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DRAFT REPORT OF THE COMMISSION

Rapporteur: Ms. Ligia GALVIS (Colombia)

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* E/CN.4/1992/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/1992/L.11 and addenda.

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A. Resolutions

1992/43. Question of a draft optional protocol to the Convention against Torture

The Commission on Human Rights,

Recalling its decision 1991/107 of 5 March 1991 to consider at its forty-eighth session the text, proposed by the Government of Costa Rica on 22 January 1991, of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (see E/CN.4/1991/66), designed to establish a preventive system of visits to places of detention,

Noting that the draft optional protocol is a revised version of the draft submitted in 1980, also by Costa Rica, which takes account of the developments in the international fight against torture since then,

Recalling its resolution 1986/56 of 13 March 1986 and its decision 1989/104 of 6 March 1989, in which it considered that a system of visits to places of detention could represent a major step forward towards the effective prevention of torture,

Noting that the Special Rapporteur on torture, Mr. Peter Kooijmans, has considered in his last report (E/CN.4/1992/17) that the institution of a treaty-based system of periodic visits to places of detention would be a highly effective preventive measure against the occurrence of torture,

1. Decides to establish an open-ended intersessional working group of the Commission on Human Rights in order to elaborate a draft optional protocol to the Convention against Torture, using as a basis for its discussions the draft text proposed by the Government of Costa Rica on 22 January 1991, and to consider the implications of its adoption and the relationship between the draft optional protocol, regional instruments and the Committee against Torture;

2. Invites all Governments, intergovernmental agencies and non-governmental organizations to participate in the activities of the working group;

3. Requests the working group to meet for a period of two weeks before the forty-ninth session of the Commission;

4. Requests the Secretary-General to invite Governments, intergovernmental organizations, the Committee against Torture, the Special Rapporteur on Torture and non-governmental organizations to send

comments on the draft optional protocol and its implications, for consideration by the working group, and to circulate these contributions to Governments in advance of the meeting of the working group;

5. Also requests the Secretary-General to invite international or regional bodies with experience in visiting places of detention to submit their observations to the working group;

6. Further requests the Secretary-General to extend all the necessary facilities to the working group for its meeting prior to the forty-ninth session of the Commission;

7. Decides to examine this question at its forty-ninth session under a specific sub-item entitled "Question of a draft optional protocol to the Convention against Torture" under the item entitled "Question of the human rights of all persons subject to any form of detention or imprisonment";

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

"The Economic and Social Council,

Recalling Commission on Human Rights resolution 1992/43 of 3 March 1992,

1. Authorizes the establishment of an open-ended intersessional working group in order to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussion the draft text proposed by the Government of Costa Rica on 22 January 1991 (see E/CN.4/1991/66), which will meet for a period of two weeks prior to the forty-ninth session of the Commission on Human Rights;

2. Requests the Secretary-General to extend all the necessary facilities to the working group to enable it to meet prior to the forty-ninth session of the Commission on Human Rights."

52nd meeting
3 March 1992

[Adopted without a vote. See chap. X.]

1992/44. Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission on Prevention of

Discrimination and Protection of Minorities to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous people, giving special attention to the evolution of standards concerning the rights of indigenous people,

Recalling also its resolution 1988/44 of 8 March 1988, in which it urged the Working Group on Indigenous Populations to intensify its efforts, in carrying out its plan of action, to continue the elaboration of international standards in this field,

Having examined the report of the Working Group on its ninth session (E/CN.4/Sub.2/1991/40/Rev.1),

Conscious that, in various situations, indigenous people are unable to enjoy their inalienable human rights and fundamental freedoms,

Bearing in mind that international standards must be developed on the basis of the diverse realities of indigenous people in all parts of the world,

Determined to do everything possible to promote the enjoyment of the rights of indigenous people,

Reaffirming the decision of the Working Group, at its first session, that its working languages are English and Spanish,

1. Takes note of resolution 1991/30 of 29 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the draft universal declaration of indigenous rights;

2. Expresses its appreciation to the Working Group on Indigenous Populations of the Sub-Commission for its valuable work, in particular the progress made at its ninth session in the area of standard-setting;

3. Also expresses its appreciation for the active and constructive participation in the work of the Working Group of observers for Governments, the specialized agencies, non-governmental organizations and, in particular, indigenous people's organizations;

4. Takes note of the plan, contained in the recommendations of the Working Group (E/CN.4/Sub.2/1991/40/Rev.1, annex I), for the completion of the first and second readings of the text of the draft declaration;

5. Welcomes the decision of the Sub-Commission, contained in its resolution 1991/30 of 29 August 1991, to continue to entrust the Chairman-Rapporteur of the Working Group, Mrs. Erica-Irene A. Daes, with the further development of a draft declaration on indigenous rights, taking into

consideration, inter alia, the comments on the draft declaration which will be provided by Governments, indigenous people's organizations and other interested parties pursuant to the resolution of the Sub-Commission;

6. Requests the Secretary-General to give the Chairman-Rapporteur of the Working Group the resources and assistance needed to carry out her task;

7. Recommends to the Economic and Social Council that the Working Group be authorized to meet for 10 working days prior to the forty-fourth session of the Sub-Commission, for the purpose of intensifying its efforts to complete a draft declaration on indigenous rights in consultation with interested Governments and indigenous people's organizations;

8. Urges the Working Group to intensify its efforts to continue and to complete as soon as possible the elaboration of international standards based on a continued and comprehensive review of developments pertaining to the promotion and protection of the human rights of indigenous people and of the situation and aspirations of indigenous people throughout the world;

9. Requests the Secretary-General to give all the necessary assistance to the Working Group in discharging its task, including adequate dissemination of information about the activities of the Working Group to Governments, specialized agencies and non-governmental and indigenous people's organizations, in order to encourage the widest possible participation in its work;

10. Requests the Secretary-General:

(a) To transmit the report of the Working Group to Governments, indigenous people's and intergovernmental and non-governmental organizations, as soon as possible, for specific comments and suggestions aimed at the clarification, simplification and generalization of the texts contained in the annexes to its report;

(b) To ensure that all meetings of the Working Group at its tenth and future sessions are provided with interpretation and documentation in both English and Spanish;

11. Expresses its gratitude and appreciation to the Governments and organizations which have made contributions to the United Nations Voluntary Fund for Indigenous Populations;

12. Appeals to all Governments, organizations and individuals in a position to do so to consider favourably requests for initial as well as further contributions to the Fund;

13. Welcomes all of the initiatives taken by Governments, indigenous communities and non-governmental organizations to ensure the full participation of indigenous people in the activities related to the tasks of the Working Group on Indigenous Populations, such as the first World Indigenous Youth Conference, to be held in July 1992 at Quebec City, Canada.

52nd meeting

3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/45. International Year for the World's Indigenous People

The Commission on Human Rights,

Bearing in mind that one of the purposes of the United Nations, set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing the value and the diversity of the cultures and the forms of social organization of the world's indigenous people,

Welcoming General Assembly resolution 45/164 of 18 December 1990, in which the Assembly proclaimed 1993 as International Year for the World's Indigenous People, with a view to strengthening international cooperation for the solution of problems faced by indigenous communities in the areas, inter alia, of human rights, the environment, development, education, health,

Welcoming also General Assembly resolution 46/128 of 17 December 1991, in which the Assembly adopted a programme of activities for the International Year,

Taking into account the guidelines for international years and anniversaries adopted by the General Assembly in its decision 35/424 of 5 December 1980,

Noting with satisfaction the initiatives taken by the Executive Board of the United Nations Children's Fund in its resolution 1991/7 and by the Governing Council of the United Nations Development Programme in its resolution 1991/12 in response to General Assembly resolution 45/164 of 18 December 1990,

Noting the entry into force on 5 September 1991 of the Convention (No. 169) on Indigenous and Tribal Peoples, 1989 of the International Labour Organisation,

Welcoming decision 3/7 adopted on 4 September 1991 by the Preparatory Committee for the United Nations Conference on Environment and Development regarding the opportunity afforded by the International Year for the World's Indigenous People as a first step towards mobilizing international technical and financial cooperation for the self-development of indigenous people and their communities,

Mindful of the preparatory process for the 1993 World Conference on Human Rights,

Welcoming with satisfaction the theme "Indigenous people - a new partnership" for the International Year,

1. Recommends that the specialized agencies, regional commissions and relevant other organizations of the United Nations system, in their consideration of the contributions that they can make to the success of the International Year for the World's Indigenous People, continue to be guided by how:

(a) Their operational activities can most effectively contribute to the solution of problems faced by indigenous people;

(b) Indigenous people can play an important role in the planning, implementation and evaluation of projects which may affect them;

2. Invites Member States to inform the Secretary-General of the activities they intend to undertake in relation to the International Year;

3. Encourages Member States to consult indigenous people, and non-governmental organizations working with them, regarding activities for the International Year;

4. Acknowledges the appointment of the Under-Secretary-General for Human Rights as the Coordinator of the International Year, with functional duties being assigned to the Centre for Human Rights in conjunction with the Office of the Director-General for International Economic Cooperation and the International Labour Organisation;

5. Urges the Coordinator to solicit actively the cooperation of other elements of the United Nations, including financial and development institutions;

6. Accepts with satisfaction the task of promoting the programme contained in the annex to General Assembly resolution 46/128 as a guideline for the International Year;

7. Welcomes the convening by the Coordinator, from 9 to 11 March 1992, of a technical meeting of specialized agencies, regional commissions and other relevant organizations of the United Nations system with representatives of States, organizations of indigenous people and other non-governmental organizations having a special interest in indigenous matters:

(a) To identify programme areas or capabilities that are of particular relevance and priority to indigenous people;

(b) To agree on specific objectives for special projects to be implemented in 1993 as part of the International Year and to ensure their consonance with the theme and objectives of the Year;

(c) To consider existing project guidelines and recommend effective means for including indigenous people in the initiation, design and implementation of the special projects to be undertaken in 1993;

(d) To suggest appropriate procedures and criteria for the evaluation of projects involving indigenous people, in 1993 and thereafter;

(e) To consider what financial provisions, if any, need to be made to ensure implementation of the foregoing;

(f) To report on the outcome of the technical meeting to the Secretary-General;

8. Agrees to continue to take into account the ongoing work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as well as that of the Working Group on Indigenous Populations;

9. Encourages those States that are in a position to do so to consider means by which they could provide resources to assist the work of the United Nations on the International Year, for example by the secondment of suitable staff;

10. Urges States, intergovernmental and non-governmental organizations, as well as organizations of indigenous people, to contribute to the Voluntary Fund for the International Year opened by the Secretary-General;

11. Requests the Preparatory Committee for the World Conference on Human Rights to take into account in its preparations for the World Conference the fact that the Conference will take place during the International Year;

12. Requests the Secretary-General to accept and administer voluntary contributions from Governments, intergovernmental organizations and indigenous and non-indigenous organizations for the purpose of funding programme activities for the International Year;

13. Requests the Secretary-General to give all necessary assistance to the Coordinator to permit him to carry out his tasks;

14. Acknowledges the request to the Commission made by the General Assembly to convene a meeting of participating parties to the programmes and projects of the International Year to assess after the International Year what conclusions can be drawn from the activities;

15. Proposes to the General Assembly that the title of the International Year be amended to "1993 - The International Year of the World's Indigenous People".

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/46. United Nations Voluntary Trust Fund on Contemporary Forms of Slavery

The Commission on Human Rights,

Recalling article 4 of the Universal Declaration of Human Rights and article 8 of the International Covenant on Civil and Political Rights, which state that no one shall be held in slavery or servitude,

Bearing in mind General Assembly resolution 46/122 of 17 December 1991, Gravely concerned that slavery, the slave trade, slavery-like practices and even modern manifestations of this phenomenon still exist, representing one of the gravest violations of human rights,

Convinced that the United Nations Trust Fund on Contemporary Forms of Slavery will play an important role in the protection of the human rights of victims of contemporary forms of slavery,

Affirming that the struggle to eliminate slavery includes the provision of assistance to the victims and to the representatives of non-governmental organizations dealing with issues of contemporary forms of slavery,

1. Appeals to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the United Nations Trust Fund on Contemporary Forms of Slavery if possible on a regular basis;

2. Requests the Secretary-General to transmit to all Governments the appeal of the Commission for contributions to the Fund;
3. Also requests the Secretary-General to appoint, in accordance with General Assembly resolution 46/122, a board of trustees composed of five persons with relevant experience in the field of human rights and contemporary forms of slavery in particular;
4. Further requests the Secretary-General to make use of all existing possibilities to assist the Board of Trustees of the Fund, inter alia, through the preparation, production and dissemination of information material, in its efforts to make the Fund and its humanitarian work better known.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/47. Report of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

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

Taking note of the report of the Working Group on Contemporary Forms of Slavery on its sixteenth session (E/CN.4/Sub.2/1991/4 and Corr.1), submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-third session,

Having considered Sub-Commission resolutions 1987/31 and 1987/32 of 4 September 1987, 1988/31 of 1 September 1988, 1989/41 of 1 September 1989, 1990/30 of 31 August 1990 and 1991/34 of 29 August 1991,

Recalling its resolutions 1982/20 of 10 March 1982 on the question of slavery and the slave trade in all their practices and manifestations and 1988/42 of 8 March 1988, 1989/35 of 6 March 1989, 1990/63 of 7 March 1990 and 1991/58 of 6 March 1991 on the report of the Working Group on Contemporary Forms of Slavery of the Sub-Commission,

Recalling Economic and Social Council resolutions 1982/20 of 4 May 1982 and 1983/30 of 26 May 1983 on the suppression of the traffic in persons and of the exploitation of the prostitution of others,

Recalling also Economic and Social Council resolutions 1988/34 of 27 May 1988, 1989/74 of 24 May 1989, 1990/46 of 25 May 1990 and 1991/35 of 31 May 1991,

Recalling further General Assembly resolutions 38/107 of 16 December 1983 and 40/103 of 13 December 1985 on the prevention of prostitution,

Gravely concerned that slavery, the slave trade, slavery-like practices and even modern manifestations of this phenomenon still exist, representing some of the gravest violations of human rights,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its valuable work, in particular the progress made at its sixteenth session in executing its programme of work, and for its continued broad approach and flexible methods of work;

2. Requests the Secretary-General to invite States parties to the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 to submit to the Sub-Commission regular reports on the situation in their countries, as provided for under the Conventions and in Economic and Social Council decision 16 (LVI) of 17 May 1974, which contains the mandate of the Working Group on Contemporary Forms of Slavery;

3. Invites those eligible States that have not ratified the relevant Conventions to consider doing so as soon as possible, or to explain in writing why they feel unable to do so, and invites them to consider providing information regarding their national legislation and practices in this field;

4. Invites intergovernmental organizations, relevant organizations of the United Nations system, including the United Nations Children's Fund, the United Nations Development Programme, the United Nations University, the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the World Bank, the International

Monetary Fund, the International Criminal Police Organization, and non-governmental organizations concerned to continue to supply relevant information to the Working Group;

5. Appeals to all Governments to send representatives to the meetings of the Working Group on Contemporary Forms of Slavery;

6. Encourages the Sub-Commission, including its Working Group, once again to elaborate recommendations on the ways and means of establishing an effective mechanism for the implementation of the Slavery Conventions on the basis of the study prepared by the Secretary-General on this issue (E/CN.4/Sub.2/1989/37);

7. Takes note again with appreciation of the assignment by the Secretary-General of a part-time professional staff member to serve the Working Group and undertake other activities relating to contemporary forms of slavery under the post, which has been included in the budget of the Centre for Human Rights for questions relating to slavery and slavery-like practices, and requests once again the Secretary-General to assign this staff member on a full-time basis;

8. Recalls once again its request to the Secretary-General to designate the Centre for Human Rights as the focal point for the coordination of activities in the United Nations for the suppression of contemporary forms of slavery;

9. Calls upon all relevant non-governmental organizations, including those interested in the rights of children and women, to attend the sessions of the Working Group;

10. Recommends that the supervisory bodies of the International Labour Organisation give particular attention in their work to the implementation of provisions and standards designed to ensure the protection of children and other persons exposed to contemporary forms of slavery;

11. Recommends that the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child, when examining periodic reports of the States parties, give particular attention to the implementation of, respectively, articles 8 and 24 of the International Covenant on Civil and Political Rights, articles 10, 12 and 13 of the International Covenant on Economic, Social and Cultural Rights,

article 6 of the Convention on the Elimination of All Forms of Discrimination against Women and articles 32, 34, 35 and 36 of the Convention on the Rights of the Child, with a view to combating contemporary forms of slavery;

12. Invites once again the Special Rapporteur on the sale of children to examine ways and means of cooperating with the Working Group on Contemporary Forms of Slavery;

13. Recalls its request to the Secretary-General to report to the Economic and Social Council on the steps taken by Member States, organizations of the United Nations system and intergovernmental organizations to implement the recommendations contained in Council resolution 1983/30 of 26 May 1983, and requests the Secretary-General to report on the comments received to the Council at its first regular session of 1992 and to make this report available to the Working Group;

14. Invites all Member States to consider the possibility of taking appropriate action for the protection of particularly vulnerable groups such as children and migrant women against exploitation by prostitution and other slavery-like practices, including the possibility of establishing national bodies to achieve these objectives;

15. Requests Governments to pursue a policy of information, prevention and rehabilitation of women victims of the exploitation of prostitution and to take the appropriate economic and social measures deemed necessary to that effect;

16. Requests the Secretary-General to make arrangements to hold the seventeenth session of the Working Group on Contemporary Forms of Slavery from 4 to 13 May 1992;

17. Recommends that these concerns be fully considered by the Working Group at its seventeenth session, when its main theme of work will be an overall evaluation of its activities during the fourteenth, fifteenth and sixteenth sessions, as well as the consideration of any crucial, serious or urgent matters.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/48. Human rights and disability

The Commission on Human Rights,

Recalling Economic and Social Council resolution 1984/26 of 24 May 1984, in which it requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint a special rapporteur to undertake a study on human rights, disability and the progress made to alleviate problems,

Having considered the final report of the Special Rapporteur on human rights and disability (E/CN.4/Sub.2/1991/31),

Taking account of Sub-Commission resolution 1991/19 of 28 August 1991,

Welcoming the decision by the Commission for Social Development at its thirty-second session to establish an open-ended working group to elaborate standard rules on the equalization of opportunities for disabled persons and its decision to submit the text of those rules to the Economic and Social Council in 1993 for transmittal to the General Assembly at its forty-eighth session,

1. Expresses its appreciation to the Special Rapporteur, Mr. Leandro Despouy, for his final report on human rights and disability (E/CN.4/Sub.2/1991/31);
2. Requests the Secretary-General to study the technical as well as financial feasibility of the recommendations contained in the report, with a view to implementing, within existing resources, those that are within his competence;
3. Also requests the Secretary-General to:
 - (a) Ensure better coordination among specialized agencies, the human rights bodies of the United Nations and other organs dealing with the human rights of disabled persons;
 - (b) Take the necessary steps to ensure the publication by the United Nations of the final report on human rights and disability in all of the official languages and that it is given the widest possible circulation;
 - (c) Make available the appropriate computer diskettes to those organizations that might wish to reproduce the above report in Braille, large print or on cassette;
 - (d) Convey the final report of the Special Rapporteur to the Commission for Social Development for consideration;

4. Invites human rights treaty monitoring bodies, notably the Committee on Economic, Social and Cultural Rights and the Human Rights Committee, to monitor the compliance of States with their commitments under the relevant human rights instruments in order to ensure the full enjoyment of those rights by disabled persons;

5. Expresses its appreciation to the Centre for Social Development and Humanitarian Affairs for its efforts to coordinate and supervise the implementation of the World Programme of Action concerning Disabled Persons;

6. Invites the Secretary-General to request the Centre for Social Development and Humanitarian Affairs, in cooperation with the Commission on Social Development and relevant United Nations human rights bodies, to:

(a) Continue its functions pertinent to operative paragraph 5 above;

(b) Make available all of its documentary material in Braille and on cassette to those organizations which might want to publish it.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/49. Human rights and youth

The Commission on Human Rights,

Taking note of resolution 1991/20 of 28 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

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

The Economic and Social Council,

Recalling Commission on Human Rights resolution 1991/... of ... and resolution 1991/20 of 28 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

1. Expresses its appreciation to the Special Rapporteur, Mr. Dimitru Mazilu, for his progress report (E/CN.4/Sub.2/1991/42);

2. Expresses its thanks to all Governments and non-governmental organizations that supplied the Special Rapporteur with relevant information;

3. Decides to invite the Special Rapporteur, Mr. Dimitru Mazilu, to update his report in the light of the suggestions made at the forty-third session of the Sub-Commission, giving special attention to the problems of underdevelopment, unemployment, the right to conscientious objection to military service and children in prison throughout the world;

4. Invites Mr. Mazilu to consult governmental and non-governmental organizations in order to elaborate further and to complete his work with a view to submitting his final report to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-fourth session;

5. Requests the Secretary-General to continue to gather and supply to Mr. Mazilu information and data relating to his study and to provide him with all the assistance he may need to complete his report, including consultations at the Centre for Human Rights, in order that he may submit his final report to the Sub-Commission at its forty-fourth session.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XVII.]

1992/50. Fraudulent enrichment of top State officials prejudicial to the public interest, the factors responsible for it, and the agents involved in all countries in such fraudulent enrichment

The Commission on Human Rights,

Recalling the resolution on corruption in government adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Havana, 27 August-7 September 1990), in which the Congress noted that the problems of corruption in public administration were universal and that, although they had particularly deleterious effects on nations with vulnerable economies, those effects were felt throughout the world, and stated its conviction that corrupt activities of public officials could destroy the potential effectiveness of all types of governmental programmes, hinder development and victimize individuals and groups,

Considering the necessity for determined action to combat the fraudulent or illicit enrichment of top State officials and the transfer abroad of the assets thus diverted, as well as to prevent those practices which undermine the democratic system in countries throughout the world and constitute an obstacle to the economies of the countries concerned,

Considering also that, in some countries, corruption has become systemic,

Noting with anxiety that corruption has further acquired a transnational character, in particular as a result of the illicit arms trade, international drug trafficking and money laundering,

Convinced that the solution of these problems calls not only for resolute political will on the part of national authorities, but also for close international cooperation, notably in the form of mutual legal assistance,

Noting with regret that, although international law does not regard the misappropriation of public funds as a political offence but accords it the character of a common law offence, the law and judicial practice of most States do not allow the extradition of persons guilty of such misappropriation,

Considering that, for many peoples who have been the victims of institutionalized corruption and who, at present, are seeking to strengthen their democratic system, a satisfactory solution to these problems is necessary not only from a moral point of view, but above all in order to ensure reparation of damage caused to their economic interests as a result of the illicit removal of these resources,

Considering that all countries have an obligation to take steps to prevent fraudulently acquired funds from entering their territory,

Convinced that developed countries have a special responsibility to contribute diligently to the restitution to despoiled peoples of the funds which their leaders have extorted from them, with a view to contributing to their economic, social and cultural development,

Recalling its resolution 1991/18 of 1 March 1991, in which it expressed its awareness that, despite progress achieved by the international community with respect to the setting of standards for the realization of economic, social and cultural rights contained in the International Covenant on Economic, Social and Cultural Rights, the implementation and promotion of those rights and the problems of their realization had not yet received sufficient attention within the framework of the United Nations system,

Recalling further General Assembly resolution 45/155 of 18 December 1990, in which the General Assembly decided, inter alia, that one of the objectives of the 1993 World Conference on Human Rights should be to examine the relationship between development and the enjoyment by everyone of economic, social and cultural rights, as well as of civil and political rights,

1. Decides to keep in mind the question of the fraudulent enrichment of top State officials prejudicial to the public interest, the factors responsible for it, and the agents involved in all countries in such fraudulent enrichment when discussing the question of the realization in all

countries of the economic, social and cultural rights proclaimed in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights;

2. Requests the Secretary-General to draw the present resolution to the attention of the Commission on Crime Prevention and Criminal Justice.

52nd meeting
3 March 1992

[Adopted by 49 votes to none, with 2 abstentions.
See chap. XVII.]

1992/51. Strengthening of the rule of law

The Commission on Human Rights,

Recalling that the achievement of international cooperation in promoting and encouraging respect for human rights and fundamental freedoms for all, without any distinction, is one of the purposes of the United Nations,

Recalling also that, by adopting the Universal Declaration of Human Rights, Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Firmly convinced that, as stressed in the Universal Declaration of Human Rights, the rule of law is an essential factor in the protection of human rights,

Convinced also that through national legal and judicial systems States can provide civil, criminal and administrative remedies for violations of human rights,

Considering that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in the Declaration can be fully realized,

Mindful of the key role played by different national institutions in ensuring respect for and observance of human rights and fundamental freedoms, as stressed in many of its previous resolutions, most recently in resolution 1991/27 of 5 March 1991,

Bearing in mind the various resolutions adopted on the programme of advisory services in the field of human rights, most recently its resolution 1991/50 of 5 March 1991, and the need to strengthen that programme and to make it more effective,

Recognizing that, particularly in developing countries, although Governments may be fully committed to developing and strengthening the rule of law with a view to ensuring respect for human rights and fundamental freedoms, they may face difficulties arising from the lack of adequate human, material and financial resources, and that these Governments should be assisted in this effort by the United Nations upon their request,

Recognizing the need for the United Nations to equip itself with the mechanisms required for making a more positive and significant contribution to strengthening the rule of law in countries engaged in such efforts,

Noting that the objectives of the World Conference on Human Rights, as set forth in General Assembly resolution 45/155 of 18 December 1990, include the identification of obstacles to further progress in the field of human rights, and ways and means by which they can be overcome, as well as the examination of the relationship between development and the enjoyment by everyone of economic, social and cultural rights as well as civil and political rights, and noting also that, in that context, the question of the strengthening of the rule of law merits particular attention,

1. Recognizes the need to consider ways and means by which the United Nations system can make a more positive and significant contribution to the development and strengthening, by Member States, of the rule of law, as an essential factor for the promotion and protection of human rights and fundamental freedoms, including through the establishment of mechanisms that can contribute with substantial technical and financial assistance to operational human rights-related projects in areas such as law enforcement, the administration of justice and others;

2. Requests the Secretary-General of the World Conference on Human Rights to take the present resolution into account in the preparation of relevant studies and reports to be submitted to the Preparatory Committee.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/52. Regional arrangements for the promotion and protection of human rights

The Commission on Human Rights,

Recalling General Assembly resolution 32/127 of 16 December 1977 and all subsequent resolutions concerning regional arrangements for the promotion and protection of human rights, in particular Assembly resolutions 45/167 and 45/168 of 18 December 1990,

Recalling that the General Assembly in its resolution 45/167 invited the Secretary-General to submit to the Commission at its forty-eighth session a report on the state of regional arrangements for the promotion and protection of human rights and to include therein the results of action taken in pursuance of that resolution,

Recalling its relevant resolutions concerning advisory services in the field of human rights, including its most recent resolution on that subject, 1991/50 of 5 March 1991,

Recalling also its resolutions 1989/50 of 7 March 1979, 1990/71 of 7 March 1990 and 1991/28 of 5 March 1991 concerning regional arrangements for the promotion and protection of human rights in the Asian and Pacific region,

Having considered the report of the Secretary-General on regional arrangements for the promotion and protection of human rights (E/CN.4/1992/58),

Noting with satisfaction the progress achieved so far in the promotion and protection of human rights at the regional level under the auspices of the United Nations, the specialized agencies and the regional intergovernmental organizations,

Reaffirming that regional arrangements for the promotion and protection of human rights may make a major contribution to the effective enjoyment of human rights and fundamental freedoms and that the exchange of information and experience in this field among the regions, within the United Nations system, may be improved,

Bearing in mind that regional instruments should complement the universally accepted human rights standards and that the persons chairing the human rights treaty bodies of the United Nations noted during their third meeting, held at Geneva from 1 to 5 October 1990, that certain inconsistencies

between provisions of international instruments and those of regional instruments might raise difficulties with regard to their implementation,

1. Takes note of the report of the Secretary-General;
2. Notes with interest that various contacts between regional bodies and commissions and the United Nations have continued to be pursued and strengthened through advisory services and technical assistance activities, with a view to the exchange of information and experience in the field of human rights;
3. Welcomes, in that respect, the close cooperation given by the Centre for Human Rights in the organization of regional and subregional training courses or workshops in the field of human rights including, most recently, those that took place at San Remo, Cairo, Windhoek, Paris, Barcelona, Valetta, Caracas, Brasilia and Santiago;
4. Also welcomes the continuing cooperation and assistance of the Centre for Human Rights in the further strengthening of the existing regional arrangements and regional machinery for the promotion and protection of human rights;
5. Invites States in areas where regional arrangements in the field of human rights do not yet exist to consider agreements with a view to the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights;
6. Welcomes, in this regard, the continued cooperation of the Centre for Human Rights with the Executive Secretary of the Economic and Social Commission for Asia and the Pacific for the establishment of a depository centre for United Nations human rights materials within that Commission at Bangkok;
7. Endorses the efforts of the Centre for Human Rights to enhance cooperation between the United Nations and regional and national institutions, particularly in the field of advisory services and technical assistance, public information and education in the field of human rights;
8. Stresses the importance of the programme of advisory services in the field of human rights and renews its appeal to all Governments to consider making use of the possibilities offered by the United Nations under this programme of organizing information and/or training courses at the national level for government personnel on the application of international human rights standards and the experience of relevant international bodies;

9. Requests the Secretary-General, as foreseen in the medium-term plan for the period 1992-1997, to continue to strengthen exchanges between the United Nations and regional intergovernmental organizations dealing with human rights and welcomes, in this connection, the fact that the Centre for Human Rights will continue to organize national, regional and subregional workshops and training courses for government officials engaged in the administration of justice and in the implementation of the international human rights instruments;

10. Invites the organizers of regional meetings convened in preparation for the World Conference on Human Rights to promote further ratification of and accession to United Nations human rights treaties and the implementation of those universally accepted human rights standards;

11. Stresses the importance of continuing to pay special attention to the most appropriate ways of assisting, at their request, countries of the different regions under the programme of advisory services and to make, where necessary, the relevant recommendations;

12. Requests the Secretary-General to submit to the Commission at its forty-ninth session a report on the state of regional arrangements for the promotion and protection of human rights and to include the results of action taken in pursuance of the present resolution;

13. Decides to consider this question further at its forty-ninth session under the item entitled "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission".

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/53. Strengthening of the Centre for Human Rights

The Commission on Human Rights,

Recalling General Assembly resolutions 45/180 of 21 December 1990, 45/248 B of 21 December 1990, in particular section VI thereof, and 46/118 of 17 December 1991, Economic and Social Council resolutions 1990/47 of 25 May 1990 and 1991/36 of 31 May 1991 as well as its own resolutions 1989/46 of 6 March 1989, 1989/54 of 7 March 1989, 1990/25 of 27 February 1990 and 1991/23 of 5 March 1991,

Recalling General Assembly resolution 46/185 C of 20 December 1991, section XIX, on questions related to the proposed programme budget for the biennium 1992-1993 relevant to Section 28, Human rights,

Considering that the promotion of universal respect for and observance of human rights and fundamental freedoms is one of the basic purposes of the Charter of the United Nations, an issue of the utmost importance for the Organization,

Recalling also that the Commission, in paragraph 30 of its report (E/CN.4/1988/85 and Corr.1) to the Special Commission of the Economic and Social Council, reaffirmed that "the paramount consideration in the employment of staff at every level is the need for the highest standards of efficiency, competence and integrity, and is convinced that this is compatible with the principle of equitable geographical distribution", and bearing in mind Article 101, paragraph 3, of the Charter of the United Nations,

Recognizing the important role of the Centre for Human Rights in the promotion, protection and implementation of human rights and the need to provide sufficient human resources to the Centre, particularly in view of the fact that its workload has greatly increased while resources have failed to keep pace with the expansion of its responsibilities, as noted in various reports of the Secretary-General (E/1990/50, A/45/807),

Taking note of the interim report of the Secretary-General (E/CN.4/1992/75) on the developments relating to the activities of the Centre for Human Rights, and on the measures taken to implement General Assembly resolution 46/118),

Noting that the Centre for Human Rights has been requested by the Commission on Human Rights and the Economic and Social Council to carry out additional mandates after the preparation of the proposed programme budget for the biennium 1992-1993,

1. Emphasizes that, in implementing the budget for the biennium 1992-1993, adequate staffing, temporary assistance and other resources should be allocated to the Centre for Human Rights so as to enable it to respond to its increasing workload and to cover its needs in order to carry out all the functions assigned to it, including all the mandates and the preparations for the World Conference on Human Rights and the Conference itself;

2. Also requests the Secretary-General to take into account, when preparing the budget outline for the biennium 1994-1995, that adequate resources are projected for human rights, in particular for the Centre for Human Rights;

3. Decides to reconsider the question at its forty-ninth session.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/54. National institutions for the promotion
and protection of human rights

The Commission on Human Rights,

Recalling its relevant resolutions and those of the General Assembly concerning national institutions for the promotion and protection of human rights, notably its resolutions 1990/73 of 7 March 1990 and 1991/27 of 5 March 1991, and Assembly resolutions 44/64 of 8 December 1989 and 46/124 of 17 December 1991,

Stressing the importance of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments for promoting respect for, and observance of, human rights and fundamental freedoms,

Affirming that priority should be accorded to the development of appropriate arrangements at the national level to ensure the effective implementation of international human rights standards,

Convinced of the important role that can be played by institutions at the national level in promoting and protecting human rights and fundamental freedoms and in developing and enhancing public awareness of those rights and freedoms,

Recognizing that the United Nations has played and should continue to play a catalytic role in assisting the development of national institutions,

Mindful in this regard of the guidelines on the structure and functioning of national institutions for the promotion and protection of human rights, endorsed by the General Assembly in its resolution 33/46 of 14 December 1978,

Recalling the recommendations contained in General Assembly resolution 45/155 of 18 December 1990 and Commission on Human Rights resolution 1991/30 of 5 March 1991 inviting the Preparatory Committee for the

World Conference on Human Rights to examine ways and means by which the World Conference could encourage the establishment or strengthening of national institutions,

Welcoming the convening by the Centre for Human Rights, in Paris from 7 to 9 October 1991 of an international workshop on national institutions for the promotion and protection of human rights,

Noting with satisfaction the constructive participation of representatives of a number of national institutions for the promotion and protection of human rights in international seminars and workshops organized or sponsored by the United Nations and its Member States and in other United Nations activities,

1. Reaffirms the importance of developing, in accordance with national legislation, effective national institutions for the promotion and protection of human rights and of ensuring the pluralism of their membership and their independence;

2. Takes note of progress in this area and in particular of the increased effectiveness of national institutions for the promotion and protection of human rights, as well as of the efforts of the Centre for Human Rights to increase cooperation with regional and national institutions;

3. Encourages all Member States to take appropriate steps to promote the exchange, including by national institutions, of information and experience concerning the establishment and operation of such national institutions;

4. Encourages initiatives on the part of Governments and regional, international, intergovernmental and non-governmental organizations intended to strengthen existing national institutions and to establish such institutions where they do not exist;

5. Requests the Secretary-General to respond favourably to requests from Member States for assistance in the establishment and strengthening of national institutions for the protection and promotion of human rights as part of the programme of advisory services and technical cooperation in the field of human rights;

6. Requests the Centre for Human Rights to continue its efforts in order to enhance cooperation between the United Nations and regional and national institutions, particularly in the fields of advisory services and

technical assistance and of information and education, including within the framework of the World Public Information Campaign for Human Rights;

7. Affirms the role of national institutions, where they exist, as appropriate agencies for the dissemination of human rights materials and other public information activities under the auspices of the United Nations;

8. Recognizes the important and constructive role that non-governmental organizations can play in cooperation with national institutions for the better promotion and protection of human rights;

9. Takes note with satisfaction and appreciation of the report of the International Workshop on National Institutions for the Promotion and Protection of Human Rights (E/CN.4/1992/43 and Add. 1 and 2);

10. Welcomes the guidance provided by the recommendations contained in the report of the International Workshop and in particular the principles relating to the status of commissions and their advisory role;

11. Decides to rename those principles the "Principles relating to the status of national institutions" and to transmit those Principles, annexed to the present resolution, to the General Assembly, through the Economic and Social Council, for adoption;

12. Requests the Secretary-General to publicize the proceedings of the International Workshop and to undertake follow-up activities;

13. Requests the Secretary-General to transmit those proceedings to the Preparatory Committee for the World Conference on Human Rights and requests the Preparatory Committee to consider ways of promoting the Principles relating to the status of national institutions;

14. Requests the Secretary-General to commence the planning of a follow-up international workshop in 1993, following the World Conference, and to submit a report to the Commission at its forty-ninth session on those preparations;

15. Requests the Secretary-General to give consideration to the results of the International Workshop in the preparation of a manual on national institutions;

16. Encourages Member States and competent bodies to give appropriate attention to national institutions for the promotion and protection of human rights in the context of their preparations for the World Conference on Human Rights;

17. Decides to continue its consideration of this question at its forty-ninth session as a sub-item under the agenda item entitled "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission", in particular ways to study and promote the Principles relating to the status of national institutions.

ANNEX

Principles relating to the status of national institutions

Competence and responsibilities

1. A national institution shall be vested with competence to protect and promote human rights.
2. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text, specifying its composition and its sphere of competence.
3. A national institution shall, inter alia, have the following responsibilities:

(a) To submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights; the national institution may decide to publicize them; these opinions, recommendations, proposals and reports, as well as any prerogative of the national institution, shall relate to the following areas:

- (i) Any legislative or administrative provisions, as well as provisions relating to judicial organization, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;

- (ii) Any situation of violation of human rights which it decides to take up;
 - (iii) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 - (iv) Drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government;
- (b) To promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation;
- (c) To encourage ratification of the above-mentioned instruments or accession to those instruments, and to ensure their implementation;
- (d) To contribute to the reports which States are required to submit to United Nations bodies and committees, and to regional institutions, pursuant to their treaty obligations, and where necessary, to express an opinion on the subject, with due respect for their independence;
- (e) To cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;
- (f) To assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles;
- (g) To publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Composition and guarantees of independence and pluralism

1. The composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society)

involved in the protection and promotion of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

(a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;

(b) Trends in philosophical or religious thought;

(c) Universities and qualified experts;

(d) Parliament;

(e) Government departments (if they are included, these representatives should participate in the deliberations only in an advisory capacity).

2. The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

3. In order to ensure a stable mandate for the members of the institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

Methods of operation

Within the framework of its operation, the national institution shall:

(a) Freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petitioner;

(b) Hear any person and obtain any information and any documents necessary for assessing situations falling within its competence;

(c) Address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations;

(d) Meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened;

(e) Establish working groups from among its members as necessary, and set up local or regional sections to assist it in discharging its functions;

(f) Maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the protection and promotion of human rights (in particular, ombudsmen, mediators and similar institutions);

(g) In view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to protecting and promoting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Additional principles concerning the status of commissions with quasi-jurisdictional competence

A national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations on administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/55. Establishment of an emergency mechanism of the Commission on Human Rights

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments for the protection and promotion of human rights and fundamental freedoms,

Determined to achieve still further progress in the implementation of the principles and rights enshrined in those instruments,

Convinced that the reinforcement of special procedures and mechanisms established or applied by the Commission on Human Rights to protect, promote and implement international human rights guarantees will contribute towards strengthening the role and enhance the effectiveness of the United Nations in human rights fact-finding, reporting and implementation of existing standards,

Considering that an emergency mechanism of the Commission on Human Rights will enable the United Nations to react appropriately and immediately to acute situations arising from gross violations of human rights wherever and whenever they occur,

Recognizing that such a mechanism should reflect the relevant fundamental principles embodied in the Charter of the United Nations, in particular the sovereignty of States and the need to protect and enhance human rights,

Recognizing further the need for States, in exercising their sovereignty, to cooperate closely with the Commission on Human Rights as regards the mechanisms established by it,

Bearing in mind the approval by the General Assembly in its resolution 46/59 of 9 December 1991 of the Declaration on Fact-Finding by the United Nations in the Field of the Maintenance of International Peace and Security,

Recalling resolution 1990/48 of the Economic and Social Council, in which the Council authorized the Commission on Human Rights to meet exceptionally between its regular sessions, provided that a majority of States members of the Commission so agree,

1. Takes note of the proposal for the establishment of an emergency mechanism of the Commission on Human Rights as outlined in the annex to the present resolution;

2. Decides, in order to enable member States to consider carefully the establishment of an emergency mechanism of the Commission on Human Rights as outlined in the annex to the present resolution, to resume consideration of the proposed mechanism at its forty-ninth session, taking also into account further suggestions that might be submitted on the subject.

ANNEX

Emergency mechanism of the Commission on Human Rights

1. The Commission establishes an emergency mechanism as described in the following paragraphs in order to be in a position to react, without delay and in an appropriate manner, to an acute situation arising from a gross violation of human rights.

2. The Secretary-General shall establish and maintain a list of independent experts acting in their personal capacity. Each regional group shall nominate experts to be included in the list. The experts shall be eminent persons experienced in various fields of human rights protection, from whom impartial performance of this function may be expected. An expert's name shall be maintained on the list for three years, unless he or she retires or resigns earlier. An expert may be reappointed if he or she is renominated by the regional group concerned.

3. Upon written request of any State Member of the United Nations directed to the Secretary-General concerning a situation as described in paragraph 1 in another country, the Secretary-General shall immediately request the views of the Government of that country on the incident, such views to be submitted to the Secretary-General within a week of receipt of the Secretary-General's request.

4. The written request, together with the comments which the Government concerned might wish to submit, shall be forwarded by the Secretary-General to States Members of the Commission in order to seek their views on whether the emergency mechanism of the Commission should be set in motion. The Secretary-General shall receive affirmative or negative responses within one week. If a majority of all member States who have responded agree, the Secretary-General shall invite the Bureau of the Commission to establish without delay an expert group composed of five experts chosen from the list maintained by the Secretary-General, taking into account equitable geographical distribution. The five experts chosen by the Bureau shall be persons having particular experience relevant to the incident.

5. The expert group shall collect information from all appropriate sources and produce a report summarizing that information and containing conclusions and recommendations. The expert group shall receive all information in confidence and its members shall respect the confidential nature of their task. The expert group shall cooperate as appropriate with existing mechanisms of the Commission, such as thematic rapporteurs and working groups, if their expertise is relevant to the incident under consideration.

6. All States including the State concerned shall cooperate with the Commission on Human Rights and the expert group and give them full and prompt assistance necessary for the exercise of their functions and the fulfilment of their mandate. The gathering of relevant information may require a fact-finding mission to the State concerned. Such a mission can only be conducted with the consent of the State concerned. The report of the expert group shall be submitted without delay to the Government concerned in order to enable it to present to the Secretary-General, within two weeks of its receipt, observations, comments and information on any action it has taken or intends to take.

7. The report, together with any observations, comments and information supplied by the State concerned, shall be forwarded immediately by the Secretary-General to all States Members of the United Nations for their consideration and shall also be forwarded to the relevant thematic rapporteurs and working groups of the Commission.

8. The report together with any observations, comments or information will remain confidential until submitted by the Secretary-General for consideration to the appropriate meeting, in accordance with paragraph 9.

9. The Secretary-General shall contact the member States of the Commission and, if a majority agrees, an exceptional meeting of the Commission on Human Rights shall be convened in accordance with resolution 1990/48 of the Economic and Social Council. If States Members of the Commission do not agree to the holding of an exceptional meeting, the report shall be submitted by the Secretary-General to the General Assembly or the next regular session of the Commission, whichever occurs first.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/56. Discrimination against people infected with the human immunodeficiency virus (HIV) or with acquired immunodeficiency syndrome (AIDS)

The Commission on Human Rights,

Recalling General Assembly resolutions 45/187 of 21 December 1990 and 46/203 of 20 December 1991, Economic and Social Council resolution 1990/86 of 27 July 1990, World Health Assembly resolutions 41.24 of 13 May 1988 and 43.10 of 16 May 1990 on women, children and AIDS, and other relevant resolutions and decisions adopted by organizations of the United Nations system, as well as by other competent forums,

Recalling its resolution 1990/65 of 7 March 1990, in which it endorsed the appointment by the Sub-Commission on Prevention of Discrimination and Protection of Minorities of Mr. Luis Varela Quirós to undertake a study on problems and causes of discrimination against people infected with the human immunodeficiency virus (HIV) or people with acquired immunodeficiency syndrome (AIDS),

Acknowledging the significant role of the World Health Organization, within the framework of the Global Strategy for the Prevention and Control of AIDS, in combating discrimination against HIV-infected persons, including people with AIDS,

Taking note of the results of the International Consultation on HIV/AIDS and Human Rights organized by the Centre for Human Rights in cooperation with the World Health Organization at Geneva in July 1989, as well as those of other relevant consultations, conferences and meetings on this subject,

Recognizing that the challenges presented by HIV and AIDS require renewed efforts to ensure universal respect for, and observance of, the human rights and fundamental freedoms of all,

Concerned that lack of full enjoyment of their fundamental rights by persons suffering from social disadvantage heightens their vulnerability to the risk of HIV infection, and that discrimination is counterproductive to AIDS control measures,

Emphasizing the need for Governments, in a spirit of solidarity, compassion and tolerance, to counter social stigmatization and discrimination against those affected by HIV and AIDS, their families and those with whom they live, and people considered to be at risk of infection,

1. Calls upon all States to take all the necessary steps to ensure the full enjoyment of civil, political, economic, social and cultural rights by people with HIV or AIDS, their families and those in any way associated with them, and people presumed to be at risk of infection, paying particular attention to women, children and other vulnerable groups, in order to prevent discriminatory action against them or their social stigmatization; and to observe these obligations in particular in the context of AIDS policies and measures;

2. Invites the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and other similar bodies to give full attention to monitoring States parties' compliance with their commitments under the relevant human rights instruments regarding the rights of people infected with HIV or AIDS, their families and people with whom they live, or people presumed to be at risk of infection;

3. Welcomes the preliminary and progress reports of Mr. Luis Varela Quirós, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, on discrimination against HIV-infected people or people with AIDS (E/CN.4/1990/9 and E/CN.4/Sub.2/1991/10);

4. Endorses the request of the Sub-Commission to Mr. Luis Varela Quirós to submit his final report to the Sub-Commission at its forty-fourth session and to request the Secretary-General to give the Special Rapporteur such assistance as he may require to accomplish his work.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/57. Civil defence forces

The Commission on Human Rights,

Taking note with interest of the observations on the matter of civil defence forces, not belonging to the regular law enforcement agencies, in relation to the protection of human rights and fundamental freedoms contained in the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1992/18),

Noting that the formation of civil defence forces appears to be on the rise worldwide, particularly in areas of conflict,

Recognizing, however, that action by civil defence forces has in some cases jeopardized the enjoyment of human rights and fundamental freedoms,

Also recognizing that, under exceptional circumstances, when public forces are unable to act owing to the exigencies of situations, there may be a need for the establishment of civil defence forces to protect the civilian population,

Reaffirming the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms,

Realizing that the individual has a responsibility to strive for the promotion and observance of the rights recognized in the International Covenant on Civil and Political Rights, as well as in the International Covenant on Economic, Social and Cultural Rights,

1. Requests the Secretary-General to ask Governments, intergovernmental and non-governmental organizations for information on domestic law and practice relating to civil defence forces, if any, and for comments concerning the relationship between civil defence forces and human rights;

2. Also requests the Secretary-General to prepare, within the existing resources, and to submit to the Commission on Human Rights at its forty-ninth session a report containing a summary of the information and comments received;

3. Further requests the special rapporteurs and working groups concerned to pay due attention within their mandates to the matter of civil defence forces in relation to the protection of human rights and fundamental freedoms.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XI.]

1992/58. Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that, in accordance with the Charter, the United Nations promotes and encourages respect for human rights and fundamental freedoms for all, and

that the Universal Declaration of Human Rights states that "the will of the people shall be the basis of the authority of government",

Noting with particular concern in this regard that the electoral process initiated in Myanmar by the general elections of 27 May 1990 has not yet reached its conclusion, that no apparent progress has been made in giving effect to the political will of the people of Myanmar, as expressed in the elections, and that the final results of the elections have not even been officially released,

Also noting that many political leaders, in particular elected representatives, remain deprived of their liberty and that Daw Aung San Suu Kyi, Nobel Peace Prize laureate, is still under house arrest and is deprived of visits from her family,

Noting with concern the seriousness of the situation of human rights in Myanmar, the existence of important restrictions on the exercise of fundamental freedoms and the imposition of oppressive measures directed, in particular, at minority groups,

Noting also with deep concern the continuing exodus of Myanmar refugees to neighbouring countries, including, in recent months, of almost 80,000 Myanmar Muslim refugees to Bangladesh,

Having examined the report of the Working Group on Arbitrary Detention (E/CN.4/1992/20),

Recalling General Assembly resolution 46/132 of 17 December 1991 concerning the human rights situation in Myanmar,

1. Deplores the fact that the Government of Myanmar, despite the assurances given at various times that it would take firm steps towards the establishment of a democratic State, has not to this day fulfilled those commitments;

2. Expresses its concern at the seriousness of the human rights situation in Myanmar and, in particular, at the fact that a number of political leaders, including Daw Aung San Suu Kyi and other leaders of the National League for Democracy, remain deprived of their liberty;

3. Decides to nominate a special rapporteur for the purpose of establishing direct contacts with the Government of Myanmar and with the people of Myanmar, including political leaders deprived of their liberty, their families and lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the transfer

of power to a civilian government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar, and to report to the General Assembly at its forty-seventh session and to the Commission on Human Rights at its forty-ninth session;

4. Urges the Government of Myanmar to extend its full and unreserved cooperation to the Commission and the Special Rapporteur and, to this end, to ensure that the Special Rapporteur has free access to any person in Myanmar whom he deems it appropriate to meet for the conduct of his mandate;

5. Invites the Government of Myanmar to take every appropriate measure to allow all citizens to participate freely in the political process in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the convening of the parliament elected in May 1990;

6. Also invites the Government of Myanmar to lift the restraining orders placed on a number of political leaders, to release those who are detained and to ensure that political parties can function normally;

7. Requests the Government of Myanmar to ensure that all persons are afforded the minimum guarantees for a fair trial, according to due process of law and in conformity with the applicable international standards;

8. Calls upon the Government of Myanmar to create the necessary conditions that would end the exodus of Myanmar refugees to neighbouring countries as well as to facilitate their early repatriation from their countries of refuge;

9. Calls upon the authorities of Myanmar to give particular attention to prison conditions in the country's jails and, in this respect, to allow the International Committee of the Red Cross to visit the country's prisons;

10. Urges the Government of Myanmar to reopen the universities and other institutions of higher education;

11. Decides to keep this matter under review at its forty-ninth session under the item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories".

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XII.]

1992/59. Cooperation with representatives of United Nations human rights bodies

The Commission on Human Rights

Reiterating its concern at the continued reports of intimidation and reprisal against private individuals and groups who seek to cooperate with the United Nations and representatives of its human rights bodies,

Also concerned at reports about incidents where private individuals have been hampered in their efforts to avail themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms,

Recalling its resolutions 1990/76 of 7 March 1990 and 1991/70 of 6 March 1991 and taking note of the note by the Secretary-General on this question (E/CN.4/1992/29),

1. Urges Governments to refrain from all acts of intimidation or reprisal against:

(a) Those who seek to cooperate or have cooperated with representatives of United Nations human rights bodies, or who have provided testimony or information to them;

(b) Those who avail or have availed themselves of procedures established under United Nations auspices for the protection of human rights and fundamental freedoms and all those who have provided legal assistance to them for this purpose;

(c) Those who submit or have submitted communications under procedures established by human rights instruments;

(d) Those who are relatives of victims of human rights violations;

2. Requests all representatives of United Nations human rights bodies as well as treaty bodies monitoring the observance of human rights to continue to take urgent steps, in conformity with their mandates, to help prevent the hampering of access to United Nations human rights procedures in any way;

3. Also requests all representatives of United Nations human rights bodies, as well as treaty bodies monitoring the observance of human rights, to continue to take urgent steps, in conformity with their mandates, to help prevent the occurrence of such intimidation and reprisals;

4. Further requests such representatives and treaty-monitoring bodies to continue to include in their respective reports to the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of

Minorities or the General Assembly a reference to allegations of intimidation or reprisal and of hampering access to United Nations human rights procedures, as well as an account of action taken by them in this regard;

5. Requests the Secretary-General to draw the attention of such representatives to the present resolution;

6. Invites the Secretary-General to submit to the Commission at its forth-ninth session a report containing any available information, from all appropriate sources, on alleged reprisals against those referred to in operative paragraph 1 of the present resolution;

7. Decides to consider the question again at its forty-ninth session.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XII.]

1992/60. Situation of human rights in Kuwait under Iraqi occupation

The Commission on Human Rights,

Recalling its resolution 1991/67 of 6 March 1991,

Recalling also General Assembly resolution 46/135 of 17 December 1991 concerning the situation of human rights in occupied Kuwait,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Geneva Conventions of 12 August 1949, The Hague Convention IV of 1907, and other internationally recognized principles of humanitarian law,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all and resolved to remain vigilant with regard to violations of human rights wherever they occur,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil their obligations under the relevant international instruments,

Expressing its deep concern at the grave violation of human rights and fundamental freedoms during the occupation of Kuwait,

Noting with grave concern the continued detention of prisoners of war and civilians abducted from Kuwait, and refusal of Iraq to account for the whereabouts of these detainees,

Noting also with grave concern the information to the effect that the treatment of prisoners of war and detained civilians does not conform to the internationally recognized principles of humanitarian law,

1. Expresses its appreciation to the Special Rapporteur on the situation of human rights in Kuwait under Iraqi occupation for his report (E/CN.4/1992/26);
2. Expresses its deep concern for Kuwaiti and third-country nationals detained and missing in Iraq;
3. Strongly condemns the failure of Iraq to treat all prisoners of war and detained civilians in accordance with the internationally recognized principles of humanitarian law and insists that it refrain from subjecting them to acts of violence, including ill-treatment, torture and summary execution;
4. Requests the Government of Iraq to provide full information on all Kuwaiti persons and third-country nationals abducted from Kuwait between 2 August 1990 and 26 February 1991 who may still be detained, and to free these persons without delay, in accordance with its obligations under article 118 of the Geneva Convention relative to Prisoners of War and article 134 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and its obligations under applicable Security Council resolutions;
5. Also requests the Government of Iraq to provide, in accordance with its obligations under articles 120 and 121 of the Geneva Convention relative to Prisoners of War, and articles 129 and 130 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, detailed information on persons arrested in Kuwait between 2 August 1990 and 26 February 1991 who may have died during or after that period while in detention, as well as on the location of their graves;
6. Further requests the Government of Iraq to search for the persons still missing and to cooperate fully with international humanitarian organizations such as the International Committee of the Red Cross, in this regard;
7. Demands that the Government of Iraq cooperate with and facilitate the work of international humanitarian organizations, notably the International Committee of the Red Cross, in their search for an eventual repatriation of Kuwaiti and third-country nationals detained and missing in Iraq.

52nd meeting

3 March 1992

[Adopted by a roll-call vote of 47 to 1, with 1 abstention.

See chap. XII.]

1992/61. Situation of human rights in Cuba

The Commission on Human Rights,

Recalling its resolution 1991/68 of 6 March 1991 in which it requested the Secretary-General to appoint a special representative to maintain direct contact with the Government and citizens of Cuba and, in accordance with its decision 1989/113 of 9 March 1989 and resolution 1990/48 of 6 March 1990, to report on the issues and questions contained in and associated with the report (E/CN.4/1989/46 and Corr.1) of the mission to Cuba which took place in accordance with its decision 1988/106 of 10 March 1988,

Recognizing with deep appreciation the efforts of the Secretary-General and his Special Representative to carry out this mandate, bearing in mind the Universal Declaration of Human Rights and in maintaining contact with the Government and citizens of Cuba concerning the unanswered issues and questions that the representatives of the Commission formulated to the Cuban authorities (E/CN.4/1989/46, annexes III, VII and XVI),

Disappointed that the Government of Cuba has failed to address the concerns of the Commission, as expressed in its decision 1989/113 and resolutions 1990/48 and 1991/68, and has not provided the Commission with a response to the unanswered questions put to the Cuban authorities by representatives of the Commission,

Noting with deep regret the failure of the Government of Cuba to cooperate with the Commission by refusing, in spite of repeated requests, to permit the Special Representative to visit Cuba in order to fulfil the mandate entrusted to him,

Alarmed at continuing reports of human rights abuses in Cuba, including imprisonment, harassment and governmentally organized mob attacks on advocates of peaceful change, as well as the recent execution by firing squad of one individual after a trial which raised questions of due process and in spite of worldwide appeals for clemency,

Profoundly concerned at numerous uncontradicted reports of continued violations in Cuba of human rights as defined by the Universal Declaration of Human Rights in such areas as individual liberty, administration of justice, freedom of movement, freedom of religion, expression and the press, freedom of assembly and association and freedom of education and conscience,

Taking note of the report on the situation of human rights in Cuba submitted by the Special Representative of the Secretary-General (E/CN.4/1992/27),

1. Commends and endorses the report on the situation of human rights in Cuba prepared by the Special Representative of the Secretary-General (E/CN.4/1992/27);

2. Notes that the report is incomplete because the Special Representative was unable to meet with the people or the Government of Cuba;

3. Deplores the decision of the Government of Cuba not to permit the Special Representative the opportunity to fulfil his mandate by meeting with the people of Cuba in Cuba and with the Government of Cuba, and expresses particular concern that the Government of Cuba, a member of the Commission on Human Rights, has failed to carry out its obligation, common to all Member States, to cooperate with the Commission;

4. Regrets profoundly the numerous uncontested reports of violations of basic human rights and fundamental freedoms that are described in the report of the Special Representative and expresses particular concern at governmentally organized mob action against human rights activists;

5. Calls upon the Government of Cuba to respect universally recognized standards of human rights and fundamental freedoms and to promote their exercise and enjoyment, and to end all such violations, including the detention and imprisonment of those who advocate peaceful change;

6. Requests the Chairman of the Commission at its forty-eighth session to designate the Special Representative appointed by the Secretary-General pursuant to its resolution 1991/68 as its Special Rapporteur to review and report on the situation of human rights in Cuba;

7. Requests the Special Rapporteur to maintain direct contact with the Government and citizens of Cuba, in accordance with resolution 1991/68 and decision 1989/113, concerning the issues and questions contained in and associated with the report of the mission to Cuba as well as the report of the Special Representative;

8. Urges the Government of Cuba to cooperate with the Special Rapporteur;

9. Requests the Special Rapporteur to carry out his mandate, including the questions contained in his letter of 6 December 1991 to the Cuban authorities (E/CN.4/1992/27, annex III and appendix), bearing in mind the Universal Declaration of Human Rights, and to report to the Commission on the results of his endeavours pursuant to the present resolution at its forty-ninth session under the same agenda item, and to submit an interim report to the General Assembly at its forty-seventh session.

52nd meeting
3 March 1992
[Adopted by a roll-call vote of 23 to 8, with 21 abstentions.
See chap. XII.]

1992/62. Situation of human rights in El Salvador

The Commission on Human Rights,

Expressing its deep satisfaction that the signing of the Peace Agreements between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional in Mexico City on 16 January 1992 means the end of the armed conflict and lays the foundations for reconciliation within Salvadorian society,

Emphasizing that the Peace Agreements are an historic event of supreme importance to El Salvador, promoting the democratization of the country, guaranteeing unrestricted respect for human rights and reunifying Salvadorian society,

Observing that the Peace Agreements establish a precise timetable for the implementation of the agreements reached on the armed forces, the establishment of the National Civil Police, the reform of the judicial and electoral systems, and the political participation of the Frente Farabundo Martí para la Liberación Nacional and the reintegration of its members, within a framework of complete legality, into the civil and institutional life of the country, and likewise for the economic and social agreements,

Appreciative of the important work which the United Nations Observer Mission in El Salvador has been doing since 26 July 1991 on the instructions of the Secretary-General to monitor respect for human rights in El Salvador,

Acknowledging the value of the good offices provided by Mr. Javier Pérez de Cuéllar, former Secretary-General of the United Nations, and his Personal Representative for Central America in the negotiating process which began in 1990 and culminated in the Peace Agreements,

Acknowledging also the resolute backing provided by the friends of the Secretary-General, Colombia, Mexico, Spain and Venezuela, in the search for peace in El Salvador,

Noting with appreciation the work done by the Special Representative of the Commission on Human Rights in fulfilment of his mandate,

Bearing in mind that it will be the responsibility of the Security Council and the Secretary-General to oversee all the peace agreements,

Aware that the international community must attentively follow and continue to support efforts to consolidate peace and ensure respect for human rights in El Salvador,

Welcoming the establishment of the Truth Commission, comprising three distinguished members appointed by the Secretary-General, whose findings should be known to all parties involved,

Bearing in mind that agreement was also reached on the establishment of a National Commission for the Consolidation of Peace, an ad hoc commission and the important post of Attorney-General for the Protection of Human Rights as machinery for supervising implementation of the Peace Agreements and for promoting respect for human rights,

Considering that events since the signing of the Peace Agreements and the formal end to the armed confrontation on 1 February 1992 support efforts to bring about peace and are helping to establish a pattern of coexistence as part of the new situation obtaining in El Salvador,

Convinced that the troubling human rights situation in El Salvador could improve substantially if both parties abided faithfully by those Agreements,

Reaffirming that it is the responsibility of the Commission on Human Rights to pursue effective respect for human rights,

1. Thanks the Special Representative of the Commission on Human Rights for his final report on the situation of human rights in El Salvador (E/CN.4/1992/32) during 1991;

2. Expresses its satisfaction at the agreements set forth in the Act of New York signed on 31 December 1991, and in the Chapultepec Peace Agreements of 16 January 1992, whereby the armed conflict was ended and the parties undertook to promote the democratization of the country, guarantee unrestricted respect for human rights and help to reunify Salvadorian society;

3. Urges the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional to abide scrupulously by the agreements reached so that complete and lasting reconciliation may be reached between all members of Salvadorian society as quickly as possible;

4. Wholeheartedly endorses the efforts being made by the Secretary-General through the United Nations Observer Mission in El Salvador, whose mandate is to monitor compliance with all the agreements reached by the parties during the negotiating process;

5. Expresses its pleasure at the appointment of the Truth Commission, comprising persons of acknowledged standing in the defence and promotion of human rights, to shed light on the serious acts of violence that have occurred since 1980, whose impact on society requires public disclosure of the conditions and circumstances in which they were carried out;

6. Welcomes the fact that the National Commission for the Consolidation of Peace has already been set up, that the members of the ad hoc commission have been appointed and that the Attorney-General for the Protection of Human Rights is about to be chosen;

7. Encourages the Government of El Salvador to press vigorously ahead with its reform of the judiciary, in particular the legal profession, in order to guarantee the people's right to justice;

8. Reiterates the need to continue the agrarian reform programme and to carry out other structural reforms permitting effective enjoyment of economic, social and cultural rights;

9. Expresses its hope that the implementation of the Peace Agreements will prevent the violations of human rights currently occurring in El Salvador;

10. Urges the international community to provide full cooperation for reconstruction efforts in El Salvador;

11. Requests the Secretary-General to appoint an independent expert to provide assistance in human rights matters to the Government of El Salvador, consider the human rights situation in the country and the effects of the Peace Agreements on the effective enjoyment of human rights, and investigate the manner in which both parties apply the recommendations contained in the final report of the Special Representative and those made by the United Nations Observer Mission in El Salvador and the committees established during the negotiating process;

12. Requests the independent expert to report on the outcome of his inquiries to the General Assembly at its forty-seventh session and to the Commission at its forty-ninth session;

13. Decides, if there is a substantial improvement in the human rights situation in El Salvador during the current year, to consider that situation and the effect of the Peace Agreements on the effective enjoyment of human rights at its forty-ninth session under item 19 of the current agenda, or otherwise, under item 12.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XII.]

1992/63. Human rights and mass exoduses

The Commission on Human Rights,

Mindful of its general humanitarian mandate under the Charter of the United Nations to promote and encourage respect for human rights and fundamental freedoms,

Deeply disturbed by the continuing scale and magnitude of exoduses of refugees and displacements of population in many regions of the world and by the human suffering of millions of refugees and displaced persons,

Conscious of the fact that human rights violations are one of the multiple and complex factors causing mass exoduses of refugees and displaced persons, as indicated in the study of the Special Rapporteur on this subject (E/CN.4/1503) and also in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees (A/41/324, annex),

Recalling the recommendations concerning mass exoduses which it has made to the Sub-Commission on Prevention of Discrimination and Protection of Minorities and to special rapporteurs when studying violations of human rights in any part of the world, and, in particular, the recommendation contained in its resolution 1985/40 that special rapporteurs and special representatives studying situations of violations of human rights pay attention when appropriate to problems resulting in mass exoduses of populations,

Deeply preoccupied by the increasingly heavy burden being imposed, particularly upon developing countries with limited resources of their own, and upon the international community as a whole, by these sudden mass exoduses and displacements of population,

Stressing the need for international cooperation aimed at averting new massive flows of refugees in parallel with the provision of durable solutions to actual refugee situations,

Welcoming the endorsement by the General Assembly at its forty-first session, in its resolution 41/70 of 3 December 1986, of the recommendations and conclusions contained in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees, including, inter alia, the call upon all States to promote human rights and fundamental freedoms and to refrain from denying these to individuals in their population because of nationality, ethnicity, race, religion or language,

Recalling General Assembly resolution 44/164 of 15 December 1989, in which the Assembly reaffirmed its support for the recommendation of the Group of Governmental Experts that the principal organs of the United Nations should make fuller use of their respective competencies under the Charter of the United Nations for the prevention of new massive flows of refugees and displaced persons,

Recalling also its resolution 1991/73 of 6 March 1991 and its previous relevant resolutions, as well as those of the General Assembly,

Noting that the General Assembly, in its resolution 46/127 of 17 December 1991, especially encouraged the Secretary-General to implement the recommendations of the Joint Inspection Unit in its report on the coordination of activities related to early warning of possible refugee flows (A/45/649 and Corr. 1, annex) and invited bodies of the United Nations system to consider the most expedient ways and means of following up these recommendations,

Welcoming the steps taken so far by the United Nations to examine the problem of massive outflows of refugees and displaced persons in all its aspects, including its root causes,

Bearing in mind the statement made by the United Nations High Commissioner for Refugees at the 35th meeting of its forty-sixth session on 22 February 1990, which drew attention to the complexity of the global refugee problem, the need for a comprehensive approach addressing the concerns of all the different groups involved and the important role to be played in this regard by human rights institutions,

Recalling that the General Assembly, in its resolution 46/127, invited the Commission to keep the question of human rights and mass exoduses under review with a view to supporting the early-warning arrangement instituted by the Secretary-General to avert new massive flows of refugees and displaced persons,

1. Invites again all Governments and intergovernmental and humanitarian organizations concerned to intensify their cooperation and assistance in worldwide efforts to address the serious problems resulting from mass exoduses of refugees and displaced persons, and also the causes of such exoduses;

2. Requests all Governments to ensure the effective implementation of the relevant international instruments, in particular in the field of human rights, as this would contribute to averting new massive flows of refugees and displaced persons;

3. Calls upon all States to refrain from measures which are seriously detrimental to the enjoyment by citizens of their basic rights and which cause nationals to flee their countries for their own protection, or cause them to be unable or unwilling for well-founded reasons to return thereto;

4. Takes note of the report of the Secretary-General on human rights and mass exoduses (A/46/542);

5. Invites again the Secretary-General, all intergovernmental agencies and offices, as well as international agencies concerned, speedily to implement the recommendations contained in the report of the Joint Inspection Unit on the coordination of activities related to early warning of possible refugee flows (A/45/649 and Corr. 1, annex);

6. Encourages the Secretary-General to continue to take the necessary steps to discharge the function and responsibilities described in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees, including the continuous monitoring of all potential outflows, keeping in mind the recommendations of the Joint Inspection Unit;

7. Notes that the Executive Committee of the Programme of the United Nations High Commissioner for Refugees has specifically acknowledged the direct relationship between observance of human rights standards, refugee movements and problems of protection,

8. Also notes that at its annual session in October 1991, the Executive Committee of the Programme of the United Nations High Commissioner

for Refugees called upon the High Commissioner to continue to contribute as appropriate to the deliberations of international human rights bodies;

9. Welcomes the statement made by the United Nations High Commissioner for Refugees at its 35th meeting on 20 February 1992, in which she indicated that human rights violations were a major cause of refugee flows and drew attention to the importance of strengthened multilateral cooperation and an effective early-warning system to respond to the challenge posed by mass movements of people;

10. Invites the United Nations High Commissioner for Refugees to address it at its forty-ninth session on the subject of human rights and mass exoduses;

11. Also invites States which have not already done so to consider acceding to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto;

12. Requests the Secretary-General to intensify his efforts to develop the role of the Secretariat to strengthen the coordination of information-gathering and analysis with agencies so as to provide early warning of developing situations requiring the attention of the Secretary-General, as well as to provide a focal point within the United Nations system for policy response, including identification of the policy options for the Secretary-General;

13. Also requests the Secretary-General to make the necessary information available to the competent United Nations organs bearing in mind the recommendations of the Joint Inspection Unit;

14. Takes note of General Assembly resolution 46/127 of 17 December 1991, in which the Assembly noted that mass movements of populations were caused by multiple and complex factors, either man-made or natural, ranging from wars and armed conflicts, invasions and aggressions, violations of human rights, forcible expulsions, economic and social factors, natural disasters, to degradation in the environment, which indicates that early warning requires an intersectoral and multidisciplinary approach;

15. Welcomes the establishment of the position of Emergency Relief Coordinator (see General Assembly resolution 46/182 of 19 December 1991, annex);

16. Urges the Secretary-General to attach a high priority and allocate the necessary resources to the consolidation and strengthening of the system

for undertaking early-warning activities in the humanitarian area by, inter alia, strengthened coordination among relevant offices of the Secretariat concerned with early warning, including the Office of the Emergency Relief Coordinator, and organizations of the United Nations system, and, in particular, the Office of the United Nations High Commissioner for Refugees, the Centre for Human Rights and the relevant specialized agencies, for the purpose of ensuring, inter alia, that effective action is taken to identify human rights abuses which contribute to mass outflows of persons;

17. Welcomes the establishment by the Administrative Committee on Coordination of the Ad Hoc Working Group on Early Warning regarding New Flows of Refugees and Displaced Persons with a mandate to develop an effective early-warning system related to possible flows of refugees and displaced persons, and the request of the General Assembly in its resolution 46/127 of 17 December 1991 that the Ad Hoc Working Group submit to the Administrative Committee on Coordination in 1992 its report on the early-warning mechanism to be established;

18. Looks forward to the report of the Secretary-General to the General Assembly at its forty-seventh session on the strengthened role that the Secretary-General is playing in undertaking early-warning activities, especially in the humanitarian area, as well as on any further developments relating to the recommendations contained in the report of the Group of Governmental Experts on International Cooperation to Avert New Flows of Refugees;

19. Decides to continue consideration of the question at its forty-ninth session.

52nd meeting

3 March 1992

[Adopted without a vote. See chap. XII.]

1992/64. Situation of human rights in Romania

The Commission on Human Rights,

Guided by the principles embodied in the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Reiterating that the Governments of all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the relevant international instruments,

Recalling its resolution 1991/69 of 6 March 1991 on the situation of human rights in Romania,

Having considered the report of the Special Rapporteur, Mr. Joseph Voyame (E/CN.4/1992/28), and endorsing the conclusions and recommendations contained therein (paras. 136-163),

Welcoming the efforts of the Government of Romania during the past two years to promote respect for human rights and recent measures it has taken to that end,

Welcoming also the willingness of the Government of Romania to cooperate with the Commission on Human Rights, the Special Rapporteur and the United Nations Centre for Human Rights,

Recognizing the need to continue to promote a climate favourable to establishing a social order based on full respect for human rights and fundamental freedoms in Romania,

1. Takes note with appreciation of the report of the Special Rapporteur, Mr. Joseph Voyame, (E/CN.4/1992/28);
2. Expresses its gratitude to the Special Rapporteur for the report and for the manner in which he has discharged his mandate;
3. Welcomes the steps taken to establish in Romania a democratic and pluralist system of government based on respect for human rights and the rule of law;
4. Takes note of the fact that respect for human rights in general continues to improve in Romania, although considerable shortcomings remain to be overcome, as pointed out in the report of the Special Rapporteur, inter alia, as regards the practical application of the new constitutional and legislative rules (para. 139), the independent and impartial functioning of the justice system (paras. 143 and 144) and the minority problem (paras. 153-160);
5. Urges the government and authorities of Romania to continue their efforts to ensure respect for human rights in all their aspects in the country, both de jure and de facto in particular by paying attention to the observations made by the Special Rapporteur and by implementing his recommendations;
6. Takes note with appreciation of the positive attitude of the Government of Romania and its declared readiness to continue to cooperate with the Commission on Human Rights;

7. Welcomes the close cooperation between the Government and authorities of Romania and the United Nations Centre for Human Rights in the field of advisory services;

8. Welcomes also the conclusion, on 23 September 1991, of an "Agreement between the United Nations Centre for Human Rights and the United Nations Fund for Advisory Services and Technical Assistance in the Field of Human Rights", on the one hand, and the Government of Romania, on the other, providing for publications, training, education, seminars, workshops, fellowships, advisory services of experts and support for national institutions to be given for a period of two to three years commencing 1 October 1991;

9. Requests the Secretary-General:

(a) To bring the present resolution to the attention of the Government of Romania and to invite it to provide information regarding its implementation;

(b) To report to the Commission at its forty-ninth session on the implementation of the present resolution, particularly on the measures referred to in paragraph 4 above, taking into account also information provided by intergovernmental as well as non-governmental organizations;

10. Decides to continue its consideration of the human rights situation in Romania in the light of the report of the Secretary-General to the Commission at its forty-ninth session.

52nd meeting
3 March 1992

[Adopted without a vote. See chap. XII.]

B. Decisions

1992/112. Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities

At its 52nd meeting, on 3 March 1992, the Commission on Human Rights, noting resolution 1991/22 of 28 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided without a vote to approve the request of the Sub-Commission that:

(a) The Secretary-General prepare, with the cooperation of the Special Rapporteur of the Sub-Commission, the technical meeting of experts on minorities provided for in Commission on Human Rights resolution 1991/62, with a view to it taking place in 1992;

(b) The Special Rapporteur continue consultations with States which may also include visits to countries, at the invitation of Governments, in order to gather first-hand information;

(c) The Special Rapporteur submit a progress report on his study and the Secretary-General give him all the assistance he may require to carry out his work successfully.

[See chap. XVIII.]

1992/113. Economic and social relations between indigenous peoples and States

At its 52nd meeting on 3 March 1992, the Commission on Human Rights, taking note of resolution 1991/31 of 29 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided without a vote to recommend to the Economic and Social Council the following draft decision:

"The Economic and Social Council, noting Commission on Human Rights decision 1992/113 of 3 March 1992 and resolution 1991/31 of 29 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decides to request United Nations bodies and specialized agencies to ensure that all technical assistance financed or provided by them is compatible with international instruments and standards applicable to indigenous peoples, and for this purpose the Council encourages efforts to promote coordination among agencies of the United Nations system and greater participation of indigenous peoples in the planning and implementation of projects affecting them. The Council also encourages the regional commissions to organize meetings with representative organizations of indigenous peoples within the framework of General Assembly resolution 45/97 of 14 December 1990."

[See chap. XVII.]

1992/114. Ownership and control of the cultural property of indigenous peoples

At its 52nd meeting on 3 March 1992, the Commission on Human Rights, taking note of resolution 1991/32 of 29 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided to recommend to the Economic and Social Council that it endorse the appointment of Ms. Erica-Irene Daes as Special Rapporteur to prepare a study of measures

which should be taken by the international community to strengthen respect for the cultural property of indigenous peoples, to be submitted to the Sub-Commission at its forty-fifth session in 1993, and to request the Secretary-General to provide her with all the assistance she may require for the completion of this task.

[See chap. XVII.]

1992/115. Working Group on Contemporary Forms of Slavery

At its 52nd meeting on 3 March 1992, the Commission on Human Rights, noting resolution 1991/34 of 29 August 1991 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, decided to approve the request of the Sub-Commission that:

(a) The Secretary-General send a representative of the Centre for Human Rights to participate in a Council of Europe seminar on trafficking in persons and prostitution to be held in Strasbourg from 25 to 27 September 1991 and to report on the results of this seminar to the Working Group at its seventeenth session;

(b) The Secretary-General reassign to the Working Group a full-time Professional staff member of the Centre for Human Rights, as was the case in the past, to work on a permanent basis to ensure continuity and close coordination within and outside of the Centre for Human Rights on issues relating to contemporary forms of slavery, to prepare documentation well in advance, to facilitate the representation at the Working Group's sessions of the largest possible number of intergovernmental and non-governmental organizations with competence in the fields examined, and to report on the measures taken for this purpose to the Commission on Human Rights at its forty-eighth session and to the Working Group on Contemporary Forms of Slavery at its seventeenth session;

(c) The Secretary-General designate the Centre for Human Rights as the focal point for the coordination of activities in the United Nations for the suppression of contemporary forms of slavery and report on the measures taken for this purpose to the Commission on Human Rights at its forty-eighth session and to the Working Group on Contemporary Forms of Slavery at its seventeenth session.

(d) The Secretary-General examine the possibility of organizing the sessions of the Working Group on Contemporary Forms of Slavery for eight working days during the months of April or May, in order to avoid overlapping with meetings of other working groups of the Sub-Commission and the burden this places on the Centre for Human Rights, and in view of the impossibility of representatives of Governments and non-governmental organizations attending simultaneous sessions.

[See chap. XVII.]

