the right of all persons to refuse service in military or police forces which are used to enforce apartheid,

Recalling also Commission on Human Rights resolution 40 (XXXVII) in which the Commission, inter alia, expressed its awareness of the need for a better understanding of the circumstances under which military service may be objected to on the grounds of conscience,

Believing that the various dimensions of the question of conscientious objection to military service and their interrelationships with the promotion and protection of human rights needs further examination,

Mindful of the request of the Commission on Human Rights to the Sub-Commission to study the question of conscientious objection to military service with a view to making recommendations to the Commission,

Having examined the question of conscientious objection to military service at its thirty-fourth session,

45/ E/CN.4/Sub.2/L.700.

46/ Adopted at the 932nd meeting, on 10 September 1981, without a vote.
See chap. XVI.

1. Requests Mr. Mubanga-Chipoya and Mr. Eide to make an analysis of the various dimensions of conscientious objection to military service and its inter-relationships with the promotion and protection of human rights, using the materials from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status available to the General Assembly, the Economic and Social Council, the Commission on Human Rights and the Sub-Commission, and to present to the Sub-Commission at its thirty-fifth session a concise report together with their conclusions and recommendations;
2. Requests the Secretary-General to give Mr. Mubanga-Chipoya and Mr. Eide all necessary assistance for the carrying out of this analysis.

15 (XXXIV). Question of the human rights of persons subjected to any form of detention or imprisonment 47/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolution 35/193 of 15 December 1980 concerning disappeared persons,

Bearing in mind its resolutions 5 B (XXXII) and 18 (XXXIII) on the question of enforced or involuntary disappearances of persons,

Taking into account resolutions 20 (XXXVI) and 10 (XXXVII) of the Commission on Human Rights concerning the Working Group on Enforced or Involuntary Disappearances,

Noting with concern that enforced or involuntary disappearances are still occurring, in varying degrees, in many countries,

Having taken note with appreciation of the work of the Working Group on Enforced or Involuntary Disappearances reflected in its first report 48/ and of the spirit of co-operation displayed by certain countries,

1. Expresses, in addition, its hope that Governments will respond adequately and promptly to requests of the Working Group for information and that, in a humanitarian spirit, Member States will enable members of the Working Group to visit the countries concerned in pursuance of its mandate;
2. Notes that in certain situations the active efforts of the Working Group may have made it possible, particularly through the use of urgent measures to elucidate the fate of persons reported missing and to prevent or reduce the occurrence of new cases;
3. Reiterates the right of families to know the fate of their relatives;
4. Strongly appeals for the reappearance of all detainees currently held in secret detention;

47/ Adopted at the 932nd meeting, on 10 September 1981, by 15 votes to 3, with 2 abstentions. See chap. VIII.

48/ E/CN.4/1435.

5. Expresses its conviction to the Commission on Human Rights that, in view of the persistence of violations resulting from the many cases of disappearance of persons which are still occurring in the world, the extension of the mandate of the Working Group on Enforced or Involuntary Disappearances is indispensable;

6. Recommends to the Commission on Human Rights, pursuant to the request made in its resolution 10 (XXXVII), to give consideration to the following courses of action aimed at improving the prevention and elimination of enforced or involuntary disappearances of persons:

(a) To take the necessary steps so that world public opinion becomes aware of the grave nature of the contemporary phenomenon of enforced or involuntary disappearances and of United Nations actions to eliminate this practice;

(b) To consider that the occurrence of events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied the relevant information within a reasonable period of time after the request, provided always that the veracity of the denunciation is not invalidated by other evidence;

(c) To urge States in which persons have been reported to have disappeared to repeal or refrain from adopting laws which could impede inquiries concerning such disappearances;

(d) To give attention to the need for special measures for the protection of persons including relatives, giving information related to the fate of disappeared persons;

(e) To request the Working Group to prepare for the Sub-Commission at its thirty-fifth session a report containing elements of a general nature based on information available to the Working Group and on the Group's own experience in order to permit the Sub-Commission to continue to make appropriate recommendations concerning the issues referred to in paragraph 4 of its resolution 18 (XXXIII);

7. Decides to consider the question of missing and disappeared persons as a matter of the highest priority at its thirty-fifth session under the agenda item on the question of the human rights of persons subjected to any form of detention or imprisonment.

16 (XXXIV). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 49/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling the goals of the Slavery Convention of 1926, 50/ the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 51/ and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, 52/

49/ Adopted at the 932nd meeting, on 10 September 1981, by 22 votes to none. See chap. XII.

50/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No.: E.78.XIV.2), p.49.

51/ Ibid., p.52.

52/ Ibid., p.60.

Gravely concerned at the evidence of the continuation and even increase of slavery-like practices in many parts of the world, and of the emergence of new forms of such practices, contained in the report of the Working Group on Slavery,

Noting with appreciation that a number of Governments have submitted comments and information to the Working Group on Slavery in reply to requests made by the Sub-Commission, and that several State observers have participated in the Working Group's session,

1. Resolves to devote special attention to issues relating to violations of women's and children's rights, including the sexual mutilation of female children;
2. Recommends to the Commission on Human Rights the adoption of the following resolution:

[For the text see chap. I, sect. A, draft resolution II].

- 17 (XXXIV). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 53/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having examined the preliminary report 54/ submitted by the Special Rapporteur, Mr. Benjamin Whitaker, entrusted with the further extension and updating of the Report on Slavery, 55/

1. Expresses its appreciation to the Special Rapporteur for his valuable report;
2. Requests the Special Rapporteur, Mr. Benjamin Whitaker, to continue further extension and updating of the Report on Slavery referred to above;
3. Requests the Secretary-General to provide the Special Rapporteur with all possible assistance for the continuation of his work;
4. Invites the Special Rapporteur to submit his final report to the Sub-Commission at its thirty-fifth session.

- 18 (XXXIV). Exploitation of child labour 56/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 7 A (XXXVIII) and Commission on Human Rights resolution 17 (XXXVI) on the exploitation of child labour,

53/ Adopted at the 392nd meeting, on 10 September 1981, without a vote.
See chap. XII.

54/ E/CN.4/Sub.2/473.

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

56/ Adopted at the 932nd meeting, on 10 September 1981, by 22 votes to none.
See chap. XIII.

Further recalling decision 1980/125 of the Economic and Social Council authorizing the Sub-Commission to entrust Mr. A. Bouhdiba with the preparation of a report on the exploitation of child labour,

Having considered the excellent report of the Special Rapporteur, 57/

Mindful of the insights derived for the promotion and protection of human rights in general by examination of the human rights situation of particular groups, especially vulnerable groups, such as children,

1. Expresses its deepest appreciation to the Special Rapporteur, Mr. A. Bouhdiba, for his excellent study;
2. Decides to transmit the study to the Commission on Human Rights at its thirty-eighth session and to draw the attention of the Commission to the conclusions and recommendations of the Special Rapporteur, which the Sub-Commission fully endorses;
3. Requests the Special Rapporteur to present the study to the Commission on Human Rights at its thirty-eighth session;
4. Recommends to the Commission on Human Rights that it transmit the study to the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund, the Commission on Social Development and the Commission on the Status of Women, drawing particular attention to the conclusions and recommendations, and request those bodies to submit any comments they may wish to make to the Secretary-General for transmission to the Special Rapporteur;
5. Requests the Secretary-General to transmit the study to the International Criminal Police Organization (INTERPOL) and to invite it to offer its comments to the Special Rapporteur, through the Secretary-General, particularly on the recommendations contained in paragraph 189 of the study;
6. Further requests the Secretary-General to draw the attention of the United Nations University to the study, particularly paragraph 186 thereof, and to invite it to offer its comments to the Special Rapporteur, through the Secretary-General;
7. Invites the International Confederation of Free Trade Unions, the World Federation of Trade Unions, the World Confederation of Labour and the Organization for African Trade Union Unity, organizations in consultative status with the Economic and Social Council, to comment on the study, particularly paragraph 185 thereof, through the Secretary-General;
8. Decides to consider at its thirty-fifth session the drawing up of a concrete programme of action to combat violations of human rights of children through the exploitation of child labour, and to this end invites the Special Rapporteur to present to the Sub-Commission at its thirty-fifth session, any recommendations or observations which he may wish to furnish;

9. Strongly recommends that the Division of Human Rights devote a seminar under the Programme of Advisory Services in the Field of Human Rights to the topic "Violations of human rights through the exploitation of child labour" and consider holding this seminar as soon as possible;

10. Recommends the following draft resolution to the Commission on Human Rights for adoption:

[For the text see chap. I, sect. A, draft resolution III].

19 (XXXIV). Report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments 58/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1 B (XXXII) and its decision 2 (XXXIII) on the encouragement of universal acceptance of human rights instruments,

Having considered the report of the Secretary-General transmitting the information submitted by Governments, 59/

1. Expresses its appreciation to those Governments which have conveyed information to the Sub-Commission;

2. Takes note of the report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments, 60/

3. Requests the Secretary-General to renew the invitation communicated by his notes verbales, dated 12 December 1979 and 29 December 1980, to the Governments of Member States which have not yet replied to those communications, making particular reference to the human rights instruments to which those Governments have not yet become party and drawing the attention of each Government to the instruments which it has already signed but not yet ratified;

4. Requests the Secretary-General to invite the Governments mentioned in paragraph 32 of the report of the sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments to submit any information which they may wish to furnish regarding the circumstances which have so far not enabled them to become parties to the human rights instruments referred to by the Working Group during the examination of their replies;

5. Decides to consider at its thirty-fifth session the question of the inclusion of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 61/ in the list of instruments in paragraph 1 of Sub-Commission resolution 1 B (XXXII).

58/ Adopted at the 932nd meeting, on 10 September 1981, by 20 votes to none, with 1 abstention. See chap. XIV.

59/ E/CN.4/Sub.2/452 and Add.1-4.

60/ E/CN.4/Sub.2/L.785.

61/ Human Rights: A Compilation of International Instruments (United Nations publication, Sales No.: E.78.XIV.2), p.60.

20 (XXXIV). Human rights and scientific and technological developments

Guidelines, principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder 62/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling General Assembly resolutions 33/53 and 35/130 B,

Recalling, in particular, its resolution 11 (XXXIII) by which it entrusted Mrs. Erica-Irene Daes with the task of elaborating: (a) guidelines related to procedures for determining whether adequate grounds exist for detaining persons on the grounds of mental ill-health, and (b) principles for the protection, in general, of persons suffering from mental disorder,

Having considered the excellent and comprehensive preliminary report submitted by the Rapporteur, Mrs. Erica-Irene Daes, 63/

1. Expresses its deepest appreciation and thanks to the Rapporteur, Mrs. Erica-Irene Daes, for the important work accomplished so far and for her remarkable presentation to the Sub-Commission;
2. Requests the Secretary-General to transmit the questionnaire prepared by the Rapporteur 64/ to all Governments to which it has not yet been transmitted and to send a reminder to those Governments, specialized agencies and non-governmental organizations concerned which have not yet complied with the request addressed to them that they submit, as soon as possible, such comments, views and observations as they may wish to make;
3. Further requests the Secretary-General to give to the Rapporteur all the assistance she may require in her urgent and difficult task;
4. Requests the Rapporteur to submit her final report, including a draft body of (a) guidelines related to procedures for determining whether adequate reasons exist for detaining persons on the grounds of mental ill-health or mental disorder, (b) principles for the treatment and protection, in general, of persons suffering from mental disorder, and (c) guarantees for the protection of the human rights of persons suffering from mental disorder, to the Sub-Commission at its thirty-fifth session;
5. Decides to establish, at its thirty-fifth session, a sessional working group to consider the above-mentioned body of guidelines, principles and guarantees with a view to adopting it at its thirty-fifth session.

62/ Adopted at the 932nd meeting, on 10 September 1981, without a vote.
See chap. IX.

63/ E/CN.4/Sub.2/474 and annex.

64/ E/CN.4/Sub.2/474, annex.

21 (XXXIV). Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers 65/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 5 A (XXXII) and 16 (XXXIII) as well as Commission on Human Rights resolution 16 (XXXVI) and decision 1980/124 of the Economic and Social Council,

Having heard the statement by Mr. L.M. Singhvi, Special Rapporteur for the study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers,

Having noted with satisfaction the progress report on this subject submitted by the Special Rapporteur, 66/

1. Expresses its appreciation to the Special Rapporteur for his valuable report;
2. Requests the Special Rapporteur to continue his study and to submit to the Sub-Commission, at its thirty-fifth session, the final report on the question;
3. Requests the Secretary-General to provide the Special Rapporteur with all possible assistance for the continuation of his work;
4. Decides to consider the final report of the Special Rapporteur at its thirty-fifth session under an agenda item entitled "Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers".

22 (XXXIV). The new international economic order and the promotion of human rights 67/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 8 (XXXII) and Commission on Human Rights resolution 18 (XXXVI) on the new international economic order and the promotion of human rights,

Further recalling decision 1980/126 of the Economic and Social Council authorizing the Sub-Commission to entrust Mr. R. Ferrero with the preparation of a report on the new international economic order and the promotion of human rights,

Having considered the excellent progress report of the Special Rapporteur, 68/

1. Expresses its deep appreciation to the Special Rapporteur, Mr. F. Ferrero, for his excellent study;
2. Requests the Special Rapporteur to continue his work with a view to submitting his final report to the Sub-Commission at its thirty-fifth session.

65/ Adopted at the 932nd meeting, on 10 September 1981, without a vote. See chap. XV.

66/ E/CN.4/Sub.2/481 and Add.1

67/ Adopted at the 932nd meeting, on 10 September 1981, without a vote. See chap.

68/ E/CN.4/Sub.2/477.

B. Decisions

- 1 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 69/

The Sub-Commission decided to request the Secretary-General to forward the following text without delay, through the appropriate channels, to the Chairman of the Commission on Human Rights: "The Sub-Commission, concerned over the fate of three members of the African National Congress recently condemned to death, namely Anthony Tstosobe, Nathaniel Shabangu and David Moise, requests the Chairman of the Commission on Human Rights, before it is too late, to intervene urgently for humanitarian reasons on behalf of the three condemned".

- 2 (XXXIV). Review of further developments in fields with which the Sub-Commission has been concerned 70/

The Sub-Commission decided, in view of the wealth of experience it has gained over the past 34 years, and mindful of the need to maximize the efficiency and productivity of the Sub-Commission, with a view to enabling it to study the status of other comparable expert bodies set up within the United Nations system: (a) To introduce into the agenda of its thirty-fifth session a new item entitled "Review of the status and activities of the Sub-Commission and its relationships with the Commission and other United Nations bodies"; (b) That this new item should be given high priority on the agenda.

- 3 (XXXIV). Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) 71/

The Sub-Commission decided: (a) To consider at its thirty-fifth session the positive role a High Commissioner for Human Rights as a United Nations official should play in the full enjoyment of human rights; (b) To request the Secretary-General to provide to the Sub-Commission all relevant information on the establishment of the Office of the High Commissioner for Human Rights.

69/ Adopted at the 913th meeting, on 28 August 1981, without a vote.
See chap. VI.

70/ Adopted at the 922nd meeting, on 4 September 1981, by 20 votes to 2.
See chap. III.

71/ Adopted at the 931st meeting, on 10 September 1981, by 15 votes to 4, with 4 abstentions. See chap. VI.

4 (XXXIV). The effects of gross violations of human rights on international peace and security 72/

The Sub-Commission decided to include in the provisional agenda for its thirty-fifth session a new item entitled "The effects of gross violations of human rights on international peace and security".

5 (XXXIV). Composition of working groups of the Sub-Commission 73/

The Sub-Commission decided that the composition of its working groups should be as follows:

<u>Regional Group</u>	<u>Communications</u>	<u>Slavery</u>
Asia	Mr. Masud (Alternate: Mr. Hadi)	Mr. Chowdhury (Alternate: Mr. Kaddour)
Africa	Mr. Yimer (Alternate: Mr. Foli)	Mr. Mubanga-Chipoya (Alternate: Mr. Khalifa)
Latin America	Mr. Ferrero (Alternate: Mrs. Odio Benito)	Mr. Oyhanarte (Alternate: Mr. Ritter)
Western Europe and other	Mr. Carter (Alternate: Mr. Bossuyt)	Mr. Whitaker (Alternate: Mr. Eide)
Eastern Europe	Mr. Sofinsky (Alternate: Mr. Tosevski)	Mr. Ceausu (Alternate: Mr. Tosevski)

72/ Adopted at the 932nd meeting, on 10 September 1981. See chap. XVIII.

73/ Adopted at the 934th meeting, on 11 September 1981.

Annex I

ATTENDANCE

Members and alternates

Mr. Antonio Martínez Baez	(Mexico)
Mrs. Elizabeth Odio Benito	
Mrs. Marta E. Odio Benito <u>b/</u>	(Costa Rica)
Mr. Marc Bossuyt	(Belgium)
Mr. Beverly Carter Jr.	
Mr. John Carey <u>b/</u>	(United States of America)
Mr. Dumitru Ceausu	
Mr. Mihail Bichir <u>b/</u>	(Romania)
Mr. Abu Sayeed Chowdhury	(Bangladesh)
Mrs. Erica-Irene Daes	(Greece)
Mr. Asbjørn Eide	(Norway)
Mr. Raúl Ferrero	(Peru)
Mr. Jonas K.D. Foli	
Mr. Riyadh Aziz Hadi <u>a/</u>	(Ghana)
Mr. Nuri Humoud Salman <u>b/</u>	(Iraq)
Mr. Ibrahim Jimeta	
Mr. O.A. Owoaje <u>b/</u>	(Nigeria)
Mr. Nasser Kaddour	(Syrian Arab Republic)
Mr. Ahmed Khalifa	
Mr. Waguih Hanafi <u>b/</u>	(Egypt)
Mr. Syed S.A. Masud	(India)
Mr. L.C. Mubanga--Chipoya	(Zambia)
Mr. Mohamed Yousif Mudawi	(Sudan)
Mr. Julio Oyhanarte	
Mr. Juan Facundo Gomensoro <u>b/</u>	(Argentina)
Mr. S. Shariffuddin Pirzada <u>a/</u>	
Mr. Munir Akram <u>b/</u>	(Pakistan)

a/ Not present.

b/ Alternate.

ATTENDANCE

Members and alternates (continued)

Mrs. Nicole Questiaux	
Mr. Louis Joinet <u>b/</u>	(France)
Mr. Jorge Eduardo Ritter <u>a/</u>	
Mrs. Mary Perdomo de Sousa <u>b/</u>	(Panama)
Mr. Vsevolod N. Sofinsky	(Union of Soviet Socialist Republics)
Mr. Ivan Toševski ^v	(Yugoslavia)
Mrs. Halima Warzazi	(Morocco)
Mr. Benjamin Whitaker	(United Kingdom)
Mr. Fisseha Yimer	(Ethiopia)

a/ Not present.

b/ Alternate.

States Members of the United Nations represented by observers

Algeria, Argentina, Australia, Bangladesh, Belgium, Brazil, Canada, China, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Denmark, Egypt, Ethiopia, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guatemala, Iran, Iraq, Israel, Italy, Japan, Jordan, Mauritania, Morocco, Netherlands, New Zealand, Panama, Peru, Spain, Sri Lanka, Syrian Arab Republic, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Viet Nam, Yugoslavia.

Non-member States represented by observers

Republic of Korea, Switzerland.

United Nations bodies

Centre for Social Development and Humanitarian Affairs, United Nations Children's Fund, 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.

Non-governmental organizations in consultative status

Category I

International Alliance of Women, International Chamber of Commerce, International Confederation of Free Trade Unions, International Council of Women, International Youth and Student Movement for the United Nations, Muslim World League, World Federation of Trade Unions, World Muslim Congress.

Category II

Amnesty International, Anti-Slavery Society for the Protection of Human Rights, Arab Lawyers Union, Baha'i International Community, Friends World Committee for Consultation, Institute for Policy Studies, International Association of Democratic Lawyers, International Association of Penal Law, International Association for Religious Freedom, International Commission of Jurists, International

Non-governmental organizations in consultative status (continued)

Category II (continued)

Committee of the Red Cross, International Council of Jewish Women, International Federation of Human Rights, International Federation of University Women, International Federation of Women Lawyers, International Indian Treaty Council, International Law Association, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, Pan-Pacific and South-East Asia Women's Association, Pax Romana, War Resisters International, Women's International League for Peace and Freedom, Women's International Zionist Organization, World Association of World Federalists, World Council of Indigenous Peoples, World Jewish Congress, World Young Women's Christian Association.

Roster

Indian Law Resource Centre, International Abolitionist Federation, International Humanist and Ethical Union, International League for the Rights and Liberation of Peoples, International Progress Organization, Minority Rights Group, Movement against Racism and for Friendship between Peoples, Procedural Aspects of International Law Institute - International Human Rights Law Group, Romani Union, Servas International, World Association for the School as an Instrument of Peace, World Peace Council.

Annex II

FINANCIAL IMPLICATIONS OF RESOLUTIONS AND DECISIONS ADOPTED BY
THE SUB-COMMISSION AT ITS THIRTY-FOURTH SESSION

1. In the course of its thirty-fourth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted 8 resolutions having financial implications. Prior to the adoption of these resolutions, statements of their administrative and financial implications were submitted on behalf of the Secretary-General, in compliance with financial regulation 13.1 and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council. These statements are summarized below.

2. Should the action taken by the Commission on Human Rights and the Economic and Social Council in respect of the above-mentioned resolutions of the Sub-Commission require the Secretary-General to enter into commitments during 1981 and 1982, additional credits, as appropriate, would be required for the biennium 1981-1982.

Resolution 2 (XXXIV). Study of the problem of discrimination against indigenous populations

3. In paragraph 4 of its resolution 2 (XXXIV), the Sub-Commission recommends a draft resolution to the Commission on Human Rights by which the Commission would recommend the Economic and Social Council to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a Working Group on Indigenous Populations which would meet for up to 5 working days before the annual sessions of the Sub-Commission in order to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations, including information requested by the Secretary-General annually from Governments, specialized agencies, regional inter-governmental organizations and non-governmental organizations in consultative status, particularly those of indigenous peoples, to analyse such materials, and to submit its conclusions to the Sub-Commission bearing in mind the report of the Special Rapporteur of the Sub-Commission.

4. On the basis of the foregoing, the relevant costs are estimated as follows:

	1982 (US dollars)
- Subsistence of 5 members of the Sub-Commission for 5 days prior to the thirty-fifth session of the Sub-Commission	2,600
- Conference servicing costs (interpretation and documentation in English, French and Spanish)	38,800
	<hr/> 41,400 <hr/>

Resolution 3 (XXXIV). Study of the problem of discrimination against indigenous populations

5. In paragraph 2 of its resolution 3 (XXXIV), the Sub-Commission requests the Special Rapporteur, Mr. José R. Martínez Cobo, to continue his study and to submit to the Sub-Commission, at its thirty-fifth session, the supplementary parts of the final report.

6. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- Travel (Mexico/Geneva/Mexico, by first-class) of Special Rapporteur to present his final report to the Sub-Commission at its thirty-fifth session, and subsistence for 5 working days 3,200

Resolution 5 (XXXIV). Measures to combat racism and racial discrimination and the role of the Sub-Commission

7. In paragraph 1 of its resolution 5 (XXXIV), the Sub-Commission requests the Special Rapporteur, Mr. Justice Abu Sayeed Chowdhury, to continue his work and to submit the final report to the Sub-Commission at its thirty-fifth session.

8. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- Travel (Dacca/Geneva/Dacca, by first-class) for consultations with Division of Human Rights, and subsistence for 5 working days 3,300

Resolution 6 (XXXIV). Adverse consequences for the enjoyment of human rights or political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa

9. In paragraph 2 of its resolution 6 (XXXIV), the Sub-Commission requests the Secretary-General to give the Special Rapporteur, Mr. Ahmed Khalifa, all the assistance that he may require in the exercise of his mandate, including the possible use of computerized assistance in the preparation of the future updated reports.

10. On the basis of the foregoing the relevant costs are estimated as follows:

1982
(US dollars)

- Travel (Cairo/Geneva/Cairo, by economy class) of Special Rapporteur for consultations with Division of Human Rights and subsistence for 5 working days 1,100
- Computer services 12,800
- 13,900

Resolution 14 (XXXIV). Question of conscientious objection to military service

11. In paragraph 1 of its resolution 14 (XXXIV), the Sub-Commission requests Mr. Mubanga-Chipoya and Mr. Eide to make an analysis of the various dimensions of conscientious objection to military service.

12. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- Visit to Geneva of 2 members of the Sub-Commission to review information available with Secretariat (subsistence for each member for 5 days prior to the thirty-eighth session of the Commission on Human Rights and travel expenses for one member) a/ 1,500

Resolution 16 (XXXIV). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

13. In paragraph 2 of its resolution 16 (XXXIV), the Sub-Commission recommends to the Commission on Human Rights the adoption of a draft resolution by which the Commission would decide, pursuant to an invitation by the Government of Mauritania, to authorize the Sub-Commission to send a delegation, not exceeding 2 persons, to be appointed by the Chairman of the Sub-Commission in consultation with the Government of Mauritania, to visit Mauritania in order to study the situation and ascertain the country's needs.

14. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- One round-trip for 2 members of delegation accompanied by a substantive officer and 1 secretary for consultations with Government of Mauritania (calculated on a notional basis for a period of 5 working days)
- | | |
|---|--------------|
| Travel and subsistence of delegation
(2 x \$2,500) | 5,000 |
| Travel and subsistence of staff | 3,700 |
| | <u>8,700</u> |

a/ The other expert being a member of the Commission on Human Rights.

Resolution 17 (XXXIV). 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 report on slavery

15. In paragraph 2 of its resolution 17 (XXXIV), the Sub-Commission requests the Special Rapporteur, Mr. Benjamin Whitaker, to continue further extension and updating of his report on slavery.

16. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- Travel (London/Geneva/London, by economy class) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days 950

Resolution 18 (XXXIV). Exploitation of child labour

17. In paragraph 3 of its resolution 18 (XXXIV), the Sub-Commission requests the Special Rapporteur, Mr. A. Bouhdiba, to present his study to the Commission on Human Rights at its thirty-eighth session, and in paragraph 8 it invites the Special Rapporteur to present to the Sub-Commission at its thirty-fifth session any additional data, recommendations or observations which he may wish to furnish. In paragraph 10, the Sub-Commission recommends to the Commission on Human Rights for adoption a draft resolution, paragraph 1 of which reads as follows:

18. "The Commission on Human Rights recommends to the Economic and Social Council that the study prepared by Mr. A. Bouhdiba on the Exploitation of Child Labour should be printed and given the widest possible distribution, including distribution in Arabic."

19. On the basis of the foregoing, the relevant costs are estimated as follows:

1982
(US dollars)

- Travel (Tunis/Geneva/Tunis, by economy class) of Special Rapporteur to present his study to the Commission on Human Rights at its thirty-eighth session, and subsistence for 5 working days 900
 - Travel (Tunis/Geneva/Tunis, by economy class) of Special Rapporteur to present his report to the Sub-Commission at its thirty-fifth session, and subsistence for 5 working days 900
 - Editing, translation, reproduction and distribution of the study (it has been estimated on a full cost basis that costs would amount to) 29,700
- 31,500

Resolution 20 (XXXIV). Human rights and scientific and technological developments - Guidelines, principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder

20. In paragraph 3 of its resolution 20 (XXXIV), the Sub-Commission requests the Secretary-General to give to the Rapporteur, Mrs. Erica-Irene Daes, all the assistance she may require in her urgent and difficult task.

21. On the basis of the foregoing the relevant costs are estimated as follows:

	<u>1982</u> (US dollars)
- Travel (Athens/Geneva/Athens, by economy class) of Rapporteur for consultations with Division of Human Rights, and subsistence for 8 working days	1,600

Resolution 21 (XXXIV). Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

22. In paragraph 2 of its resolution 21 (XXXIV), the Sub-Commission requests the Special Rapporteur, Mr. L.M. Singhvi, to continue his study and to submit to the Sub-Commission, at its thirty-fifth session, the final report on the question.

23. On the basis of the foregoing, the relevant costs are estimated as follows:

	<u>1982</u> (US dollars)
- Travel (New Delhi/Geneva/New Delhi by first-class) of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 5 working days	3,400

Annex III

LIST OF DOCUMENTS ISSUED FOR THE THIRTY-FOURTH SESSION
 OF THE SUB-COMMISSION

Documents issued in the general series

		<u>Agenda item</u>
E/CN.4/Sub.2/460	Note by the Secretary-General	12
E/CN.4/Sub.2/461	Note by the Secretary-General	12
E/CN.4/Sub.2/462 and Add.1	Provisional agenda and annotations thereto: Note by the Secretary-General	2
E/CN.4/Sub.2/463	Note by the Secretary-General	3
E/CN.4/Sub.2/464	Memorandum submitted by the International Labour Office	3
E/CN.4/Sub.2/465	Aide-mémoire submitted by the United Nations Educational, Scientific and Cultural Organization	3
E/CN.4/Sub.2/466	Note by the Secretary-General	4
E/CN.4/Sub.2/467	Note by the Secretary-General	4
E/CN.4/Sub.2/468	Note by the Secretary-General	4
E/CN.4/Sub.2/469	Updated report prepared by Mr. Ahmed Khalifa, Special Rapporteur, in pursuance of Economic and Social Council decision 1981/141	5
E/CN.4/Sub.2/470 and Add.1-4	Report of the Secretary-General	8
E/CN.4/Sub.2/471	Synopsis of material received from non- governmental organizations in consultative status with the Economic and Social Council prepared by the Secretariat	8
E/CN.4/1476 E/CN.4/Sub.2/472	Note verbale dated 10 August 1981 from the Permanent Mission of Canada to the United Nations Office at Geneva addressed to the Secretary-General	6
E/CN.4/1434/Add.4 E/CN.4/Sub.2/473 and Add.1	Report by the Secretary-General prepared in accordance with resolution 13 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	8

		<u>Agenda</u> <u>item</u>
E/CN.4/Sub.2/474	Preliminary report by the Rapporteur, Mrs. Erica-Irene Daes	9
E/CN.4/1516 E/CN.4/Sub.2/475	Note verbale dated 14 September 1981 from the Permanent Mission of the Islamic Republic of Iran to the United Nations and the other international organizations at Geneva addressed to the Secretary-General	6
E/CN.4/Sub.2/476 and Add.1-6	Final Report (first part) submitted by the Special Rapporteur, Mr. José R. Martínez Cobo	10
E/CN.4/Sub.2/477	Progress report by Mr. Raúl Ferrero, Special Rapporteur	11
E/CN.4/Sub.2/478	Preliminary report by Mr. Benjamin Whitaker, Special Rapporteur	12
E/CN.4/Sub.2/479	Final report submitted by the Special Rapporteur, Mr. Abdelwahab Bouhdiba	13
E/CN.4/Sub.2/480	Note verbale dated 4 September 1981 from the Permanent Mission of Uruguay to the United Nations Office and the specialized agencies at Geneva addressed to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	6
E/CN.4/Sub.2/481 and Add.1	Progress report by Mr. L.M. Singhvi, Special Rapporteur	15
E/CN.4/Sub.2/482 and Add.1	Note by the Secretary-General	12
E/CN.4/Sub.2/483	Note by the Secretariat	6
E/CN.4/Sub.2/484 and Add.1	Note by the Secretary-General	12
E/CN.4/Sub.2/485	Note by the Secretary-General	12
E/CN.4/Sub.2/486 and Corr.1	Report of the Working Group on Slavery on its seventh session	12
E/CN.4/1477 and Add.1 E/CN.4/Sub.2/487 and Add.1	Letter dated 15 July 1981 from the Permanent Mission of Democratic Kampuchea addressed to the Director of the Division of Human Rights	6

		<u>Agenda item</u>
E/CN.4/1478 E/CN.4/Sub.2/488	Note verbale dated 10 August 1981 from the Australian Permanent Mission to the United Nations Office at Geneva addressed to the Secretary-General	6
E/CN.4/Sub.2/489	Note by the Secretary-General	12
E/CN.4/Sub.2/490	Progress report by Mrs. Questiaux, Special Rapporteur	8
E/CN.4/1479 E/CN.4/Sub.2/491	Note by the Secretary-General	6
E/CN.4/Sub.2/492	Note by the Secretary-General	6
E/CN.4/1514 E/CN.4/Sub.2/493	Note verbale dated 31 August 1981 from the Permanent Mission of the Mongolian People's Republic to the United Nations Office at Geneva addressed to the Director of the Division of Human Rights	6
E/CN.4/1515 E/CN.4/Sub.2/494	Note verbale dated 4 September 1981 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the Division of Human Rights	6
E/CN.4/1512 E/CN.4/Sub.2/495	Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-fourth session	19
E/CN.4/Sub.2/496	Letter dated 11 September 1981 from the Permanent Representative of El Salvador to the United Nations and the other international organizations at Geneva addressed to the Director of the Division of Human Rights	6
E/CN.4/Sub.2/ SR/895-934 a/	Summary records of the thirty-fourth session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	

a/ The summary records of the 923rd to 926th meetings and the first part of the 934th meetings, which were closed, were issued in restricted distribution. No summary record was prepared of the 933rd meeting.

Documents issued in the limited series b/

E/CN.4/Sub.2/L.766	Study on discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice, 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 administration of criminal justice: draft report by Mr. Justice Abu Sayeed Chowdhury, Special Rapporteur	4
E/CN.4/Sub.2/L.767	Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mudawi, Mrs. Odio Benito, Mr. Mubanga-Chipoya, Mrs. Warzazi, Mr. Whitaker: draft resolution (re-issued as document E/CN.4/Sub.2/L.793)	8
E/CN.4/Sub.2/L.768	Mr. Akram, Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Kaddour, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker, Mr. Yimer: draft decision	3
E/CN.4/Sub.2/L.769	Mr. Bossuyt, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Whitaker, Mr. Yimer: draft resolution	8
E/CN.4/Sub.2/L.770	Mr. Eide, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mrs. Odio Benito, Mr. Sayadi, Mr. Tosevski	12
E/CN.4/Sub.2/L.771	Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mrs. Warzazi, Mr. Whitaker: draft resolution	6

b/ The sponsors listed here include those who became sponsors of the resolution or decision subsequent to the issue of the document.

		<u>Agenda</u> <u>item</u>
E/CN.4/Sub.2/L.772	Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Tosevski, Mr. Whitaker, Mr. Yimer: draft resolution	10
E/CN.4/Sub.2/L.773	Mr. Bossuyt, Mr. Ferrero, Mr. Joinet, Mr. Martínez Baez, Mrs. Odio Benito, Mrs. Warzazi	10
E/CN.4/Sub.2/L.774 and Corr.1	Report of the Working Group on the question of the human rights of persons subjected to any form of detention or imprisonment	8
E/CN.4/Sub.2/L.775	Mr. Bossuyt, Mr. Carter, Mr. Eide, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mr. Whitaker	6
E/CN.4/Sub.2/L.776	Mr. Ceausu, Mr. Eide, Mr. Ferrero, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Tosevski, Mr. Whitaker, Mr. Yimer; draft resolution	4
E/CN.4/Sub.2/L.777	Mr. Akram, Mr. Ceausu, Mr. Chowdhury, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Sayadi, Mr. Sofinsky, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker, Mr. Yimer: draft resolution	8
E/CN.4/Sub.2/L.778	Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Whitaker, Mr. Yimer: draft resolution	6
E/CN.4/Sub.2/L.779	Mr. Akram, Mr. Chowdhury, Mr. Foli, Mr. Jimeta, Mr. Khalifa, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Sayadi, Mr. Sofinsky, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker, Mr. Yimer: draft resolution	6
E/CN.4/Sub.2/L.780	Note by the Secretariat	6
E/CN.4/Sub.2/L.781	Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Tosevski, Mr. Whitaker, Mr. Yimer: draft resolution	6
E/CN.4/Sub.2/L.782	Mr. Eide, Mr. Martínez Baez, Mr. Mudawi, Mrs. Warzazi, Mr. Whitaker: draft resolution	6

Agenda
item

E/CN.4/Sub.2/L.783	Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Mubanga-Chipoya, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Toševski, Mrs. Warzazi, Mr. Whitaker: draft resolution	6
E/CN.4/Sub.2/L.784	Mr. Akram, Mr. Ceausu, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Jimeta, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Perdomo de Sousa, Mr. Sofinsky, Mr. Toševski, Mrs. Warzazi, Mr. Yimer: draft resolution	5
E/CN.4/Sub.2/L.785	Report of the Sessional Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments	14
E/CN.4/Sub.2/L.786	Mr. Akram, Mr. Carter, Mr. Chowdhury, Mr. Ferrero, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Martínez Baez, Mr. Masud, Mr. Mudawi, Mrs. Odio Benito, Mrs. Warzazi, Mr. Whitaker: draft resolution	9
E/CN.4/Sub.2/L.787	Mr. Akram, Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Khalifa, Mr. Martínez Baez, Mr. Mubanga-Chipoya, Mr. Mudawi, Mr. Masud, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Toševski, Mrs. Warzazi, Mr. Whitaker: draft resolution	13
E/CN.4/Sub.2/L.788	Note by the Secretary-General	18
E/CN.4/Sub.2/L.789	Mr. Sofinsky: draft resolution	7
E/CN.4/Sub.2/L.790	Mr. Bossuyt, Mr. Jimeta, Mr. Joinet, Mr. Masud, Mr. Toševski: draft resolution	14
E/CN.4/Sub.2/L.791	Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Foli, Mr. Joinet, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Perdomo de Sousa, Mr. Toševski, Mr. Whitaker, Mr. Yimer: draft resolution	16
E/CN.4/Sub.2/L.792	Mr. Jimeta: amendment to draft resolution E/CN.4/Sub.2/L.771	6
E/CN.4/Sub.2/L.793	Mr. Bossuyt, Mr. Carter, Mr. Chowdhury, Mr. Eide, Mr. Ferrero, Mr. Joinet, Mr. Hanafi, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mrs. Warzazi, Mr. Whitaker: draft resolution	8

	<u>Agenda</u> <u>item</u>
E/CN.4/Sub.2/L.794 Mr. Mudawi: draft resolution	15
E/CN.4/Sub.2/L.795 Mr. Akram, Mr. Bossuyt, Mr. Carter, Mr. Ceausu, Mr. Chowdhury, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Sayadi, Mr. Hanafi, Mr. Martínez Baez, Mr. Masud, Mr. Mubanga-Chipoya, Mr. Mudawi, Mrs. Odio Benito, Mrs. Perdomo de Sousa, Mr. Sofinsky, Mr. Tosevski, Mrs. Warzazi, Mr. Whitaker, Mr. Yimer: draft resolution	11
E/CN.4/Sub.2/L.796 Mr. Akram, Mr. Eide, Mr. Foli, Mr. Jimeta, Mr. Joinet, Mr. Martínez Baez, Mr. Masud, Mrs. Odio Benito, Mrs. Warzazi: draft resolution	12
Documents issued in the non-governmental organizations series	
E/CN.4/Sub.2/NGO/85 Written statement submitted by the International Association of Penal Law and the International Commission of Jurists, non-governmental organizations in consultative status, category II	9
E/CN.4/Sub.2/NGO/86 Written statement submitted by the International Association of Penal Law and the International Commission of Jurists, non-governmental organizations in consultative status, category II	15
E/CN.4/Sub.2/NGO/87 Statement submitted by the following non- governmental organizations in consultative status: International Alliance of Women, Equal Rights, Equal Responsibilities, International Council of Women (category I), International Federation of Business and Professional Women, International Council of Jewish Women, International Federation of University Women, International Federation of Women Lawyers, Pan-Pacific and South-East Asia Women's Association, Soroptomist International, Women's International League for Peace and Freedom, World Association of Girl Guides and Girl Scouts, World Young Women's Christian Association (category II)	14
E/CN.4/Sub.2/NGO/88 Written statement submitted by the International Indian Treaty Council, a non-governmental organization in consultative status, category II	10
E/CN.4/Sub.2/NGO/89 Written statement submitted by the Indian Law Resource Center, a non-governmental organization on the Roster	10

	<u>Agenda</u> <u>item</u>	
E/CN.4/Sub.2/NGO/90	Statement submitted by the following non-governmental organizations in consultative status. Anti-Slavery Society for the Protection of Human Rights, Friends World Committee for Consultation, International Council of Jewish Women, International Federation of Human Rights, International Indian Treaty Council, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, War Resisters International, Women's International League for Peace and Freedom, World Council of Indigenous Peoples (category II), Minority Rights Group, Procedural Aspects of International Law Institute, World Peace Council, International Humanist and Ethical Union (roster)	10
E/CN.4/Sub.2/NGO/91	Written statement submitted by the Anti-Slavery Society for the Protection of Human Rights, a non-governmental organization in consultative status, category II.	10
E/CN.4/Sub.2/NGO/92	Written statement submitted by the International Abolitionist Federation, a non-governmental organization on the Roster	14
E/CN.4/Sub.2/NGO/93	Written statement submitted by the International Commission of Jurists, a non-governmental organization in category II	8
E/CN.4/Sub.2/NGO/94	Written statement submitted by the Procedural Aspects of International Law Institute, a non-governmental organization on the Roster	5
E/CN.4/Sub.2/NGO/95	Written statement submitted by the Procedural Aspects of International Law Institute, a non-governmental organization on the Roster	8
E/CN.4/Sub.2/NGO/96	Written statement submitted by the Procedural Aspects of International Law Institute, a non-governmental organization on the Roster	8
E/CN.4/Sub.2/NGO/97	Written statement submitted by the World Association for the School as an Instrument of Peace, a non-governmental organization on the Roster	11
E/CN.4/Sub.2/NGO/98	Written statement submitted by the Indian Law Resource Center, a non-governmental organization on the Roster	6

	<u>Agenda</u> <u>item</u>
E/CN.4/Sub.2/NGO/99 Written statement submitted by the Romani Union, a non-governmental organization on the Roster	6
E/CN.4/Sub.2/NGO/100 Written statement submitted by the International Fellowship of Reconciliation, a non-governmental organization in consultative status, category II	16
E/CN.4/Sub.2/NGO/101 Written statement submitted by the World Peace Council, a non-governmental organization on the Roster	8
E/CN.4/Sub.2/NGO/102 Written statement submitted by the Procedural Aspects of International Law Institute, a non-governmental organization on the Roster	15