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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention  
of Discrimination and  
Protection of Minorities

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

Geneva, 5-30 August 1985

Rapporteur: Mr. C.L.C. Mubanga-Chipoya

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I. ISSUES REFERRED TO THE COMMISSION ON HUMAN RIGHTS FOR ITS  
ATTENTION, ACTION OR CONSIDERATION \*/

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

I. Adverse consequences for the enjoyment of  
human rights of political, military, economic  
and other forms of assistance given to the racist  
and colonialist régime of South Africa 1/

The Commission on Human Rights,

Mindful of General Assembly resolution 39/15,

Recalling its resolution 1985/9 of 26 February 1985,

Noting resolution 1985/3 of the Sub-Commission,

1. Expresses its satisfaction to the Special Rapporteur,  
Mr. Ahmed Khalifa, for his updated report 2/ and its appreciation for his  
continuing attention to the relevant comments expressed during the debates  
thereon;

2. Invites the Special Rapporteur, Mr. Ahmed Khalifa:

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

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

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\*/ At its thirty-seventh session, in resolution 17 (XXXVII) of  
10 March 1981, the Commission on Human Rights requested the Sub-Commission, in  
drawing up its annual report to the Commission, to present and indicate clearly  
in an introductory chapter all matters requiring the approval of the  
Commission; such matters include all resolutions and decisions of the  
Sub-Commission other than those bearing on internal procedural questions or those  
which follow up previously approved or specifically mandated courses of action.

The present chapter has been prepared in accordance with that resolution.  
Draft resolutions recommended to the Commission for adoption are contained in  
section A. Resolutions referring to matters which require action of  
consideration by the Commission are indicated in section B.

1/ See chap. XX, sect. A, resolution 1985/3, and chap. V.

2/ E/CN.4/Sub.2/1985/8 and Add.1-2.

(c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, with a view to consolidating mutual co-operation in updating his report;

3. Calls upon all Governments:

(a) To co-operate with the Special Rapporteur in making the report even more accurate and informative;

(b) To disseminate the updated report, and give its contents the widest possible publicity;

4. Requests the Secretary-General to give the Special Rapporteur all the assistance that he may require in the exercise of his mandate, with a view to intensifying direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, and making available to him two economists to assist him to expand his work on the analyses and annotations of certain selected cases as reflected in his report;

5. Invites the Secretary-General to continue to give the updated report of the Special Rapporteur the widest distribution and publicity as a United Nations publication;

6. Decides to consider the revised report at its forty-third session within the framework of the agenda item "The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa".

II. Question of the violation of human rights and fundamental freedoms: Inter-sessional meetings of the Bureau 3/

The Commission on Human Rights,

Mindful of Sub-Commission resolution 1985/15,

Sharing the concerns of the General Assembly and the Sub-Commission that the United Nations must react in a timely and effective manner to situations of violations of human rights and fundamental freedoms in any country,

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

The Economic and Social Council,

Mindful of Sub-Commission resolution 1985/15 and Commission resolution 1986/...,

Sharing the concerns of the General Assembly, the Commission and the Sub-Commission that the United Nations must react in a timely and effective manner to situations of violations of human rights and fundamental freedoms in any country,

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3/ See chap. XX, sect. A, resolution 1985/15, and chap. VI.

Authorizes the Bureau elected by the Sub-Commission at each of its sessions to hold two inter-sessional meetings per year, one between the sessions of the Sub-Commission and those of the Commission, and the other between the sessions of the Commission and those of the Sub-Commission, in order to enable the Bureau to review developments and to ensure timely collection of appropriate information needed so as to enable the Sub-Commission to perform its responsibilities under Commission resolution 8 (XXIII) of bringing to the attention of the Commission any situation which it has reasonable cause to believe reveals a consistent pattern of violations of human rights and fundamental freedoms in any country, and to assist the Commission in carrying out its responsibilities under General Assembly resolution 34/175 and at such meetings of the Bureau the presence in person or by telephone of three members shall be sufficient to take any action provided for in the present resolution so long as actual notice of at least one week shall have been given to all members of the Bureau.

III. The situation in the Arab territories occupied by Israel 4/

The Commission on Human Rights

1. Condemns Israel for its continued occupation of the Palestinian territories, including Jerusalem, and of other Arab territories in violation of relevant United Nations resolutions and of the provisions of international law;

2. Strongly condemns Israeli policies and practices of terrorist actions perpetrated against the Palestinian inhabitants of the occupied territories such as killing, detention and torture, deportation, confiscation and annexation of land, which constitute grave violations of the Charter of the United Nations, the Universal Declaration of Human Rights and all relevant United Nations resolutions;

3. Condemns Israel for its persistence in developing the colonization of these territories which aims at changing the demographic composition, the institutional structure and status of the occupied territories, including Jerusalem;

4. Reaffirms that such measures as described in the above subparagraph constitute grave violations of the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949, 5/ and of The Hague Convention IV of 1907, 6/ and that they are null and void with regard to international law;

5. Calls upon Israel to withdraw immediately from the occupied Palestinian territories, including Jerusalem, in order to restore to the Palestinian people their inalienable national rights, and from all the other occupied Arab territories.

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4/ See chap. XX, sect. A, resolution 1985/16, and chap. VI.

5/ United Nations, Treaty Series, vol. 75, No. 973, p. 287.

6/ Carnegie Endowment for International Peace, The Hague Conventions of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.



IV. Slavery and slavery-like practices: Exploitation of  
child labour 7/

The Commission on Human Rights,

Recalling the provisions of the Slavery Convention, 8/ the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 9/ and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 10/

Having considered resolution 1985/23 of the Sub-Commission and the relevant parts of the report of the Sub-Commission on the work of its thirty-eighth session, in particular those concerning the recommendations of its Working Group on Slavery,

Gravely concerned at the persistence of various slavery-like practices today, in complete disregard of accepted international standards on human rights,

Considering, in the light of the work of the Sub-Commission and its Working Group on Slavery, that several issues, such as the sale of children, the exploitation of child labour, debt bondage, the traffic in persons and the exploitation of the prostitution of others, and practices similar to slavery such as apartheid, have not received sufficient attention,

1. Invites those eligible States which have not signed or ratified the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others to do so as soon as possible, or to explain why they feel unable to do so;

2. Requests the Secretary-General to invite States Parties to the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others to report regularly upon their compliance with the provisions of the Conventions;

3. Strongly urges all States, as well as relevant organs and agencies of the United Nations system, competent intergovernmental organizations and non-governmental organizations concerned to submit broader fresh information to the Working Group on Slavery and to participate more actively in it;

4. Requests the Secretary-General to collect relevant information already published from the United Nations system and other intergovernmental organizations for the Working Group on Slavery;

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7/ See chap. XX, sect. A, resolution 1985/23, and chap. XIII.

8/ League of Nations, Treaty Series, vol. LX, No. 1414, p. 253.

9/ United Nations, Treaty Series, vol. 266, No. 3822, p. 40.

10/ Ibid., vol. 96, No. 1342, p. 271.

5. Recommends that in all societies appropriate employment legislation be adopted, education facilities be made available at the place of work, a legal minimum age and minimum wage for children be introduced, and that all competent national authorities should ensure that no children under the minimum age established by law be employed either directly or through local subcontractors;

6. Recommends that all competent United Nations agencies, development banks and intergovernmental bodies involved in development projects should encourage policies and measures to protect the human rights of children against abusive labour;

7. Expresses the wish that the United Nations Children's Fund, as the leading United Nations agency concerned with children's welfare, should be designated as the agency primarily responsible for research and education relating to the sexual exploitation of children;

8. Considers that all Governments should be encouraged to establish national policies to protect children from sexual exploitation and, for that purpose, inter alia, to enact guidelines in order to prevent travel agencies, public carriers and hotel-keepers from co-operating in such exploitation;

9. Recommends that special attention should be devoted to the problem of child prostitution in all its forms;

10. Recommends that effective provisions against the sexual exploitation of children be included in the Convention on the Rights of the Child under elaboration by the Commission on Human Rights;

11. Recommends that effective measures should be taken to promote the equality of women and men, and that the mass media should be fully utilized to that end;

12. Recommends that, on the occasion of the thirty-fifth anniversary of the adoption of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 2 December 1985, and the same date in following years be proclaimed the "World Day for the Abolition of Slavery in All Its Forms".

V. Study of the problem of discrimination against indigenous populations 11/

The Commission on Human Rights,

Having considered Sub-Commission resolution 1985/25,

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

The Economic and Social Council,

Mindful of its resolution 1982/34 of 7 May 1982, establishing a pre-session Working Group on Indigenous Populations to review developments giving special attention to the evolution of standards,

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11/ See chap. XX, sect. A, resolution 1985/25, and chap. XI.

Recalling its resolution 1985/38 of 30 May 1985, recommending to the General Assembly the establishment of a United Nations Voluntary Fund for Indigenous Populations to secure a broad geographical representation of indigenous organizations in the future work of the Working Group,

Convinced of the need for the widest possible exchange of views in this field among Governments, specialized agencies, organizations of indigenous peoples and other non-governmental organizations,

Decides that the Working Group on Indigenous Populations shall meet for up to eight working days before the annual sessions of the Sub-Commission.

VI. Question of the human rights of persons subjected to any form of detention or imprisonment 12/

The Commission on Human Rights,

Having considered Sub-Commission resolution 1985/26,

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

The Economic and Social Council,

Having considered Sub-Commission resolution 1985/26 and Commission on Human Rights resolution 1986/...,

Recommends the following resolution to the General Assembly for adoption:

The General Assembly,

Having considered Sub-Commission resolution 1985/26, Commission on Human Rights resolution 1986/... and Economic and Social Council resolution 1986/...,

Adopts the following Declaration Against Unacknowledged Detention of Persons:

"Declares that Governments shall, (a) disclose the identity, location and condition of all persons detained by members of their police, military or security authorities or others acting with their knowledge, together with the cause of such detention, and (b) to seek to locate all other persons who have disappeared. In countries where legislation does not exist to this effect, steps shall be taken to enact such legislation as soon as possible."

VII. Study on amnesty laws 13/

The Commission on Human Rights,

Taking account of resolution 1985/33 of the Sub-Commission,

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12/ See chap. XX, sect. A, resolution 1985/26, and chap. IX.

13/ See chap. XX, sect. A, resolution 1985/33, and chap. IX.

Having considered the final report 14/ of the Special Rapporteur and having heard his introductory statement,

Recommends to the Economic and Social Council the adoption of the following resolution:

The Economic and Social Council,

Taking account of resolution 1985/33 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and resolution 1986/... of the Commission on Human Rights, entitled "Question of the human rights of persons subjected to any form of detention or imprisonment: study on amnesty laws",

1. Expresses its appreciation to the Special Rapporteur, Mr. Louis Joinet, for his report on the above-mentioned subject;

2. Decides that the study on "Amnesty laws and their role in the safeguard and promotion of human rights" should be published and should be disseminated as widely as possible in all the official languages of the United Nations.

B. Sub-Commission resolutions and decisions referring to matters which are drawn to the Commission's attention and which require consideration or action by the Commission 15/

Resolution 1985/1 International peace and security as an essential condition for the enjoyment of human rights, above all the right to life: Contribution of the Sub-Commission to the strengthening of international peace and security and the achievement of the objectives and tasks of the International Year of Peace

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

[...]

"5. Requests the Secretary-General, in the light of comments and views of Member States, organizations of the United Nations system and non-governmental organizations, to submit to the Sub-Commission at its thirty-ninth session a report on the contribution of the Sub-Commission to the strengthening of international peace and security and the achievement of the objectives and tasks of the International Year of Peace;

"6. Decides that item 7 of the agenda of the Sub-Commission be expressed as follows: International peace and security as an essential condition for the enjoyment of human rights, above all the right to life."

[...]

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14/ E/CN.4/Sub.2/1985/16.

15/ For the text of resolutions and decisions, see chap. XX.

Resolution 1985/2 Gross violations of human rights and international peace

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

[...]

"1. Requests the Secretary-General to provide the Sub-Commission at its fortieth session with a report on the interrelationship between human rights and international peace in all its aspects and dimensions including the adverse impact of escalating military expenditure particularly those of nuclear-weapon States on the international social and economic situation and the right to development and in particular to examine the adverse consequences of the extension and dissemination of nuclear arms in non-nuclear regions for international peace and security, the social and economic development of the countries of the region, and the enjoyment of human rights and fundamental freedoms; 16/

"2. Recommends to the Commission on Human Rights that an item entitled 'The adverse consequences of the arms race, especially the dissemination of nuclear arms in non-nuclear regions, for international peace and security and for the protection of human rights and fundamental freedoms' be included in its agenda at its forty-third session."

Resolution 1985/4 Elimination of racial discrimination

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

[...]

"2. Demands the immediate and unconditional release of all the Namibian political prisoners from detention and concentration camps in Namibia and South Africa as well as the according of prisoner-of-war status to all captured freedom-fighters;

"3. Calls upon the Governments of the Member States of the United Nations to take appropriate legislative, administrative and other measures, both unilaterally and collectively, particularly under Chapter VII of the Charter of the United Nations, against South Africa in order to isolate it effectively in the political, economic, military and cultural fields, in accordance with relevant United Nations resolutions;

"4. Requests the Chairman of the Commission on Human Rights to convey to the Secretary-General of the United Nations, the President of the General Assembly and the President of the Economic and Social Council the deep concern of the members of the Sub-Commission at the continuing failure to bring about the independence of Namibia and the latest efforts of the Pretoria régime to impose an "internal settlement" in Namibia;"

[...]

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16/ See annex II to the present report.

Resolution 1985/7 Human rights and scientific and technological developments

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

[...]

"1. Requests all transnational corporations and enterprises to disclose all the information at their disposal regarding the hazards to human lives of their processes, products and technologies to Governments, employees, consumers and the general public;

"2. Requests the Secretary-General to communicate this resolution to all Governments with a view to their informing, as appropriate, transnational corporations and enterprises operating under their jurisdiction and obtaining the relevant information for transmittal to the Secretary-General;

"3. Requests further the Secretary-General to place before the Sub-Commission at its fortieth session information regarding existing practices followed by transnational corporations and enterprises regarding the disclosure by them of all the information at their disposal on the actual and potential hazards of their processes, products and technologies to Governments, employees, consumers and the general public, including any information received in pursuance of the present resolution."

Resolution 1985/9 Review of further developments in fields with which the Sub-Commission has been concerned: Study on genocide

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

[...]

"3. Recommends that the United Nations renew its efforts so as to make ratification by States Members of the Convention on the Prevention and Punishment of the Crime of Genocide universal as soon as possible."

Resolution 1985/11 Slavery and slavery-like practices:  
Mission to Mauritania

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

[...]

"7. Invites the Commission on Human Rights to consider ways and means to ensure the co-ordination of the assistance which could be provided to Mauritania in order to eliminate the consequences of slavery;

"8. Requests the expert to present his final follow-up report to the Sub-Commission at its thirty-ninth session, taking into account the views expressed by the Sub-Commission at its thirty-eighth session and by the Commission at its forty-second session;" 17/

[...]

Resolution 1985/12 Human rights and youth

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

[...]

"1. Requests Mr. Dumitru Mazilu, in order to facilitate the Sub-Commission's discussion of the topic, to prepare a report on human rights and youth analysing the efforts and measures for securing the implementation and enjoyment by youth of human rights, particularly, the right to life, education and work;" 18/

[...]

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17/ See annex II to the present report.

18/ See annex II to the present report.

Resolution 1985/13 Implementation of the right to derogation provided for under Article 4 of the International Covenant on Civil and Political Rights and violations of human rights: State of siege in Paraguay

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

[...]

"1. Considers with appreciation the spirit of co-operation of the Paraguayan authorities and invites them to persevere in their efforts;

"2. Takes note with satisfaction of recent releases of political prisoners, but insists upon cancelling, without any exception, all forms of interdiction concerning the return to their country of persons who have been either exiled or banished;

"3. Requests once more the Commission on Human Rights to recommend to the Government of Paraguay to ratify the International Covenant on Civil and Political Rights;"

[...]

Resolution 1985/17 The situation of human rights in the Islamic Republic of Iran

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

[...]

"5. Requests the Secretary-General to bring to the attention of the Commission on Human Rights and its Special Representative the allegations and information received by the Sub-Commission concerning the grave violations of human rights and fundamental freedoms in the Islamic Republic of Iran and of the action taken by the Sub-Commission in this matter;

"6. Requests the Secretary-General to transmit to the Sub-Commission at its thirty-ninth session the reports submitted by the Special Representative of the Commission on Human Rights to the General Assembly and to the Commission, and also to inform the Sub-Commission of the deliberations of and actions taken by the General Assembly, Economic and Social Council and Commission on Human Rights in response to these reports and other allegations and information pertaining to the human rights situation in the Islamic Republic of Iran."

Resolution 1985/18 The situation in El Salvador

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

[...]



"4. Recommends the Special Representative to inform the Commission on whether both parties accept their obligation to respect the Geneva Conventions and to what extent they are truly observing them, specially in those aspects which refer to the protection of war prisoners, military hospitals, wounded persons, the medical personnel of both parties and the civilian population;

[...]

"7. Requests the Commission on Human Rights to reiterate its appeal to the Government of El Salvador and the Frente Parabundo Martípara la Liberación Nacional - Frente Democrático Revolucionario for the immediate resumption of talks and implementation of the agreements they have made in order to achieve a negotiated comprehensive political settlement that would guarantee the full respect of human rights for all Salvadorians;

"8. Urges all States to refrain from intervening in the internal situation of El Salvador and, instead of supplying arms and all sorts of military assistance and support, to encourage a just and lasting political settlement;

"9. Requests the Secretary-General to report to the Sub-Commission at its thirty-ninth session on the results of the investigation of the Commission on Human Rights Special Representative and on the deliberations of the General Assembly and the Commission on Human Rights relating thereto."

Resolution 1985/19 Prevention of discrimination and protection of children

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

[...]

"1. Requests the Secretary-General to invite Governments, United Nations organs, specialized agencies, intergovernmental organizations, the International Committee of the Red Cross and non-governmental organizations to submit information concerning the incarceration of children under the age of 18 with adult prisoners, and to solicit their views on the ways and means of preventing this practice;

"2. Further requests the Secretary-General to compile the information received and submit it in a report to the Sub-Commission at its thirty-ninth session;

"3. Encourages States, even those where the placement of children in adult penal facilities is officially prohibited, to maintain records concerning children who are placed, for whatever reason, in an adult penal facility;

"4. Decides to consider at its thirty-ninth session under the agenda item entitled "Protection of Children" what further action could be taken by the Sub-Commission in this field with a view to contributing to the formulation of standards."

Resolution 1985/20 The situation in Albania

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

[...]

"1. Requests the Commission on Human Rights to urge the Government of the People's Socialist Republic of Albania to provide adequate constitutional and legal measures consistent with the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief with a view to ensuring that freedom of religion or belief is assured in a concrete manner, that discrimination on the ground of religion or belief is proscribed, and that adequate safeguards and remedies are provided against such discrimination;

"2. Also requests the Secretary-General to inform the Sub-Commission, at its thirty-ninth session, of the deliberations of the Commission on Human Rights on this matter, as well as of any consideration which may be given to it by the General Assembly or the Economic and Social Council."

Resolution 1985/21 The situation in Pakistan

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

[...]

"3. Requests the Commission on Human Rights to call on the Government of Pakistan to repeal Ordinance XX and to restore the human rights and fundamental freedoms of all persons in its jurisdiction;

"4. Alerts the Commission on Human Rights of the situation in Pakistan which is one with great potential to cause a mass exodus, especially of members of the Ahmadi community."

Resolution 1985/22 Study of the problem of discrimination against indigenous populations: Report of the Working Group on Indigenous Populations

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

[...]

"7. Reiterates its recommendation that the reports of the Working Group should be made available to the Commission on Human Rights at each of its sessions;"

[...]

Resolution 1985/24 Review of the work of the Sub-Commission

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

[...]

"1. Draws the attention of the Commission on Human Rights to the Report of the Working Group on the Review of the Work of the Sub-Commission \*/ and to the relevant summary records of the meetings of the Sub-Commission at its thirty-eighth session;

"2. Recommends to the Commission on Human Rights

(a) That, in order to ensure a greater continuity in its membership, half of the members should be elected every two years, which would require that the term of membership be increased to four years;

(b) that, in order to enable a maximum of three sessional working groups of the Sub-Commission to meet concurrently, additional services for three 3-hour meetings should be authorized; 19/

(c) that consideration should be given to changing the name of the Sub-Commission, in order to describe its work more clearly, to that of Sub-Commission of Experts of Human Rights;

(d) that ways and means should be explored in order to ensure the quality of the studies of the special rapporteurs of the Sub-Commission by providing them with the necessary resources and assistance required for the performance of the tasks entrusted to them within the proposed time schedule.

"3. Requests the Secretary-General to inform the Sub-Commission at its thirty-ninth session of the consideration given to the Report of the Sub-Commission by the Commission at its forty-second session;"

[...]

Resolution 1985/27 The situation in Chile

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

[...]

"1. Urges the Chilean authorities to put an end to all measures of repression such as intimidation, persecution, assignment to forced residence, torture and cruel, inhuman or degrading treatment;

"2. Calls upon the Chilean authorities to identify the persons responsible for all repressive measures, in particular the disappearances, torture and cruel, inhuman or degrading treatment, and to punish the guilty;

"3. Calls likewise upon the Chilean authorities to respect and, where necessary, restore economic, social and cultural rights, in particular the rights intended to preserve the cultural identity and improve the economic and social status of the indigenous populations, including the right to their land;

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19/ See Annex II to the present report.

"4. Recommends to the Commission on Human Rights to address an urgent appeal to the Chilean authorities to respect and promote human rights in conformity with the international instruments to which Chile is a party, and that they and the States of exception under which serious and continuous human rights violations are committed.

Resolution 1985/28 The situation in Guatemala

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

[...]

"3. Urges, once again, the Government of Guatemala to take effective measures to ensure that all its authorities and agencies, including its security forces, observe full respect of the human rights and fundamental freedoms of its citizens; and that those responsible for the violation of human rights, including members of the army, its paramilitary groups and the security forces are immediately and effectively brought to trial and punished accordingly;

"4. Urges, again, the Government of Guatemala to effectively clarify the fate of all those persons who have disappeared since the outset of the conflict, and calls upon the Government to halt, impede and prevent all harassment and persecution of the members and leaders of the Mutual Support Group and to respond to their demands in a satisfactory manner;

"5. Notes with satisfaction that the Government of Guatemala invited certain international human rights organizations to visit Guatemala to assess the situation of human rights and fundamental freedoms, and expects that it will take their reports in due account;

"6. Requests the Government of Guatemala to allow the entrance of other international humanitarian organizations to aid the civilian population in the areas of conflict, in particular the International Committee of the Red Cross, and to investigate the fate of the disappeared;

"7. Calls upon all parties concerned in Guatemala to ensure the application of the relevant rules of International Law, in particular the Geneva Conventions of 1949 and the Additional Protocols thereto;

[...]

"9. Expresses its concern to the Government of Guatemala, in this respect, for the climate of intimidation and terror which prevails in the country, which is an impediment to the free participation of all political forces, all social sectors and all citizens in the Presidential elections to be carried out from November 1985 on, as well as the insufficient conditions for the effective participation of the indigenous population, the same as for the rest of the rural and peasant population, in the country's political processes;

[...]

"12. Urges, once again, all Governments to abstain from intervening in any form in the internal situation of Guatemala and in particular that they abstain from providing arms or any other kind of military assistance as long as grave violations of human rights continue to occur in Guatemala;

"13. Invites the Special Rapporteur to take due account of the situation of the indigenous population for the elaboration and presentation of his forthcoming reports, as well as all testimonies submitted to the Sub-Commission and any other relevant data furnished him."

Resolution 1985/29 The right to leave any country, including one's own and the right to return to one's own country

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

[...]

"2. Requests the Special Rapporteur, Mr. Mubanga-Chipoya, to continue his important work in order to present to the Sub-Commission at its thirty-ninth session:

(a) A final report on (i) the right to leave any country, including one's own; (ii) the extent and effect of restrictions under article 12 (3) of the International Covenant on Civil and Political Rights; and (iii) the possibility to enter another country;

(b) A preliminary draft of a draft declaration on the right of everyone to leave any country, including his own, and to return to his country; 20/

"3. Further requests the Special Rapporteur to continue his important work in order to present to the Sub-Commission at its fortieth session:

(a) A final report on (i) the right to employment; (ii) the right to return to one's own country; and (iii) the phenomenon of the "brain drain" or the outflow of trained personnel from developing countries;

(b) A proposed final draft of the draft declaration on the right of everyone to leave any country, including his own, and to return to his country. 21/

[...]

"5. Requests the Secretary-General to provide adequate assistance to the Special Rapporteur in the execution of his mandate." 22/

Resolution 1985/31 The status of the individual and contemporary international law

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

[...]

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20/ See annex II to the present report.

21/ See annex II to the present report.

22/ See annex II to the present report.

"2. Requests the Special Rapporteur to continue her work on the above-mentioned study with a view to submitting her final report to the Sub-Commission during its thirty-ninth session;" 23/

Resolution 1985/32    The administration of justice and the human rights of detainees

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

[...]

"1. Expresses its appreciation to Mr. Leandro Despouy for his explanatory paper on the best way of undertaking the drawing up and updating of a list of countries which proclaim or terminate a state of emergency each year, and the submission of an annual report to the Commission on Human Rights containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency;

"2. Requests the Special Rapporteur, Mr. Leandro Despouy, to carry out the work referred to in paragraph 1 of Sub-Commission resolution 1983/30 and Commission on Human Rights resolution 1983/18 and decision 1984/104 on an annual basis; 24/

"3. Requests the Special Rapporteur to present his first annual report and draw up an initial list for submission to the Sub-Commission at its thirty-ninth session on the basis of the information contained in his explanatory paper and taking into consideration the views expressed by the members of the Sub-Commission at its thirty-eighth session;" 25/

[...]

Resolution 1985/35    The situation in Afghanistan

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

[...]

"1. Requests the Commission on Human Rights to ask the Special Rapporteur to look in particular into the fate of women and children as a consequence of the conflict in Afghanistan;

"2. Requests the Commission on Human Rights to ask all specialized agencies of the United Nations and all those concerned in the conflict to give the necessary information about the situation to the Special Rapporteur and to collaborate with him fully."

Resolution 1985/36    The situation in South Africa and Namibia

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

[...]

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23/ See annex II to the present report.

24/ See annex II to the present report.

25/ See annex II to the present report.

"2. Strongly condemns South Africa for:

(a) The brutal acts of terrorism carried out to suppress the mass movement in favour of the realization of human rights and fundamental freedoms of the black majority;

(b) The continued acts of international terrorism carried out against front-line and other neighbouring States;

(c) The refusal to implement the United Nations plan for the independence of Namibia in accordance with Security Council resolution 435 (1978) through the insistence on the so-called issue of "linkage" which is totally extraneous and irrelevant to the exercise of the right to self-determination by the people of Namibia.

"3. Demands the immediate lifting of the state of emergency and the cessation forthwith of all acts of brutality by South African police and military forces and the immediate release of all political prisoners in that country.

"4. Calls upon the international community to continue its efforts towards the total economic, cultural and political isolation of South Africa until that country abandons its policy of apartheid, colonialism and its illegal occupation of Namibia."

Decision 1985/106    Organization of the session 26/

At its 32nd meeting, on 27 August 1985, the Sub-Commission, owing to lack of time for an appropriate consideration of the issues mentioned hereunder, decided to postpone consideration of the following agenda items to its thirty-ninth session:

(a) Elimination of all forms of intolerance and of discrimination based on religion or belief (item 15);

(b) The report on Measures to combat racism and racial discrimination and the role of the Sub-Commission (submitted by Mr. Eide under item 5 (a));

(c) The new international economic order and the promotion of human rights (item 12).

Decision 1985/107    Administration of Justice 27/

At its 33rd meeting, on 27 August 1985, the Sub-Commission having heard the introductory statement of Mr. Singhvi, and considering that it would not have sufficient time to proceed to a thorough discussion of the final study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers submitted by Mr. Singhvi (E/CN.4/Sub.2/1985/18) at its thirty-eighth session decided:

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26/ See annex II to the present report.

27/ See annex II to the present report.

(a) To postpone consideration of that study to its thirty-ninth session and to consider it at that session on a priority basis devoting sufficient time for its discussion;

(b) To request the Secretary-General to circulate the study to the members of the Sub-Commission at the latest by December 1985 and to invite those members of the Sub-Commission wishing to do so to submit within two months from the receipt of the study written comments for transmittal to Mr. Singhvi;

(c) To request the Secretary-General to circulate the comments received in accordance with the preceding paragraph in document form to the members of the Sub-Commission;

(d) To request the Special Rapporteur to take into account any comments received from members of the Sub-Commission when presenting his report to the Sub-Commission at its thirty-ninth session.

Decision 1985/110 Question of the human rights of all  
persons subjected to any form of  
detention or imprisonment

The Sub-Commission at its 37th meeting decided to request Mr. Joinet to prepare in advance of the thirty-ninth session an explanatory paper suggesting to the Sub-Commission procedures by which it might carry out its responsibilities under Commission resolution 1985/16 concerning administrative detention without charge or trial.



## II. ORGANIZATION OF THE THIRTY-EIGHTH SESSION

### A. Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its thirty-eighth session at the United Nations Office at Geneva from 5 to 30 August 1985.
2. The session was opened (1st meeting) by Mr. Ivan Toševski, Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-seventh session.
3. At the 2nd meeting, Mr. Kurt Herndl, Assistant Secretary-General for Human Rights, made an opening statement. 28/
4. At the same meeting, the Sub-Commission observed a minute of silence in tribute to the memory of the victims of the first atomic bomb and all other victims of the Second World War.

### B. Attendance

5. The session was attended by members of the Sub-Commission, by observers for member States, by an observer for a non-member State, by the representative of the Office of the United Nations High Commissioner for Refugees and by representatives of special agencies, an intergovernmental organization, national liberation movements and non-governmental organizations. Details of attendance appear in annex I.

### C. Election of officers

6. The Sub-Commission elected the following officers by acclamation:

Chairman: Mrs. Erica-Irene A. Daes

Vice-Chairmen: Mr. Antonio Martínez Báez

Mr. Dumitru Mazilu

Mr. Masayuki Takemoto

Rapporteur: Mr. C.L.C. Mubanga-Chipoya

### D. Adoption of the agenda

7. At its 1st meeting, the Sub-Commission unanimously adopted the provisional agenda (E/CN.4/Sub.2/1985/1). The agenda as adopted is reproduced below:
  1. Election of officers
  2. Adoption of the agenda
  3. Review of the work of the Sub-Commission

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28/ See annex VI to the present report.

4. Review of further developments in fields with which the Sub-Commission has been concerned.
5. Elimination of racial discrimination:
  - (a) Measures to combat racism and racial discrimination and the role of the Sub-Commission;
  - (b) Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa.
6. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation, and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII).
7. Gross violations of human rights and international peace.
8. Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII).
9. The administration of justice and the human rights of detainees:
  - (a) Question of human rights of persons subjected to any form of detention or imprisonment;
  - (b) Individualization of prosecution and penalties, and repercussions of violations of human rights on families;
  - (c) Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers;
  - (d) Implementation of the right to derogation provided for under article 4 of the International Covenant on Civil and Political Rights and violations of human rights.
10. Human rights and scientific and technological developments.
11. Study of the problem of discrimination against indigenous populations.
12. The new international economic order and the promotion of human rights.
13. Slavery and slavery-like practices:
  - (a) Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism;
  - (b) Exploitation of child labour.
14. Encouragement of universal acceptance of human rights instruments.

15. Elimination of all forms of intolerance and of discrimination based on religion or belief.
16. Promotion, protection and restoration of human rights at the national, regional and international levels:
  - (a) The status of the individual and contemporary international law;
  - (b) Draft body of principles and guidelines on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms;
  - (c) Prevention of discrimination and protection of minorities;
  - (d) Prevention of discrimination and protection of children;
  - (e) Prevention of discrimination and protection of women.
17. Human rights and disability.
18. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-ninth session of the Sub-Commission.
19. Report of the thirty-eighth session.

#### E. Organization of work

8. The Sub-Commission took up the items of its agenda in the following order: 7, 5, 10, 4, 14, 16 (c), 4, 17, 9 (a), 9 (b), 9 (d), 6, 16 (d), 16 (e), 13, 16 (a), 16 (b), 3, 11, 18, 19.

#### F. Meetings, resolutions and documentation

9. The Sub-Commission held 39 meetings. The views expressed during the discussion on substantive items are summarized in the records of those meetings (E/CN.4/Sub.2/1985/SR.1-SR.39). 29/

10. Written communications transmitted by Governments and non-governmental organizations for circulation to the Sub-Commission are mentioned in the chapter on the items to which the communications refer.

11. The Sub-Commission heard statements by the observers for the following Member States: Afghanistan (31st and 39th meetings); Argentina (9th and 25th meetings); Bolivia (31st meeting); Bulgaria (16th, 31st and 34th meetings); Burundi (21st meeting); Canada (24th meeting); Cyprus (9th meeting); Democratic Kampuchea (21st and 31st meetings); Egypt (32nd meeting); El Salvador (24th, 31st and 37th meetings); Ethiopia (31st meeting); France (9th meeting); German Democratic Republic (4th meeting); Germany, Federal Republic of (34th meeting); Guatemala (21st, 24th, 25th, 31st and 38th meetings); India (35th meeting); Indonesia (31st meeting); Islamic Republic of Iran (10th, 21st, 31st and

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29/ The 28th and 29th meetings and the 39th meeting (first part) were closed. The summary records of those meetings (E/CN.4/Sub.2/1985/SR.28, SR.29 and SR.39 (first part)) were issued in restricted distribution.

37th meetings); Israel (7th, 9th, 16th, 21st and 31st meetings); Japan (24th meeting); Mauritania (25th meeting); Nicaragua (31st meeting); Norway (37th meeting); Pakistan (21st, 31st and 37th meetings); Paraguay (21st and 25th meetings); Peru (9th and 24th meetings); Portugal (24th and 31st meetings); Sri Lanka (25th and 31st meetings); Turkey (21st, 22nd and 31st meetings); Union of Soviet Socialist Republics (16th and 21st meetings); United Kingdom of Great Britain and Northern Ireland (9th meeting); United States of America (13th and 31st meetings); Venezuela (34th meeting); and Viet Nam (31st meeting).

12. A statement was made by the observer of the non-member State of the Republic of Korea (31st meeting).

13. Statements were made by the representative of the Office of the United Nations High Commissioner for Refugees (25th and 30th meetings).

14. Statements were made by the representative of the International Labour Organisation (23rd and 25th meetings).

15. Statements were also made by the representatives of the following national liberation movements: Pan Africanist Congress of Azania (4th, 8th, 24th and 30th meetings); and the Palestine Liberation Organization (21st and 30th meetings).

16. The Sub-Commission also heard statements by the representatives of the following non-governmental organizations:

Category I: International Confederation of Free Trade Unions (11th and 12th meetings); International Council of Women (25th and 34th meetings); World Muslim Congress (16th, 20th and 30th meetings).

Category II: Amnesty International (8th, 12th, 25th, 29th and 35th meetings); Anti-Slavery Society for the Protection of Human Rights (9th, 15th, 20th, 25th, 27th and 34th meetings); Baha'i International Community (9th, 11th, 20th, 23rd, 30th and 35th meetings); Commission of the Churches on International Affairs of the World Council of Churches (20th meeting); Co-ordinating Board of Jewish Organizations (10th meeting); Disabled People's International (23rd and 29th meetings); Four Directions Council (11th, 15th, 20th, 23rd and 29th meetings); Human Rights Advocates (23rd, 29th and 35th meetings); Indigenous World Association (20th meeting); International Abolitionist Federation (34th meeting); International Association of Democratic Lawyers (34th meeting); International Commission of Jurists (8th, 13th, 18th, 24th, 25th, 29th and 34th meetings); International Federation of Human Rights (17th, 23rd, 29th and 34th meetings); International Federation of Women in Legal Careers (29th meeting); International Indian Treaty Council (30th meeting); International League for Human Rights (24th and 30th meetings); International Movement for Fraternal Union Among Races and Peoples (9th, 15th, 20th, 25th and 30th meetings); International Organization for the Elimination of all Forms of Racial Discrimination (9th, 20th and 29th meetings); Latin American Federation of Associations for Relatives of Disappeared Detainees (20th, 25th and 29th meetings); Pax Christi (25th and 30th meetings); Pax Romana (25th and 27th meetings); National Aboriginal and Islander Legal Services Secretariat (20th and 29th meetings); World Council of Indigenous Peoples (15th and 30th meetings); World Jewish Congress (10th, 15th and 21st meetings); World University Service (30th meeting).

Roster: Centre Europe-Tiers Monde (31st meeting); Defense for Children International (34th meeting); International Association for the Defence of Religious Liberty (30th meeting); International Federation for the Protection of

the Rights of Ethnic, Religious, Linguistic and other Minorities (29th meeting); International League for the Rights and Liberation of Peoples (9th, 20th, 25th and 29th meetings); Minority Rights Group (4th, 9th, 20th, 30th and 34th meetings); Procedural Aspects of International Law Institute (13th, 15th, 20th and 30th meetings); Survival International (3rd and 30th meetings); World Association for the School as an Instrument of Peace (35th meeting).

17. The Sub-Commission adopted resolutions 1985/1 to 1985/36 and took 13 decisions. The texts of these resolutions and decisions appear in chapter XX.

18. Statements of the administrative and programme budget implications of certain resolutions and decisions appear in annex II.

19. A list of studies under preparation drawn up in accordance with Commission resolution 1982/23 appears in annex III.

20. A list of documents submitted to the Sub-Commission for consideration appear in annex V.

21. The text of the opening address made by Mr. Kurt Herndl, Assistant Secretary-General for Human Rights appears in annex VI.

### III. REVIEW OF THE WORK OF THE SUB-COMMISSION

22. The Sub-Commission considered item 3 at its 37th meeting on 29 August 1985.

23. The Sub-Commission had before it the following documents: (a) report of the Working Group on the Review of the Work of the Sub-Commission (E/CN.4/Sub.2/1985/2); and (b) a note by the Secretary-General (E/CN.4/Sub.2/1985/39).

24. At the 37th meeting, Mr. Bossuyt as Chairman of the Working Group on the Review of the Work of the Sub-Commission introduced the report of the Working Group.

25. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.45) was submitted by Mr. Al Khasawneh, Mr. Bhandare, Mr. Bossuyt, Mr. Cepeda Ulloa, Mr. Dahak, Mr. Deschênes, Mr. Despouy, Mr. George, Mr. Joinet, Mr. Martínez Báez, Mr. Mazilu, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Takemoto, Mr. Türk, Mr. Whitaker and Mr. Yimer.

26. At its 37th meeting, the Sub-Commission considered the draft resolution, when it was introduced by Mr. Bossuyt.

27. Mr. Sofinsky further proposed the insertion of the words "the Commission on" between the words "of" and "Human" in operative paragraph 2, subparagraph (c). The amendment was rejected by 12 votes to 1, with 4 abstentions.

28. Mr. Sofinsky proposed the deletion of operative paragraph 5 which read: "Decides further to include in its agenda on an annual basis an item of high priority entitled, 'The Review of the Work of the Sub-Commission'". The amendment was rejected by 14 votes to 1, with 1 abstention.

29. At the same meeting on behalf of the officers, Mr. Mazilu proposed the addition of a new operative paragraph 4 with the following text: "Requests the Commission on Human Rights to take the necessary action so that the Sub-Commission as from its thirty-ninth session is provided with one additional week of fully

serviced meetings." At the request of Mr. Sofinsky, a roll-call vote was taken on the amendment. The voting was as follows:

In favour: Mr. Bhandare, Mr. Chowdhury, Mr. Martínez Báez, Mr. Mazilu,  
Mr. Mubanga-Chipoya, Mr. Takemoto and Mr. Whitaker

Against: Mr. Bossuyt, Mr. Carey, Mr. Deschênes, Mr. George, Mrs. Gu,  
Mr. Joinet, Mr. Simpson, Mr. Sofinsky, Mr. Türk and Mr. Yimer

Abstaining: Mr. Capeda Ulloa, Mr. Dahak and Mr. Despouy

30. The amendment was rejected by 10 votes to 7, with 3 abstentions.

31. At the same meeting, a statement of the administrative and programme budget implications was made by the Deputy Director of the Centre for Human Rights.

32. The draft resolution as a whole was adopted by 18 votes to 1.

33. For the text of the resolution, see chapter XX, section A, resolution 1985/24.

#### IV. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS IN WHICH THE SUB-COMMISSION HAS BEEN CONCERNED 30/

##### Study on genocide

34. The Sub-Commission considered agenda item 4 at its 12th, 17th to 22nd, 35th to 37th meetings on 13, 15 to 17, 20, 28 and 29 August 1985.

35. During the consideration of this item, the Sub-Commission, in accordance with Economic and Social Council resolution 1983/33, had before it a revised and updated report on the question of the prevention and punishment of the crime of genocide (E/CN.4/Sub.2/1985/6) prepared by the Special Rapporteur, Mr. Benjamin Whitaker.

36. The item was introduced by the Assistant Secretary-General for Human Rights.

37. In introducing his report, the Special Rapporteur, Mr. Benjamin Whitaker, stressed that the crime of genocide was one of the gravest violations of human rights that could be perpetrated against mankind. Consequently, it was the responsibility of the international community to take all effective steps possible to prevent and punish that crime in order to deter its recurrence. The United Nations should study past cases in order to analyse their causation together and to arrive at such lessons as the international community might learn from history.

38. As concerns the question of international criminal jurisdiction and the courts competent to try crimes of genocide, some participants advocated the establishment of an International Penal Court, perhaps as part of the International Court of Justice, considering the fact that since government officials were frequently the people responsible for genocide committed against their own people, national

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30/ Paragraphs 42-45 infra were discussed at the 39th meeting. Various opinions were expressed on those paragraphs. The summary record of the 39th meeting on that portion of the debate is reproduced as annex IV.

courts would hesitate in or resist punishing them. In this connection, it was suggested that the question should be examined in the light of the work of the International Law Commission on a draft code of offences against the peace and security of mankind. In the absence of an international criminal court, or even with such a court, it was proposed that consideration should be given to the possibility of setting up an international fact-finding body with authority to investigate allegations of genocide.

39. A number of speakers felt that the risk of nuclear war constituted one of the greatest dangers of genocide existing in the present world. It was said that the prevention of genocide would not be effective unless measures were taken to reduce armaments and to discontinue the production of nuclear weapons; the dumping of nuclear waste in the sea was also acknowledged as consisting such risk and should be discontinued.

40. Many speakers welcomed the establishment of early warning systems of potential genocide situations in order to prevent a recurrence of the crime. UNESCO was invited to help in making the world aware of the risks of that crime and the personal responsibility of all those who might be used to commit the crime.

41. According to various speakers, the Special Rapporteur had correctly interpreted his mandate in referring, for instance in paragraph 24 of his report, to specific cases or allegations of genocide in the past. The lessons of history were indispensable to keep the conscience of the world alive, and prevent the recurrence of that odious crime. Other participants felt that the Special Rapporteur should have dealt exclusively with the problem of preventing future genocides, without referring to past events which were difficult or impossible to investigate.

42. Turning specifically to the question of the massacre of the Armenians, the view was expressed by various speakers that such massacres indeed constituted genocide, as was well documented by the Ottoman military trials of 1919, eye witness reports and official archives. Objecting to such a view, various participants argued that the Armenian massacre was not adequately documented and that certain evidence had been forged.

43. Discussions also took place on whether other specific occurrences cited by the Special Rapporteur in paragraph 24 constituted genocide.

44. Some speakers felt that other examples should have been added by the Special Rapporteur: the massacres of Palestinians, for instance, were suggested as being clearly a case of genocide.

45. The matters of cultural genocide, ethnocide and ecocide were also raised and the view was expressed that they deserved further study. The proposal was made by certain members that those questions should be studied by the Special Rapporteur, Mr. Benjamin Whitaker.

46. In reply to comments made, the Special Rapporteur said that he had taken note of all the observations and comments during the debate and that he would give them careful consideration. He supported the idea that practical action should now be taken by the United Nations to ensure the prevention and punishment of the crime of genocide. He reiterated that, in his view, his mandate had been to update and revise the study prepared by his predecessor, including references to specific cases which he felt were well documented.

47. At its 17th meeting, on 15 August 1985, the Sub-Commission heard a statement by the International Federation of Human Rights.

48. At its 18th meeting on 16 August, the Sub-Commission also heard a statement by the International Commission of Jurists.

49. At its 20th meeting on 19 August the Sub-Commission also heard statements by the following non-governmental organizations: Minority Rights Group, Procedural Aspect of International Law Institute (Whitaker's Report), International League for the Rights and Liberation of Peoples, Commission of the Churches on International Affairs, Anti-Slavery Society, Baha'i International Community, Indigenous World Association, Human Rights Advocates, Latin American Federation of Associations for Relatives of Disappeared Detainees, Four Directions Council, National Aboriginal and Islander Legal Services Secretariat, International Organization for the Elimination of All Forms of Racial Discrimination, International Movement for Fraternal Unions Among Races and Peoples, World Jewish Congress and Co-ordinating Board of Jewish Organizations and the World Muslim Congress.

50. At the 21st meeting of the Sub-Commission, Observers for Burundi, Democratic Kampuchea, Guatemala, Islamic Republic of Iran, Israel, Pakistan, Paraguay, Turkey and Union of Soviet Socialist Republics and the PLO made statements on the question of genocide.

#### Other matters

51. Several members of the Sub-Commission expressed their appreciation for the information contained in the Secretary-General's note and for the reports of the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization.

52. In that connection one member stated that he would highly value even closer co-operation from UNESCO with the Sub-Commission, particularly as regards promoting human rights and fundamental freedoms through teaching and education.

53. The view was also expressed that perhaps developments concerning the rights of migrant workers could be connected with the "brain-drain" aspect of the Sub-Commission's study on the right to leave any country including one's own, and the right to return to one's country.

54. The Chairman stated that in the context of the current celebrations of the fortieth anniversary of the United Nations and of International Youth Year, studies such as that prepared by the Special Rapporteur could have a significant impact on the younger generation, which might draw lessons from the past for its safe and humane guidance in the future, and that one of the messages which should be addressed to the younger generation should be: "Never again any crimes against humanity, never again genocide against any people of the world community".

55. At its 35th meeting, on 28 August, the Sub-Commission had before it a draft resolution contained in document E/CN.4/Sub.2/1985/L.15, sponsored by Mr. Deschênes and Mr. Mubanga-Chipoya and a draft resolution contained in document E/CN.4/Sub.2/1985/L.16 sponsored by Mr. Deschênes, Mr. George and Mr. Mubanga-Chipoya. In introducing the draft resolutions, Mr. Deschênes stated that the resolutions should be dealt with in reverse order. Consequently, the Sub-Commission first took action on draft resolution E/CN.4/Sub.2/1985/L.16 sponsored by Mr. Deschênes, Mr. George and Mr. Mubanga-Chipoya.



56. At the same meeting, Mr. Al Khasawneh proposed the addition of a fifth preambular paragraph reading "Noting that different views had been expressed by the members of the Sub-Commission and that the study did not commend general approval by the Sub-Commission,". He also proposed the deletion of the words "and congratulations" in operative paragraph 2 of the resolution.

57. At the same meeting Mr. Bossuyt proposed deleting the words "Receives and" in operative paragraph 1, and to add a new operative paragraph 4 reading "Requests the Secretary-General to transmit the recommendations of the Special Rapporteur to the Commission of Human Rights for consideration".

58. At the same meeting Mr. Yimer proposed deleting the words "the quality of" in operative paragraph 2. The proposal was adopted by 16 votes to none, with 4 abstentions.

59. At the same meeting Mr. Sofinsky, while supporting the deletion of the words "Receives and" suggested an amendment to Mr. Al Khasawneh's proposal in operative paragraph 2 which would read "expresses its thanks to the Special Rapporteur for some of his proposals".

60. At the same meeting Mr. Dahak while supporting Mr. Bossuyt's proposal suggested that Mr. Al Khasawneh's amendment relating to the fifth preambular paragraph should be revised to read "Noting that opposing opinions had been expressed by some members of the Sub-Commission concerning certain parts of the study". After some discussion he withdrew his amendment in a spirit of compromise.

61. At the same meeting Mr. Joinet proposed a revision of the fifth preambular paragraph to read "Noting that diverging views had been expressed by certain members of the Sub-Commission".

62. At its 36th meeting on 29 August, Mr. Deschênes suggested that if Mr. Bossuyt's proposal were to be retained, a fifth operative paragraph should be added which would read:

"5. Recommends to the Commission on Human Rights to authorize the Sub-Commission to request its Special Rapporteur, Mr. Benjamin Whitaker, to study the notions of 'cultural genocide', 'ethnocide' and 'ecocide' and to submit his report to the Sub-Commission at its fortieth session."

63. At the same meeting Mr. George stated that if Mr. Bossuyt's proposal to include a fourth operative paragraph were maintained he would withdraw his name as co-sponsor.

64. At the same meeting, Mr. Despouy proposed a revision of the fifth preambular paragraph as proposed by Mr. Al Khasawneh to read "Noting the fact that different opinions have been expressed on the content and recommendations of the report".

65. After some discussion the Sub-Commission decided to adopt without a vote a fifth preambular paragraph which read as follows: "Noting that divergent views were expressed about the content and proposals of the report".

66. Regarding the operative part of the draft resolution, the Sub-Commission took the following action:

(a) It rejected Mr. Sofinsky's amendment in operative paragraph 2 which consisted in adding the word "some" before the words "of his proposals", by 13 votes to 4, with 2 abstentions;

(b) Regarding operative paragraph 2 as a whole, the Sub-Commission adopted it by 16 votes to none, with 4 abstentions;

(c) The Sub-Commission adopted operative paragraph 3 by consensus;

(d) Turning to operative paragraph 4, proposed by Mr. Bossuyt, the Sub-Commission rejected it by 10 votes to 6, with 6 abstentions. Statements in explanation of vote before the vote were made by Mr. Chowdhury, Mr. Al Khasawneh, Mr. Bhandare, Mr. Dahak, Mr. Sofinsky and Mrs. Gu Yijie. A statement in explanation of vote after the vote was made by Mr. Yimer.

(e) Mr. Deschênes withdrew his proposal to add a new operative paragraph 5.

67. The Sub-Commission adopted the draft resolution as a whole, by 14 votes to 1, with 4 abstentions. Statements in explanation of vote after the vote were made by Mr. Alfonso Martínez and Mr. Sofinsky.

68. Mr. Whitaker did not participate in the vote.

69. For the text of the resolution see chapter XX, section A, resolution 1985/9.

70. At its 36th and 37th meetings, the Sub-Commission considered draft resolution E/CN.4/Sub.2/1985/L.15, which was introduced by Mr. Deschênes at the 36th meeting.

71. At the 36th meeting, Mr. Yimer, under rule 65, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, moved a motion not to take a decision on the draft resolution contained in document E/CN.4/Sub.2/1985/L.15.

72. The Sub-Commission rejected the motion by 9 votes to 7, with 5 abstentions.

73. At its 37th meeting, the Sub-Commission decided to postpone consideration of the draft resolution with the understanding that it would come back to the recommendations contained in the draft resolution at a later stage.

## V. ELIMINATION OF RACIAL DISCRIMINATION

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

### B. ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME OF SOUTH AFRICA

#### A. Measures to combat racism and racial discrimination and the role of the Sub-Commission

74. The Sub-Commission considered item 5.(a) together with item 5 (b) at its 4th to 10th and 33rd meetings held on 7 to 12 and 27 August 1985.

75. In the general debate, all speakers condemned the policy of apartheid as the most heinous form of racism and racial discrimination and called for concrete action to combat it.

76. Many speakers spoke out in favour of the goals and aims contained in the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. In this connection, the observation was made that the first part of the Plan of Activities for the period 1985-1989 bore witness to the pivotal role the struggle against apartheid played in the overall struggle against racism and racial discrimination.

77. Most speakers condemned the state of emergency proclaimed by the Government of South Africa on 21 July 1985 and appealed to the South African Government to lift it. The Sub-Commission requested the Chairman of its parent body, the Commission on Human Rights, to convey a message to that effect to the Government.

78. One member welcomed the seminar scheduled to take place in Africa in 1986 under the topic "International assistance and support to peoples and movements struggling against colonialism, racism, racial discrimination and apartheid". The view was expressed that effective measures in the field of education, teaching and training would contribute to the creation of a favourable atmosphere for the eradication of racism and racial discrimination.

79. Another member referred to operative paragraph 6 of resolution 39/16 of the General Assembly in which it invited the Secretary-General to proceed immediately with the implementation of the activities as outlined in his report on the Plan of Activities for the period 1985-1989 (A/39/167-E/1984/33 and Add.1-2). He welcomed the fact that practical projects were envisaged and referred in this connection to a seminar to be organized in Geneva in September 1985 on "Community relations commissions and their functions" and the seminar scheduled for 1986 in Africa on victims of apartheid, racism and racial discrimination.

80. Statements were made by the observers for Cyprus, Argentina, France, Peru, Israel and the United Kingdom (9th meeting).

81. A statement was also made by the following national liberation movement: Pan Africanist Congress of Azania (8th meeting).

82. The following non-governmental organizations also made statements: Baha'i International Community (9th meeting); Co-ordinating Board of Jewish Organizations (10th meeting); World Jewish Congress (10th meeting).

83. At its 33rd meeting, on 27 August 1985, the Chairman pointed out that, by decision of the Bureau taken on 27 August 1985, discussion on the report submitted by Mr. Eide (E/CN.4/Sub.2/1985/7) would be postponed until the thirty-ninth session of the Sub-Commission.

84. At the same meeting, Mr. Bhandare introduced draft resolution E/CN.4/Sub.2/1985/L.4 co-sponsored by Mr. George, Mr. Khalifa, Mr. Simpson and Mr. Yimer.

85. Mr. Bhandare stated that the co-sponsors would like to revise their draft as follows:

Operative paragraph 1

At the end add "and the importance of the urgent implementation of Security Council resolution 435 (1978) for the realization of these inalienable rights".

Operative paragraph 3

Line 2

After the word "measures" add "both".

Line 3

After the word "collectively" add "particularly under Chapter VII of the Charter of the United Nations".

86. At the same meeting, Mr. Carey introduced his amendments to the draft (E/CN.4/Sub.2/1985/L.12). He requested that a vote be taken on them. The Sub-Commission proceeded with these amendments as follows:

Seventh preambular paragraph, line 2

Delete "especially those of the transnational corporations". This amendment was rejected by 16 votes to 2, with 3 abstentions.

Operative paragraph 2, lines 3 and 4

Delete "as well as the according of prisoner-of-war status to all captured freedom fighters". This amendment was rejected by 15 votes to 2, with 2 abstentions.

Operative paragraph 3, line 2

Insert "selected" before "legislative". This amendment was rejected by 16 votes to 2, with 2 abstentions.

87. Mr. Carey requested a vote on the revision made by the sponsors of the draft resolution to operative paragraph 3, line 3. Mr. Alfonso Martínez requested a roll-call vote. The revision was maintained by 17 votes to none, with 3 abstentions. The voting was as follows:

In favour: Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Dahak, Mr. Deschênes, Mr. Despouy, Mr. George, Mrs. Gu Yijie, Mr. Martínez Báez, Mr. Mazilu, Mr. Mubanga-Chípoya, Mr. Simpson, Mr. Sofinsky, Mr. Türk, Mr. Cepeda Ulloa, Mr. Whitaker, Mr. Yimer.

Against: None

Abstaining: Mr. Bossuyt, Mr. Carey, Mr. Takemoto.

88. Subsequently, Mr. Mubanga-Chipoya and Mr. Sofinsky requested that their names be added to the list of co-sponsors of the draft resolution.

89. The draft resolution as a whole was adopted by 18 votes to none, with 2 abstentions.

90. Mr. Bossuyt, Mr. Chowdhury and Mr. Al Khasawneh made statements in explanation of vote after the vote.

91. For the text of the resolution, as adopted, see chapter XX, section A, resolution 1985/4.

B. Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa

92. The Sub-Commission considered agenda item 5 (b), at its 4th to 11th meetings, and at its 33rd meeting held from 7 to 12 and on 27 August 1985.

93. The Sub-Commission had before it a report by the Special Rapporteur, Mr. Khalifa (E/CN.4/Sub.2/1985/8 and Add.1-2). This report consisted of introduction and addenda which contained lists of names to be added to, or deleted from, the updated comprehensive list summarizing available information on banks, insurance companies, firms and other organizations assisting South Africa, either directly or indirectly, and thereby giving assistance to the illegal régime in Namibia (E/CN.4/Sub.2/1984/8/Add.1). 31/

94. At the 4th meeting, the item was introduced by the Assistant Secretary-General of the Centre for Human Rights.

95. At the 5th meeting, the Special Rapporteur introduced his report. He referred to recent oppressive measures taken by the apartheid régime in South Africa. He referred to action against South Africa taken by certain countries, including Canada, Denmark, France, Sweden and the people of the United States of America. In this context, he welcomed the French initiative to stop new investments in South Africa and the joint France-Danish initiative which led the Security Council to adopt resolution 569 on 26 July 1985. However, he emphasized the need for total and strict sanctions. He noted that though the pace of disinvestment regarding holdings in South Africa had accelerated, most big banks and firms continued business transactions with South Africa, thus abetting apartheid.

96. He stated that events had proved the fallacy of notions such as "constructive engagement" or "voice of reason talking with South Africa" and that codes of conduct or Sullivan principles were irrelevant and had been overtaken by events. It was increasingly clear that economic and other pressures along with rising black militancy could bring significant pressure on the racist Government of South Africa.

97. He noted the growing impact of the report in exposing those who transact business with South Africa and underlined the need to expand information contained in it and to provide commentaries. Mr. Khalifa also stressed the usefulness of continuous contacts with United Nations bodies concerned with the economic aspects

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31/ See United Nations publication, Sales No. E.85.XIV.4.

of the struggle against apartheid to ensure co-ordination. He expressed his gratitude to those who had responded to his report and provided him with information.

98. All speakers condemned the policy of apartheid, racism and racial discrimination. They strongly condemned the continuous gross and massive violations of the human rights of non-whites in South Africa, the declaration of the state of emergency and the brutal measures of repression committed by the apartheid régime against blacks. In this regard, many cases of killing, torture and detention were cited.

99. Numerous speakers stressed that economic collaboration with South Africa helped to perpetuate apartheid, the illegal occupation of Namibia and aggression against African countries by the apartheid régime. Speakers welcomed Security Council resolution 569 (1985) and action taken by certain Governments, organizations, companies and investors to withdraw investment from South Africa. An overwhelming number of speakers underlined the need to impose total and strict comprehensive sanctions against South Africa.

100. Several speakers suggested certain measures in the fight against apartheid. These included: (a) increasing pressure on South Africa; (b) exposing those who had economic or other relations with that country; (c) strictly observing the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid; (d) intensifying solidarity with the African people in South Africa; and (e) publicizing the report prepared by the Special Rapporteur. Some members gave examples of national action taken to increase pressure on South Africa.

101. One or two speakers, stressing the need for peaceful and orderly social change in South Africa, expressed some doubts on the advisability of a massive and rapid withdrawal of corporations from South Africa and of a global economic boycott. One view was that selective economic sanctions might be more appropriate. One expert suggested transfer of ownership of corporations engaged in disinvestment to both non-white and white employees in those corporations.

102. All speakers expressed their high appreciation for the valuable work accomplished by the Special Rapporteur. They felt that the report had been instrumental in exposing transnational corporations and other firms trading with South Africa. They noted with appreciation the co-operation of certain Governments with the Special Rapporteur.

103. Speakers underlined the importance of providing the Special Rapporteur with the appropriate assistance needed for the continuation and expansion of his work including the services of qualified economists.

104. Statements were made by the Observers for Argentina, Cyprus, France, Israel, Peru and the United Kingdom at the 9th meeting and the Islamic Republic of Iran at the 10th meeting.

105. Statements were also made by the Pan Africanist Congress of Azania (8th meeting), a national liberation movement, and by the following non-governmental organizations: Amnesty International, International Commission of Jurists (8th meeting), by Minority Rights Group, International League for the Rights and Liberation of Peoples, Anti-Slavery Society, Baha'i International Community, International Organization for the Elimination of All Forms of Racial Discrimination,

International Movement for Fraternal Union among Races and Peoples at the 9th meeting and by the World Jewish Congress (also on behalf of the Co-ordinating Board of Jewish Organizations) (10th meeting).

106. At the 10th meeting, in his concluding remarks, the Special Rapporteur expressed his gratitude for the support given to him. He commented on certain points made during the general debate. He welcomed information which could help in updating his report.

107. At its 7th meeting, following statements made by several members and the observer for the Pan Africanist Congress of Azania, the following decision (1985/103) was adopted by the Sub-Commission without a vote:

"The Sub-Commission authorizes the Chairman to send an urgent communication to the Chairman of the Commission on Human Rights requesting him to send a cable to the Government of South Africa as soon as possible urging: (a) that the leaders of the liberation movements, in particular Mr. Nelson Mandela and Mr. Zephania Motupeng be released, and (b) that Mr. Nelson Mandela and Mr. Zephania Motupeng be allowed to come to Geneva to participate in the discussion of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its current session."

This cable was sent by the Chairman of the Commission on Human Rights, after consultation with the Commission's Bureau on 12 August 1985.

108. At the 11th meeting, the Chairman of the Commission on Human Rights officially informed the Sub-Commission that he had duly sent the cable to the Government of South Africa.

109. On 14 August 1985, a draft resolution, E/CN.4/Sub.2/1985/L.3, was submitted by Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Chowdhury, Mr. Dahak, Mr. Deschênes, Mr. George, Mr. Despouy, Mrs. Gu, Mr. Joinet, Mr. Martínez Báez, Mr. Mazilu, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Sofinsky, Mr. Türk and Mr. Yimer.

110. The draft resolution was introduced by Mr. Joinet at the 33rd meeting on 27 August.

111. A statement on the administrative and programme budget implications was made by the Assistant Secretary-General of the Centre for Human Rights (E/CN.4/Sub.2/1985/L.6). At the same meeting, Mr. Carey introduced amendments submitted by him (E/CN.4/Sub.2/1985/L.9).

112. The Sub-Commission proceeded with the amendments as follows:

Operative paragraph 1

At the end of the paragraph insert "and its appreciation for his continuing attention to the comments expressed during the debates thereon". The co-sponsors accepted this amendment after having added the word "relevant" before the word "comments". Consequently, this amendment was adopted without a vote.

Operative paragraph 3

Replace "Welcomes with satisfaction" by "Takes note of". This amendment was rejected by 9 votes to 2, with 7 abstentions.

Operative paragraph 4, line 1

Delete "also". This amendment was not acted upon as a result of the vote of the previous amendment.

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Operative paragraph 1

At the end of the paragraph insert "and its appreciation for his continuing attention to the comments expressed during the debates thereon". The co-sponsors accepted this amendment after having added the word "relevant" before the word "comments". Consequently, this amendment was adopted without a vote.

Operative paragraph 3, subparagraph (a)

At the end of the subparagraph insert "in making the report increasingly accurate and informative". The co-sponsors accepted this amendment after having replaced the word "increasingly" by "even more". Consequently, this amendment was adopted without a vote.

Operative paragraph 3

At the end of the paragraph insert "(c) where relevant, to assist their enterprises divesting South African facilities to do so in such a way as to benefit both non-white and white employees". Mr. Carey requested a roll-call vote on this amendment. The voting was as follows:

In favour: Mr. Carey

Against: Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Dahak, Mr. Deschênes, Mr. George, Mrs. Gu, Mr. Joinet, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Sofinsky, Mr. Türk and Mr. Yimer.

Abstaining: Mr. Bossuyt, Mr. Despouy, Mr. Takemoto, Mr. Cepeda Ulloa and Mr. Whitaker.

The proposed amendment was therefore rejected by 14 votes to 1, with 5 abstentions.

Operative paragraph 4

Line 4

Delete "and making available to him two economists" and substitute "in order to obtain from such Centres economic expertise". This amendment was rejected by 17 votes to 2, with 2 abstentions.

Line 5

After "the analyses" insert "of the effect in South Africa of foreign enterprises' activities". This amendment was rejected by 17 votes to 2, with 3 abstentions.

113. The draft resolution as a whole was adopted by 19 votes to none, with 3 abstentions.

114. For the text of the resolution, as adopted, see chapter XX, section A, resolution 1985/3.



VI. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION ESTABLISHED UNDER COMMISSION RESOLUTION 8 (XXIII)

115. The Sub-Commission considered item 6 of its agenda at its 26th, 27th, 29th, 30th, 31st, 37th, 38th and 39th meetings, held on 22, 23, 26, 29 and 30 August 1985.

116. The Sub-Commission had before it the following documents in connection with its consideration of the item:

A progress report prepared by Mr. Mubanga-Chipoya entitled "Analysis of the current trends and developments regarding the right to leave any country including one's own, and the right to return to one's own country, and some other rights or considerations arising therefrom" (E/CN.4/Sub.2/1985/9); A note by the Secretary-General pursuant to Sub-Commission resolution 1984/14 concerning the situation of human rights in the Islamic Republic of Iran (E/CN.4/Sub.2/1985/34); A note by the Secretary-General pursuant to Sub-Commission resolution 1984/26 concerning the situation of human rights in El Salvador (E/CN.4/Sub.2/1985/35); A letter dated 19 July 1985 from the Permanent Representative of Guatemala to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/Sub.2/1985/42); A letter dated 20 July 1985 from the Permanent Representative of the Socialist Republic of Viet Nam to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights (E/CN.4/Sub.2/1985/44); A written statement submitted by the Procedural Aspects of International Law Institute, a non-governmental organization on the Roster (E/CN.4/Sub.2/1985/NGO/8); A written statement submitted by the Indigenous World Association, a non-governmental organization in Consultative Status (category II) (E/CN.4/Sub.2/1985/NGO/11); A written communication submitted by Pax Christi, a non-governmental organization in consultative status (category II) (E/CN.4/Sub.2/1985/NGO/13); A preliminary report prepared by Mr. Mubanga-Chipoya entitled "Analysis of the current trends and developments regarding the right to leave any country including one's own, and the right to return to one's own country, and some other rights or considerations arising therefrom" (E/CN.4/Sub.2/1984/10).

117. During the discussions a number of members of the Sub-Commission, as well as other speakers referred to the recent situation in South Africa where a large number of persons had died or been detained under the "state of emergency".

118. Several speakers referred to violations of human rights in the territories occupied by Israel.

119. A number of speakers mentioned other specific human rights situations, concerning inter alia: East Timor, Sri Lanka, the execution and imprisonment of Baha'i adherents and others in the Islamic Republic of Iran, the situation of the Kurds in Turkey, the Islamic Republic of Iran and Iraq, the war between Iraq and the Islamic Republic of Iran, the situation of the Ahmadiyya Muslims in Pakistan, the situation in Afghanistan, the situation in Albania, piracy committed against refugees in South-East Asia, the situation in Democratic Kampuchea, the problems affecting an ethnic minority in Bulgaria, certain problems in the Union of Soviet Socialist Republics, the situation of the Micmac in Canada, the situation in El Salvador, the status of the indigenous people in, and some other questions relating to, Guatemala, the situation in Nicaragua, the situation in Haiti, the

situation in Nepal, problems concerning the mentally ill in Japan, the question of the rights of aborigines in Australia, the situation in Chile, the situation in the Republic of Korea, the situation of native Americans in North America, the resettlement programmes in Ethiopia and the situation in Cyprus.

120. Reference was also made to cases involving specific individuals or circumstances such as the cases of Andrei Sakharov in the Union of Soviet Socialist Republics and of Raul Wallenberg, a Swedish diplomat during the Second World War and unemployment in the United States of America.

121. The Sub-Commission heard statements by observers for the following Member States: Afghanistan (31st meeting), Bolivia (31st meeting), Bulgaria (31st meeting), Democratic Kampuchea (31st meeting), Egypt (32nd meeting), El Salvador (31st meeting), Ethiopia (31st meeting), Guatemala (31st meeting), Indonesia (31st meeting), Islamic Republic of Iran (31st meeting), Israel (31st meeting), Nicaragua (31st meeting), Pakistan (31st meeting), Portugal (31st meeting), Sri Lanka (31st meeting), Turkey (31st meeting), United States of America (31st meeting) and Viet Nam (31st meeting).

122. The Sub-Commission also heard a statement by the Observer for the Republic of Korea (31st meeting).

123. The Sub-Commission heard a statement by the Representative of the Office of the United Nations High Commissioner for Refugees (30th meeting).

124. The Sub-Commission heard statements by the representatives of the Pan-Africanist Congress of Azania (30th meeting) and the Palestine Liberation Organization (30th meeting).

125. The Sub-Commission heard statements by the following non-governmental organizations: Amnesty International (29th meeting), Anti-Slavery Society for the Protection of Human Rights (27th meeting), Baha'i International Community (30th meeting), Centre Europe - Tiers Monde (31st meeting), Disabled Peoples' International (29th meeting) Four Directions Council (29th meeting), Human Rights Advocates (29th meeting), International Association for the Defence of Religious Liberty (30th meeting), International Commission of Jurists (29th meeting), International Federation of Human Rights (29th meeting), International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities (29th meeting), International Federation of Women in Legal Careers (29th meeting), International Indian Treaty Council (30th meeting), International League for Human Rights (30th meeting), International League for the Rights and Liberation of Peoples (29th meeting), International Movement of Fraternal Union Among Races and Peoples (30th meeting), International Organization for the Elimination of all Forms of Racial Discrimination (29th meeting), Latin American Federation of Associations for Relatives of Disappeared Detainees (29th meeting), Minority Rights Group (30th meeting), National Aboriginal and Islander Legal Services Secretariat (29th meeting), Pax Christi (30th meeting), Pax Romana (27th meeting), Procedural Aspects of International Law Institute (30th meeting), World Council of Indigenous Peoples (30th meeting), World Muslim Congress (30th meeting) and World University Service (30th meeting).

126. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.26) was submitted by Mr. Carey.

127. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Carey.

128. At the same meeting, a statement on administrative and programme budget implications of the draft resolution was made by the Deputy Director of the Centre for Human Rights.

129. At the same meeting the draft resolution was adopted by 7 votes to 4, with 8 abstentions.

130. Statements in explanation of vote before the vote were made by Mr. Mubanga-Chipoya, Mr. Bhandare, Mr. Al Khasawneh, Mr. George, Mr. Simpson, Mr. Despouy, Mrs. Gu Yijie and Mr. Cepeda Ulloa.

131. For the text of the resolution, see chapter XX, section A, resolution 1985/15.

132. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.28) was submitted by Mr. Alfonso Martínez, Mr. Bhandare, Mr. Chowdhury, Mr. Dahak, Mrs. Gu, Mr. Khalifa, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Sofinsky, Mr. Türk and Mr. Yimer.

133. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Bhandare.

134. At the same meeting, at the request of Mr. Al Khasawneh, a roll-call vote was taken on the draft resolution. The draft resolution was adopted by 10 votes to 1, with 6 abstentions, the voting was as follows:

In favour: Mr. Yimer, Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Dahak, Mrs. Gu, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Sofinsky and Mr. Türk.

Against: Mr. Carey

Abstaining: Mr. Cepeda Ulloa, Mr. Whitaker, Mr. Bossuyt, Mr. Deschênes, Mr. Martínez Báez and Mr. Takemoto.

135. For the text of the resolution, see chapter XX, section A, resolution 1985/16.

136. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.29) was submitted by Mr. Bossuyt, Mr. Carey, Mr. Cepeda Ulloa, Mr. Deschênes, Mr. Martínez Báez, Mr. Mubanga-Chipoya and Mr. Whitaker.

137. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Bossuyt. Mr. Bossuyt revised the draft resolution as follows:

The opening words of operative paragraph 1 should be redrafted to read: "Expresses its alarm at the continuing reports of gross violations of human rights [...];"

Operative paragraph 4 should read: "Expresses the hope that the initial contacts of the Government of the Islamic Republic of Iran with the Special Representative will develop into a positive co-operation.";

In operative paragraphs 5 and 6 the words "allegations and" should be inserted before the word "information", in the second and sixth lines, respectively.

138. At the same meeting the observer for the Islamic Republic of Iran made a statement on the draft resolution.

139. At the same meeting, the draft resolution, as revised, was adopted by 10 votes to 3, with 4 abstentions.

140. Statements in explanation of vote after the vote were made by Mr. Alfonso Martínez and Mr. Bhandare.

141. For the text of the resolution, see chapter XX, section A, resolution 1985/17.

142. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.34) was submitted by Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Cepeda Ulloa, Mr. Chowdhury, Mr. Deschênes, Mr. Despouy, Mr. George, Mrs. Gu, Mr. Joinet, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Türk and Mr. Yimer.

143. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Joinet. Mr. Carey proposed amendments to the draft resolution which read as follows:

Third preambular paragraph:

Insert "welcome the recent measures to humanize the annual conflict and" after the words "Human rights".

Fourth preambular paragraph:

The text was redrafted to read as follows:

"Observing that the Special Representative of the Commission on Human Rights points out in his report that, although there has been a considerable decrease in the number of political assassinations and disappearances and undoubtedly the result of the adoption by the Government of a new policy of greater prevention and control of the activities of death squads and specific State organs, he is gravely concerned at the fact that a situation of generalized war continues to exist in El Salvador, that serious violations of Human Rights still persist, that the number of attacks on life and the economic structure remains a cause for concern, that the Salvadorian Government continues to show a lack of respect for trade union freedoms and that the capacity of the legal system to investigate and punish all these human rights violations continues to be patently inadequate,".

The amendments were rejected by 11 votes to 4, with 3 abstentions.

144. At the same meeting, Mr. Carey proposed an amendment to the effect that preambular paragraphs 5 and 6 and operative paragraphs 1, 5, 7 and 8 should be deleted from the draft resolution.

145. A separate vote was taken on the deletion of the preambular paragraphs and on that of the operative paragraphs. The amendment regarding the deletion of the preambular paragraphs 5 and 6 was rejected by 14 votes to 2, with 1 abstention. The amendment regarding the deletion of the operative paragraphs 1, 5, 7 and 8 was rejected by 14 votes to 2, with 2 abstentions.
146. At the same meeting, the draft resolution, as a whole, was adopted by 16 votes to 3, with 1 abstention.
147. The Observer for El Salvador made a statement, rejecting the resolution.
148. For the text of the resolution, see chapter XX, section A, resolution 1985/18.
149. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.39) was submitted by Mr. Bossuyt, Mr. Carey, Mr. Cepeda Ulloa, Mr. Deschênes, Mr. Mubanga-Chipoya and Mr. Whitaker.
150. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Bossuyt.
151. Mr. Sofinsky made a statement to the effect that he was not participating in the vote.
152. At the same meeting, the draft resolution was adopted by 11 votes to 1, with 3 abstentions.
153. For the text of the resolution, see chapter XX, section A, resolution 1985/20.
154. On 27 August 1985, a draft decision (E/CN.4/Sub.2/1985/L.40) was submitted by Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Carey, Mr. Cepeda Ulloa, Mr. Chowdhury, Mr. Dahak, Mr. Deschênes, Mr. Despouy, Mr. George, Mrs. Gu, Mr. Joinet, Mr. Martínez Báez, Mr. Mazilu, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Sofinsky, Mr. Takemoto, Mr. Türk, Mr. Whitaker and Mr. Yimer.
155. The Sub-Commission considered the draft decision at its 37th meeting, on 29 August 1985. At the same meeting, the draft decision was adopted without a vote.
156. For the text of the decision, see chapter XX, section B, decision 1985/109.
157. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.42) was submitted by Mr. Bossuyt, Mr. Deschênes, Mr. Despouy, Mr. Martínez Báez and Mr. Whitaker.
158. The Sub-Commission considered the draft resolution at its 37th meeting, on 29 August 1985, when it was introduced by Mr. Deschênes.
159. At the same meeting, the Observer for Pakistan made a statement on the draft resolution.
160. At the same meeting, the draft resolution was adopted by 10 votes to 2, with 6 abstentions.
161. For the text of the resolution, see chapter XX, section A, resolution 1985/21.

162. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.48) was submitted by Mr. Alfonso Martínez, Mr. Bossuyt, Mr. Joinet, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Türk and Mr. Yimer.

163. The Sub-Commission considered the draft resolution at its 38th meeting, on 30 August 1985.

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

165. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/27.

166. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.60) was submitted by Mr. Alfonso Martínez, Mr. Bhandare, Mr. Joinet, Mr. Mubanga-Chipoya and Mr. Yimer.

167. The Sub-Commission considered the draft resolution at its 38th meeting, on 30 August 1985.

168. At the same meeting, Mr. Martínez Báez proposed amendments to the draft resolution as follows:

The insertion of a new preambular paragraph after preambular paragraph 3 to read as follows:

"Bearing in mind resolution 1985/36 of 13 March 1985 of the Commission on Human Rights in which note was taken of the final report of the Special Rapporteur and it was decided to extend his mandate so that he could continue with the study in depth on the human rights situation in Guatemala."

In operative paragraph 9 and preambular paragraph 4, the words "the lack" should be replaced by "insufficient".

169. The amendments were accepted by the sponsors.

170. At the same meeting Mr. Despouy proposed an amendment to operative paragraph 12 of the draft resolution which read as follows:

"Urges once again, all States to refrain from intervening in any form in the internal situation in Guatemala, which could prolong or worsen the conflict and the situation of human rights in that country."

The amendment was rejected by 7 votes to 5, with 5 abstentions.

171. At the same meeting, Mr. Carey proposed an amendment to the last preambular paragraph of the draft resolution which read as follows:

"Recognizing that today in Guatemala there exists an armed conflict of a non-international character, which stems from economic, social and political factors of a structural nature, and that within that conflict, the norms of international humanitarian law are disrespected."

The amendment was rejected by 8 votes to 2, with 7 abstentions.

172. At the same meeting, the Observer for Guatemala made a statement on the draft resolution.

173. One of the co-sponsors expressed the wish to be associated with the decisions concerning the implementation of the invitation made to the Sub-Commission to be present in Guatemala during the elections.

174. At the same meeting, the draft resolution, as amended, was adopted by 11 votes to 1, with 6 abstentions.

175. Statements in explanation of vote after the vote were made by Mr. Cepeda Ulloa and Mr. Despouy.

176. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/28.

177. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.63) was submitted by Mr. Carey.

178. The Sub-Commission considered the draft resolution at its 39th meeting on 30 August 1985.

179. A motion was introduced by Mr. Yimer that no action should be taken on the draft resolution.

180. The motion was adopted by 10 votes to 4, with 5 abstentions.

181. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.65) was submitted by Mr. Cepeda Ulloa, Mr. Deschênes, Mr. Despouy, Mr. Joinet and Mr. Martínez Báez.

182. The Sub-Commission considered the draft resolution at its 38th meeting, on 30 August 1985, when it was introduced by Mr. Joinet.

183. Following a procedural debate, Mr. Joinet, on behalf of the sponsors, withdrew the draft resolution.

184. On 2 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.41) was submitted by Mr. Al Khasawneh, Mr. Bossuyt, Mr. Chowdhury, Mr. Dahak, Mr. Deschênes, Mr. Despouy, Mrs. Gu, Mr. Martínez Báez and Mr. Whitaker.

185. The Sub-Commission considered the draft resolution at its 39th meeting on 30 August 1985, when it was introduced by Mr. Al Khasawneh.

186. At the same meeting, Mr. Sofinsky introduced amendments to the draft resolution, contained in document E/CN.4/Sub.2/1985/L.77.

187. At the same meeting, a separate vote was taken on the amendments contained in document E/CN.4/Sub.2/1985/L.77. The amendment contained in paragraph 1 was rejected by 8 votes to 3, with 1 abstention. The amendment contained in paragraph 2

was rejected by 8 votes to 2, with 1 abstention. The amendment contained in paragraph 3 was rejected by 9 votes to 3 and the amendment contained in paragraph 4 was rejected by 10 votes to 2, with 1 abstention.

188. At the same meeting, the Observer for Afghanistan made a statement, in which he totally rejected the draft resolution.

189. At the same meeting, the draft resolution was adopted by 11 votes to 3.

190. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/35.

191. On 29 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.67) was submitted by Mr. Alfonso Martínez, Mr. Mubanga-Chipoya, Mr. Simpson and Mr. Yimer.

192. The Sub-Commission considered the draft resolution at its 39th meeting, on 30 August 1985 when it was introduced by Mr. Mubanga-Chipoya.

193. At the same meeting, Mr. Mubanga-Chipoya proposed amendments to the draft resolution as follows:

In operative paragraph 2, the words "non-white population" should be replaced by the words "black majority".

A new operative paragraph should be added at the end which read as follows:

"4. Calls upon the international community to continue its efforts towards total economic, cultural and political isolation of South Africa until that country abandons its policy of apartheid, colonialism and its illegal occupation of Namibia".

194. At the same meeting, Mr. Bhandare, Mr. George, Mr. Mazilu, Mr. Joinet and Mr. Sofinsky requested their names to be added to the list of sponsors.

195. At the same meeting, the draft resolution, as amended, was adopted without a vote.

196. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/36.

#### Progress report of Mr. Mubanga-Chipoya

197. The Sub-Commission considered the progress report of the Special Rapporteur in the framework of its item 6 at its 26th to 31st meetings held on 23 to 26 August 1985, and at its 38th meeting on 30 August 1985.

198. The Sub-Commission had before it a progress report prepared by the Special Rapporteur, Mr. Mubanga-Chipoya, (E/CN.4/Sub.2/1985/9) and a document submitted by Procedural Aspects of International Law Institute (E/CN.4/Sub.2/1985/NGO/8).



199. At the 26th meeting, the matter was introduced by the Assistant Secretary-General for Human Rights.

200. At the 27th meeting, the Special Rapporteur introduced his progress report.

201. In his introduction, Mr. Mubanga-Chipoya recalled the historical background of the study, referring to the work accomplished by Mr. José D. Ingles and presented to the Sub-Commission at its fifteenth session in 1963 and to his own preliminary report submitted to the Sub-Commission at its thirty-seventh session in 1984 (E/CN.4/Sub.2/1984/10). He called for more assistance from the Secretariat and hoped that in the near future he would receive replies from United Nations bodies, specialized agencies and non-governmental organizations to the questionnaire annexed to his preliminary report. He requested that reminders should be sent to all these institutions, and Governments which had not yet communicated information. Further, he requested any organizations or individuals with relevant information that would help the study to furnish it.

202. The Special Rapporteur reiterated that the right to leave and to return had already found endorsement in many international instruments but expressed his concern that despite the apparent world-wide acknowledgement of the right, the question remained whether it was indeed applied and enforced by Governments.

203. In view of the importance of the matter stressed in Commission on Human Rights resolution 1985/22 of 11 March 1985, the Special Rapporteur proposed to present the final report in two parts, the first part to be submitted to the thirty-ninth session of the Sub-Commission in 1986 in the form of a final report on: (a) the right to leave; (b) the extent and effect of restrictions under article 12 (3) of the International Covenant on Civil and Political Rights; (c) possibility to enter another country and (d) a provisional draft declaration. In 1987 he would present his final report on: (e) the right to employment; (f) the right to return to one's own country; (g) the phenomenon of the "brain drain" or the outflow of trained personnel from developing countries and (h) the final draft declaration.

204. The members of the Sub-Commission congratulated the Special Rapporteur on his excellent progress report and requested him to proceed to the final report.

205. One member stated that the right in question had for a long time not received the attention it deserved and, too often had not been expressly incorporated into national legislation. The application of the right had frequently been left to the discretion of administrative agencies without the proper guarantees.

206. Many members supported the proposal of the Special Rapporteur to divide the final report into two parts, in order to enable him to prepare the preliminary draft declaration for consideration next year, and to facilitate adoption of a final draft declaration the following year.

207. One speaker referred in particular to the subject of "brain drain" and suggested that the Special Rapporteur could take into consideration, inter alia, the programme launched by UNDP in 1977 under the name of Transfer of Knowledge through Expatriate Nationals (Tokten). The programme contributed in mitigating some of the adverse consequences of the brain drain by mobilizing expatriate professionals from developing countries to contribute their knowledge and skills for the welfare and development of their country of origin. Another expert mentioned the Inter-Governmental Committee on Migration.

208. The view was expressed that in future the subject should be considered as a separate item on the agenda.

209. In summing up the discussion, the Special Rapporteur emphasized the need for more information and the provision of greater support for the study. He thanked the other members of the Sub-Commission for their constructive comments, which would be duly taken into consideration. He stressed that there was still a discrepancy between legal concepts and State practice, which might make the content of the right a mere privilege or less, without effective enforcement.

210. The Sub-Commission heard statements made by the representatives of the Office of the United Nations High Commissioner for Refugees (30th meeting), International Movement for Fraternal Union amongst Races and Peoples (30th meeting) and International League for Human Rights.

211. The Sub-Commission also heard a statement made by the Observer for the Government of Bolivia (31st meeting).

212. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.64) was submitted by Mr. Alfonso Martínez, Mr. Carey, Mr. Cepeda Ulloa, Mr. Deschênes, Mr. Simpson, Mr. Takemoto and Mr. Yimer.

213. At its 38th meeting, on 30 August 1985, the Sub-Commission considered the draft resolution when it was introduced by Mr. Carey.

214. At the same meeting, a statement of the administration and programme budget implications of the draft resolution was made by the Deputy Director of the Centre for Human Rights.

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

216. The text of the resolution appears in chapter XX, section A, as resolution 1985/29.

#### VII. GROSS VIOLATIONS OF HUMAN RIGHTS AND INTERNATIONAL PEACE

217. The Sub-Commission considered agenda item 7 at its 3rd, 4th, 32nd and 33rd meetings on 6, 7 and 27 August 1985.

218. The Sub-Commission had before it the following documents:

Guide by the Secretary-General to conventions, resolutions and reports of the United Nations concerning the adverse consequences of the arms race, particularly the nuclear arms race, for the universal realization of human rights (E/CN.4/Sub.2/1985/10),

Progress report of the Secretary-General prepared in accordance with Sub-Commission resolution 1984/30 (E/CN.4/Sub.2/1985/11),

Letter dated 17 June 1985, from the Permanent Representative of the Islamic Republic of Iran to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights (E/CN.4/Sub.2/1985/38).

219. It was stressed that the close relationship between the respect for human rights and the maintenance of international peace and security had always been and continued to be a fundamental issue for the future of mankind. Reference was made with appreciation to the reports of the Secretary-General. It was said that gross violations of civil and political freedoms, and denial of self-determination through foreign domination, colonialism, apartheid and other forms of racism, as well as crimes of aggression and military occupation, had negative effects on and constituted serious threats to international peace and security.

220. Several speakers referred with deep concern in particular to apartheid in South Africa which was said to constitute an extreme denial of fundamental rights and freedoms and a crime against humanity, and to pose a serious threat to international peace and security. Measures intended to put an end to apartheid, such as mandatory economic sanctions, disinvestment plans and other aspects of economic pressure, were discussed. The idea was expressed that the Sub-Commission should in the future observe a minute of silence during its sessions in tribute to the memory of the victims of apartheid and racial discrimination.

221. Most speakers stressed that the continuous arms race, particularly the nuclear arms race, undermined international security and stability and thus threatened the inalienable rights of peoples and individuals. It was stated that the proliferation of nuclear arms, especially to non-nuclear regions such as Latin America, should be stopped. It was emphasized that only under conditions of peace could human rights and fundamental freedoms be fully realized. One member suggested that the present agenda item be given the new title, "International peace as the main condition for the full realization of human rights".

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222. Some speakers drew attention to the close link between disarmament and development and stated that considerable material and financial resources released as a result of disarmament could be used in the interests of all nations, particularly the developing ones. A denuclearization process was recommended and the view was strongly expressed that nuclear States should reduce their military budgets and use the released resources to meet the needs of developing countries.

223. At the 4th meeting, on 7 August 1985, the Sub-Commission heard a statement by the Observer for the German Democratic Republic. At the same meeting, a statement was made by the representative of the Minority Rights Group, a non-governmental organization in consultative status.

224. On 9 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.1) was submitted by Mr. Sofinsky.

225. At its 32nd meeting, on 27 August 1985, the Sub-Commission considered the draft resolution and amendments thereto submitted by Mr. Carey (E/CN.4/Sub.2/1985/L.13) on 22 August 1985.

226. Amendment (1) was accepted by the sponsor.

227. At the same meeting, Mr. Sofinsky orally revised operative paragraph 6 of the draft resolution to be read as follows: "Decides that item 7 of the agenda of the Sub-Commission be expressed as follows: International peace and security as an essential condition for the enjoyment of human rights, above all the right to life."

228. At the same meeting, Mr. Sofinsky announced that the words "of its thirty-ninth session" should be deleted from operative paragraph 7 of the draft resolution.

229. At the same meeting, the Sub-Commission considered amendment (2), to delete operative paragraphs 5, 6 and 7, contained in document E/CN.4/Sub.2/1985/L.13. At the request of Mr. Alfonso Martínez, a separate vote was taken on each operative paragraph mentioned in that amendment.

230. The proposal to delete operative paragraph 5 was rejected by 5 votes to 12, with 2 abstentions.

231. The proposal to delete operative paragraph 6 was rejected by 5 votes to 14, with 1 abstention.

232. The proposal to delete operative paragraph 7 was rejected by 5 votes to 15, with no abstentions.

233. At the same meeting, the draft resolution as a whole as amended and orally revised by the sponsor was adopted by the Sub-Commission by 16 votes to 5 with 1 abstention.

234. The Sub-Commission heard statements in explanation of vote after the vote by Mr. Joinet, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Whitaker and Mrs. Gu.

235. For the text of the resolution, see chapter XX, section A, resolution 1985/1.

236. On 12 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.2) was submitted by Mr. Bhandare and Mr. Despouy.

237. At its 33rd meeting, on 27 August 1985, the Sub-Commission considered the draft resolution and amendments thereto submitted by Mr. Sofinsky on 26 August 1985, contained in document E/CN.4/Sub.2/1985/L.18, which read as follows:

First preambular paragraph

Line 1

After Recognizing that insert "international peace and security is the main pre-condition for the enjoyment of human rights and that"

Line 3

Replace a fundamental condition by "one of the important conditions".

238. Amendment 1 was withdrawn by Mr. Sofinsky.
239. Amendment 2 was accepted by the sponsors.
240. At the request of Mr. Carey separate votes were taken on preambular paragraph 3 and operative paragraph 1 of the draft resolution.
241. Preambular paragraph 3 was adopted by 19 votes to none with 3 abstentions.
242. Operative paragraph 1 was adopted by 18 votes to 1 with 2 abstentions.
243. At the same meeting, a statement of the administrative and programme budget implications was made by the Assistant Secretary-General for Human Rights.
244. At the same meeting, the draft resolution as a whole as amended was adopted by 19 votes to none with 3 abstentions.
245. For the text of the resolution, see chapter XX, section A, resolution 1985/2.

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

246. The Sub-Commission considered agenda item 8 at its 28th and 29th closed meetings, held on 23 August 1985.
247. By resolution 1503 (XLVIII) of 27 May 1970 the Economic and Social Council authorized the Sub-Commission to appoint a working group of not more than five of its members to meet annually for 10 days, immediately before each session of the Sub-Commission, to consider all communications received by the Secretary-General under Council resolution 728 F (XXVIII) of 30 July 1959, including replies of Governments thereon, with a view to bringing to the attention of the Sub-Commission those communications, which appear to reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms.
248. The procedure to be followed by the Working Group in deciding on the admissibility of communications was established by Sub-Commission resolution 1 (XXIV) of 13 August 1971, and the Working Group itself was set up in accordance with Sub-Commission resolution 2 (XXIV) of 16 August 1971.
249. The Sub-Commission had before it a confidential report on the work of the fourteenth session of the Working Group, held from 22 July to 2 August 1985 (E/CN.4/Sub.2/1985/R.1 and addenda). The Chairman Rapporteur of the Working Group, Mr. Marc Bossuyt, introduced the report. A discussion of the report followed.
250. At the closed part of the 29th meeting on 23 August 1985, the Sub-Commission adopted a confidential report, by which it discontinued consideration of some proceedings, retained some for further consideration at its thirty-ninth session in 1986 and communicated others to the Commission on Human Rights.
251. At its 39th meeting on 30 August 1985 the Sub-Commission decided on the composition of its Working Group on Communications to meet prior to its thirty-ninth session. For the composition of the Working Group, see chapter XX, section B, decision 1985/113.

IX. THE ADMINISTRATION OF JUSTICE AND  
THE HUMAN RIGHTS OF DETAINEES

- A. QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED TO ANY FORM OF DETENTION AND IMPRISONMENT
- B. INDIVIDUALIZATION OF PROSECUTION AND PENALTIES AND REPERCUSSIONS OF VIOLATIONS OF HUMAN RIGHTS ON FAMILIES
- C. STUDY ON THE INDEPENDENCE AND IMPARTIALITY OF THE JUDICIARY, JURORS AND ASSESSORS AND THE INDEPENDENCE OF LAWYERS
- D. IMPLEMENTATION OF THE RIGHT TO DEROGATION PROVIDED FOR UNDER ARTICLE 4 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND VIOLATIONS OF HUMAN RIGHTS

A. Question of the human rights of persons subjected to any form of detention and imprisonment

Study on amnesty laws

252. The Sub-Commission considered this item at its 25th, 37th and 39th meetings on 21, 29 and 30 August 1985.

253. Introducing his preliminary report (E/CN.4/Sub.2/1985/16), Mr. Joinet said that amnesty laws providing for the liberation of political prisoners, the return of political exiles, the relinquishment of penal or disciplinary proceedings, the restoration of civil and political rights, the reinstatement in their jobs of persons dismissed for political reasons and compensation for the victims of inhuman treatment or their families directly influenced the promotion and the protection of human rights while at the same time consolidating national consensus and democracy or favouring the return to a democratic process. However, amnesty could only be effective if it was coupled with social, economic or political measures to deal with the root causes of conflict or dissension. In his report, the Special Rapporteur had endeavoured to set out the practices followed by States with a view to deducing a number of rules or constants which could serve as guidelines for authorities proposing to grant an amnesty.

254. Mr. Joinet was complimented for his excellent report, which was considered of vital importance for those advocating national reconciliation. The comments made by members of the Sub-Commission covered, inter alia, problems relating to amnesty laws for ordinary offences; amnesty for refugees, exiles and other persons living abroad; tendentious or politically-oriented amnesty laws designed to exonerate criminals and conditional amnesties. Observers commented on amnesty legislation and practice in their own countries and special consideration was given to the current amnesty process under way in Colombia, which was considered an encouraging example. A number of suggestions were made to the Special Rapporteur concerning his final report, concerning, inter alia, the need to define more precisely the words "political offences" and to place more emphasis on the relationship between human rights, amnesty laws and war. It was also suggested that the study should be published.

255. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.47) was submitted by Mr. Carey.

256. At the 37th meeting, on 29 August 1985, the draft resolution was introduced by Mr. Carey.

257. At the same meeting, Mr. Despouy, supported by Mr. Alfonso Martínez, proposed an amendment to the draft resolution to add the words "and forced or involuntary disappearances" at the end of operative paragraph 3. The amendment was accepted by the sponsor.

258. At the same meeting, Mr. Bhandare, supported by Mr. Mubanga-Chipoya and Mr. Despouy, proposed an amendment to the draft resolution to delete the words "in accordance with modalities provided by their respective legislation, if any," in operative paragraphs 2 and 4. This amendment was adopted by 13 votes to 1, with 3 abstentions.

259. At the same meeting, the draft resolution, as amended, was adopted by 14 votes to 1, with no abstentions.

260. For the text of the resolution, see chapter XX, section A, resolution 1985/26.

261. At its thirty-eighth session, the Sub-Commission decided to continue its practice of establishing a sessional working group under its agenda item on detention. The Working Group thus established consisted of five members: Mr. Alfonso Martínez, Mr. Bhandare, Mr. Carey, Mr. Dahak and Mr. Mazilu. Mr. Carey was elected Chairman/Rapporteur of the Group by acclamation.

262. After having heard an introductory statement by the Chairman/Rapporteur, the Sub-Commission approved the report of the Working Group contained in document E/CN.4/Sub.2/1985/17.

263. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.22) was submitted by Mr. Dahak.

264. At the 39th meeting, on 30 August 1985, Mr. Bossuyt requested that his name be added to the list of sponsors of the draft resolution.

265. At the same meeting, the draft resolution was introduced by Mr. Bossuyt and adopted without a vote.

266. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/33.

B. Individualization of prosecution and penalties and repercussions of violations of human rights on families

267. The Sub-Commission did not have time to consider this question at its thirty-eighth session.

C. Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

268. The Sub-Commission considered agenda subitem 9 (c) at its 33rd meeting on 27 August 1985.

269. Introducing his study (E/CN.4/Sub.2/1985/18) Mr. Singhvi outlined its main aspects and called for comments and suggestions. In his introduction he mentioned the world-wide interest that the question evoked and the principles that had been formulated at various intergovernmental and non-governmental meetings, which showed a common trend in favour of the strengthening of the principles of impartiality and independence of the judiciary, jurors and assessors and the independence of lawyers. These norms were enshrined in the constitutions and laws of various countries under different legal systems.

270. The Rapporteur recommended, inter alia, the development of programmes of technical assistance to augment the performance capability of the judiciary and strengthen its independence, particularly in developing countries. A world-wide sense of professional solidarity among judges would help to provide mutual assistance and reinforce the independence of the judiciary.

271. The Rapporteur emphasized the importance of the quality of legal education, the access of everyone without discrimination to facilities of legal education and law practice, and the need for organizing the legal profession in autonomous associations without which it would not be possible to ensure the ethical conduct, independence and autonomy of lawyers.

272. He considered that human rights centres should be created in law faculties or Bar Associations and that international seminars and exchange programmes should be organized, for the development of legal institutions.

273. The Special Rapporteur drew attention, further, to his Draft Declaration on the Independence of Justice, based partly on earlier texts including the Universal Declaration on the Independence of Justice. 32/

274. At its 33rd meeting, the Sub-Commission, having heard the introductory statement of Mr. Singhvi and considering that it would not have sufficient time for a thorough discussion of the final study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers submitted by Mr. L.M. Singhvi decided:

(a) To postpone consideration of that study to its thirty-ninth session and to consider it at that session on a priority basis, devoting sufficient time to its discussion;

(b) To request the Secretary-General to circulate the study to the members of the Sub-Commission, at the latest by December 1985, and to invite those members of the Sub-Commission wishing to do so to submit, within two months from the receipt of the study, written comments for transmittal to Mr. Singhvi;

(c) To request the Secretary-General to circulate the comments received in accordance with the preceding paragraph in document form to the members of the Sub-Commission;

(d) To request the Special Rapporteur to take into account any comments he might receive from members of the Sub-Commission when presenting his report to the Sub-Commission at its thirty-ninth session.

For the text of the decision see chapter XX, section B, decision 1985/107.



D. Implementation of the right to derogation provided for under article 4 of the International Covenant on Civil and Political Rights and violations of human rights

275. The Sub-Commission considered this agenda item at its 26th, 37th and 39th meetings on 22, 29 and 30 August 1985.

276. By Sub-Commission resolution 1984/27 Mr. Despouy had been requested to prepare an explanatory paper on the best way of drawing up and updating a list of countries which proclaim or terminate a state of emergency each year, and to submit an annual report to the Commission on Human Rights containing reliably attested information on compliance with the rules, internal and international, governing the legality of the introduction of a state of exception. In accordance with Economic and Social Council resolution 1985/37 the Sub-Commission was authorized to appoint a Special Rapporteur to draw up each year the above-mentioned list and to report thereon to the Sub-Commission the first annual report to be submitted at its thirty-ninth session.

277. Presenting his paper, Mr. Despouy recalled that it was based on the earlier study prepared by Ms. Questiaux, which led to the decision of the Sub-Commission to include in its agenda an item on the right to derogation as it is recognized, in particular, in article 4 of the International Covenant on Civil and Political Rights. His paper, a technical one, dealt with the following questions: the methodology for establishing each year a list of countries which make use of the right to derogation; the criteria for evaluating the legality of states of emergency; the sources of information on this matter; the method for collecting them and for preparing an annual report on those questions. He felt that it might be difficult to restrict the annual report and to list only to the question of notifications of derogations under the Covenant, for other relevant mechanisms existed, in particular at the regional level. He asked the views of the Sub-Commission members as to the extension of the study to measures for the implementation of states of emergency further to the proclamation of such régimes and to the analysis of de facto states of emergency, even without formal proclamation. He recalled that, in accordance with the request of the Commission on Human Rights, the report should envisage concrete proposals on how to protect human rights in situations of emergency.

278. Many members of the Sub-Commission and observers congratulated Mr. Despouy and expressed their interest for the valuable document which he prepared. There was no opposition to various suggestions that the annual report should cover not only the introduction and notification of states of emergency, but also their implementation and termination and that the list might include all States, where such states of emergency existed, however, a view was expressed that States which were not parties to the Covenant should be excluded.

279. It was also felt by various speakers that formal authorization of a state of emergency by the national parliament was not sufficient to ensure the legality of such a régime. The Government should keep parliament informed of implementation measures.

280. While several members of the Sub-Commission were in favour of taking into consideration de facto states of emergency, others felt that the Sub-Commission should be very careful in considering this approach. Some speakers expressed the view that states of emergency should not be regarded as negative occurrences per se, since they might prove indispensable as a means of protecting society against social or political chaos.

281. Several participants emphasized that states of emergency should, by definition, respond to exceptional situations and operate on a temporary basis. Régimes of emergency which were renewed indefinitely so as to become in fact permanent called for close scrutiny by the Special Rapporteur and the Sub-Commission.

282. Views were expressed concerning states of emergency in specific countries.

283. Proposals were made that Mr. Despouy should be appointed as the Special Rapporteur for the preparation of the annual lists and reports.

284. The following observers from Member States made statements at the 25th meeting: Argentina, Guatemala, Paraguay and Sri Lanka.

285. The following representatives of non-governmental organizations made statements at the 25th meeting: Amnesty International, International Commission of Jurists, International Movement for Fraternal Union Among Races and Peoples, Latin American Federation of Relatives of Disappeared Detainees, Pax Christi, Pax Romana. At its 26th meeting the Sub-Commission also heard a statement from the International League for the Rights and Liberation of Peoples.

286. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.24) was submitted by Mr. Cepeda Ulloa, Mr. Deschênes, Mr. Joinet, Mr. Martínez Bález and Mr. Whitaker.

287. At the 37th meeting, on 28 August 1985, the draft resolution was introduced by Mr. Joinet. At the same meeting, Mr. Al Khasawneh proposed an amendment to the draft resolution to add the words "of Paraguay" after the word "Constitution" in preambular paragraph 4, which was accepted by the sponsors.

288. At the same meeting, the draft resolution as amended was adopted without a vote. Mr. Sofinsky did not participate in the vote.

289. For the text of resolution, see chapter XX, section A, resolution 1985/13.

290. On 27 August 1985, a draft decision (E/CN.4/Sub.2/1985/L.30) was submitted by Mr. Alfonso Martínez, Mr. Bhandare, Mr. Carey and Mr. Dahak.

291. At the 37th meeting, on 28 August 1985, the draft decision was introduced by Mr. Carey.

292. At the same meeting, the draft decision was adopted without a vote.

293. For the text of the decision, see chapter XX, section B, decision 1985/108.

294. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.21) was submitted by Mr. Bossuyt, Mr. Carey, Mr. Cepeda Ulloa, Mr. Dahak, Mr. Joinet, Mr. Martínez Bález and Mr. Türk.

295. At the 39th meeting on 30 August 1985, the draft resolution was introduced by Mr. Bossuyt.

296. At the same meeting, a statement of the administrative and programme budget implications of the draft resolution was read out by the Assistant Secretary-General for Human Rights.

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

298. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/32.

#### X. HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS

299. The Sub-Commission considered agenda item 10 at its 10th, 11th, 12th, 35th, 37th and 39th meetings on 12, 13, 28, 29 and 30 August 1985.

300. The Sub-Commission had before it a report with draft revised guidelines for the regulation of computerized personal data files, prepared by Mr. L. Joinet (E/CN.4/Sub.2/1985/21).

301. At the 10th meeting the item was introduced by the Assistant Secretary-General for Human Rights.

302. In introducing his report the Special Rapporteur outlined the background of his study, and commented upon the main suggestions made by Member States, international organizations and non-governmental organizations consulted on this issue. He drew special attention to the interest expressed for his draft guidelines by the Consultative Committee on Administrative Questions, an interagency co-ordination body of the United Nations system, at its sixty-second session held in London in March 1985. In presenting revised guidelines on computerized personal data files, the Special Rapporteur emphasized the need for effective supervisory procedures to ensure implementation of the guidelines in each country or organization.

303. Many speakers commended the Special Rapporteur for his thorough report, which covered the entire field in an exhaustive fashion, and stressed the importance of the principles formulated by the Special Rapporteur for the protection of human dignity and the right to privacy in the computerized age.

304. It was felt that the revised guidelines would be of great assistance to many countries in preparing legislation in this field.

305. Mr. Joinet's study drew observations from several speakers, some of whom expressed the wish that there should be wider consultation among Governments, governmental and non-governmental organizations in the larger context of the relation between science and technology and human rights, two main aspects of which were generally recognized namely: (a) that scientific and technological developments should be used for the promotion of human rights and (b) that protection was needed against the possible dangers of such developments, including the risk of nuclear war and abusive medical and other experimentations with human beings. It was said that the Declaration on the Use of Scientific and Technological Development in the Interests of Peace and for the Benefit of Mankind, would help the efforts for world peace if nuclear powers undertook not to be the first to use their weapons. It was stressed that the results of scientific and technological progress and the knowledge thus acquired should be shared by all peoples of the world and used primarily to ensure the realization of human rights in developing countries. It was emphasized that scientific and technological progress could also be used to advance agriculture in otherwise arid parts of the world.

306. The representatives of the following non-governmental organizations made statements: Baha'i International Community (11th meeting); Four Directions Council (11th meeting); International Confederation of Free Trade Unions (11th and 12th meetings).

307. On 19 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.11) was submitted by Mr. Alfonso Martínez, Mr. Bhandare, Mr. Bossuyt, Mr. Chowdhury, Mr. Despouy, Mr. Khalifa, Mr. Martínez Báez, Mr. Mazilu, Mr. Simpson and Mr. Türk.

308. At the 35th meeting, on 28 August 1985, the draft resolution was introduced by Mr. Bhandare.

309. At the same meeting Mr. Simpson orally proposed to replace, in the fifth preambular paragraph, the words "as a result of inadequate" by the words "and the lack of adequate". Mr. Dahak orally proposed to replace, in the sixth preambular paragraph, the word "protection" by the word "production"; to delete in the first operative paragraph the words "actual and potential" and to insert, after the word "hazards" the words "to human life". As to operative paragraphs 1, 2, 3 and preambular paragraph 7, he proposed to replace the word "corporations" by the word "enterprises". Mr. Bhandare orally proposed an amendment to the amendment by Mr. Dahak, which read as follows: "transnational corporations and enterprises". Mr. Alfonso Martínez orally proposed to replace, in the operative paragraph 2, the word "authority" by the word "jurisdiction". Mr. Carey orally proposed to add, in the fifth preambular paragraph, the words "in all countries, but" following the words "lives". All the amendments were accepted by the sponsors.

310. Subsequently Mr. Sofinsky, Mr. Whitaker and Mr. George joined the list of sponsors.

311. At the same meeting, the draft resolution, as amended, was adopted without a vote.

312. For the text of the resolution, see chapter XX, section A, resolution 1985/7.

313. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.25) was submitted by Mr. Dahak, Mr. Deschênes and Mr. George.

314. At the 37th meeting, on 29 August 1985, the draft resolution was introduced by Mr. Deschênes.

315. At the same meeting, a statement of the administrative and programme budget implications of the draft resolution was made by the Deputy Director of the Centre for Human Rights.

316. At the same meeting, the Sub-Commission adopted the resolution without a vote. For the text of the resolution see chapter XX, section A, resolution 1985/14.

317. At its 37th meeting, on 29 August, the Chairman-Rapporteur of the Working Group on the question of persons detained on the grounds of mental ill-health or suffering from mental disorder, Mrs. Erica-Irene A. Daes, introduced the report of the Working Group at its fourth session.

318. At the same meeting, the Sub-Commission approved the report of the Working Group, without a vote.

319. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.10) was submitted by Mr. Alfonso Martínez, Mr. Bhandare, Mr. Mazilu, Mr. Simpson, Mr. Türk and Mr. Yimer.

320. At the 39th meeting, on 30 August 1985, the draft resolution was introduced by Mr. Yimer.

321. At the same meeting, Mr. Carey introduced draft resolution (E/CN.4/Sub.2/1985/L.72) containing the amendments to the draft resolution E/CN.4/Sub.2/1985/L.10.

322. At the same meeting, Mr. Carey proposed that no decision should be taken on draft resolution E/CN.4/Sub.2/1985/L.10. The motion was adopted by the Sub-Commission by 7 votes to 6, with 5 abstentions.

323. At the same meeting, Mr. Alfonso Martínez requested, in accordance with article 55 of the Rules of Procedure of the Functional Commissions of the Economic and Social Council, that the proposal made by Mr. Carey should be reconsidered. That motion was rejected by the Sub-Commission by 10 votes to 8, with 1 abstention.

#### XI. STUDY OF THE PROBLEM OF DISCRIMINATION AGAINST INDIGENOUS POPULATIONS

324. The Sub-Commission considered item 11 at its 37th meeting of 29 August 1985.

325. The Sub-Commission had before it the following documents: (a) the report of the Working Group on Indigenous Populations on its fourth session (E/CN.4/Sub.2/1985/22 and Add.1); (b) a letter dated 26 July 1985 from the Permanent Mission of Guatemala to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/Sub.2/1985/43); (c) a letter dated 6 August 1985 from the Permanent Representative of Nicaragua to the United Nations Office at Geneva, addressed to the Assistant Secretary-General for Human Rights (E/CN.4/Sub.2/1985/48); (d) a written statement submitted by the Baha'i International Community (E/CN.4/Sub.2/1985/NGO/5); (e) a written statement submitted by the Four Directions Council (E/CN.4/Sub.2/1985/NGO/9); and a written statement submitted by the Indian Law Resource Centre and the National Indian Youth Council (E/CN.4/Sub.2/1985/NGO/14).

326. At its 37th meeting, on 29 August 1985, the Chairman/Rapporteur of the Working Group on Indigenous Populations, Mrs. Erica-Irene A. Daes, introduced the report of the Working Group on its fourth session (E/CN.4/Sub.2/1985/22 and Add.1).

327. At the same meeting, the Sub-Commission approved the report.

328. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.43) was submitted by Mr. Alfonso Martínez, Mrs. Daes, Mrs. Gu and Mr. Simpson.

329. At its 37th meeting, the Sub-Commission considered the draft resolution when it was introduced by Mr. Simpson. Mr. Carey and Mr. Chowdhury joined the co-sponsors.

330. The Observer for Norway made a statement at the same meeting, and pledged a contribution of \$US 20,000 to the Voluntary Fund for Indigenous Populations if and when it was established.

331. At the same meeting, the Sub-Commission adopted the draft resolution without a vote.
332. For the text of the resolution see chapter XX, section A, resolution 1985/22.
333. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.46) was submitted by Mr. Alfonso Martínez, Mrs. Daes, Mrs. Gu and Mr. Simpson.
334. At its 37th meeting, the Sub-Commission considered the draft resolution when it was introduced by Mr. Simpson. Mr. Despouy joined as co-sponsor.
335. At the same meeting, the Deputy Director of the Centre for Human Rights made a statement concerning the administrative and programme budget implications of the draft resolutions.
336. Mr. Sofinsky proposed at the same meeting an amendment to the effect that the word "eight" in the last paragraph of the draft resolution should be changed to read "five", but he did not press for the proposed change.
337. At the same meeting, the draft resolution was adopted by 16 votes to 1, with 2 abstentions.
338. Statements in explanation of vote after the vote were made by Mr. Türk and Mr. Sofinsky.
339. For the text of the resolution, see chapter XX, section A, resolution 1985/25.

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

340. At its 32nd meeting, on 27 August 1985, the Sub-Commission, by its decision 1985/106, decided to postpone consideration of item 12 to its thirty-ninth session.
341. For the text of the decision, as adopted, see chapter XX, section B, decision 1985/106.

XIII. SLAVERY AND SLAVERY-LIKE PRACTICES

- A. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM
- B. EXPLOITATION OF CHILD LABOUR

342. The Sub-Commission considered item 13 at its 25th, 34th, 35th and 37th meetings held on 21, 28 and 29 August 1985.
343. The Sub-Commission had before it the report of the Working Group on Slavery at its eleventh session (E/CN.4/Sub.2/1985/25) and a written statement submitted by the Anti-Slavery Society.

Report of the Working Group on Slavery

344. Introducing the report of the Working Group on Slavery, the Chairman/Rapporteur of the Working Group indicated that the Group had considered a wide range of information on various slavery-like situations and the slave trade; debt

bondage; the traffic in persons and the exploitation of the prostitution of others; the exploitation of child labour and the sale of children; and apartheid and colonialism. He felt that those grave violations were essentially the consequence of extreme poverty and underdevelopment. He drew attention to the recommendations of the Working Group.

345. All the members of the Sub-Commission who spoke on the item congratulated the Working Group for their excellent report. It was said that slavery-like practices were committed in one form or another in all regions of the world. This evil was related in particular to the social and economic conditions existing in various countries. Several speakers expressed the wish that the Sub-Commission should formulate new policies and take effective measures to assist those countries in resolving the root causes of such practices. Some participants stressed the need for dialogue and consultation between Governments, former masters and for former slaves.

346. Several speakers expressed their preoccupation over reports concerning the continued occurrence of sales of children and over widespread debt-bondage practices. It was said that such practices were not restricted to a few countries, but affected millions of men, women and children in the world, particularly among the poorest strata of the population. The efforts made, for instance, by the Government of India for the total eradication of debt bondage and some other practices similar to slavery were noted. Some members expressed the wish that the Sub-Commission should envisage a study of debt bondage in the world.

347. There was broad agreement in favour of the conclusions and recommendations contained in the report of the Working Group.

348. The Chairman/Rapporteur of the Working Group thanked the members of the Sub-Commission and the observers for their comments. He recalled that the Group had not recommended that a special investigation be undertaken on the question of debt bondage in any specific country or at all.

349. The Observers for the Federal Republic of Germany and India made statements on the item.

350. The following non-governmental organizations made statements on the item: Anti-Slavery Society, International Association of Democratic Lawyers, International Abolitionist Federation and International Federation of Human Rights.

351. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.44) was submitted by Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bossuyt, Mr. Despouy, Mrs. Gu, Mr. Joinet, Mr. Martínez Báez and Mr. Whitaker.

352. At its 37th meeting, on 29 August 1985, the Sub-Commission considered the draft resolution when it was introduced by Mr. Bossuyt.

353. At the same meeting, the Sub-Commission adopted the draft resolution without a vote.

354. For the text of the resolution, see chapter XX, section A, resolution 1985/23.

#### Follow-up report on the Mission to Mauritania

355. At its 25th meeting, on 21 August 1985, the Sub-Commission considered item 13 and heard a brief statement by Mr. Bossuyt, the expert in charge of the

mission to Mauritania. In presenting his interim follow-up report, Mr. Bossuyt indicated that the paucity of replies received and notably the absence of written comments from the Government of Mauritania were the main reasons for the brevity of his follow-up report. The report underlined the need for Member States to provide immediate assistance to Mauritania in its struggle against the consequences of slavery. The expert expressed his regret concerning the brevity of the discussion of his report by the Commission, at its forty-first session, a fact which, he felt, was related partly to his not having been invited by the Commission to present his report orally. He was grateful to the organs of the United Nations, specialized agencies and the regional commissions which had indicated the type of assistance that they were giving or planning to extend to Mauritania. The expert felt it highly appropriate that the Sub-Commission should envisage the formulation of proposals which would entrust the co-ordinating of assistance to Mauritania for the eradication of the sequels of slavery to the Secretary-General or to a person appointed by him.

356. The Observer for Mauritania reminded the Sub-Commission of the initiative taken by his Government to invite the Sub-Commission to send a mission to Mauritania and assured the Sub-Commission that it was paying close attention to the recommendations made by the expert. He stressed that the delay in his Government's reply concerning the action to be taken in respect of the expert's report was due to a communication problem. The new Government was resolved to promote fundamental freedoms and to ensure that they were fully observed. Finally, he thanked the agencies of the United Nations, the specialized agencies and the Member States who had expressed their support for Mauritania in its bid to eradicate the aftermath of slavery.

357. Several speakers congratulated Mr. Bossuyt on the businesslike manner in which he had accomplished his task, and expressed the wish that the Government of Mauritania would respond positively to the expert's follow-up report. Praise was expressed for the unique initiative taken by Mauritania. Whilst fully recognizing the efforts undertaken by the Government of Mauritania to eradicate slavery, one speaker enquired as to the present status of Mauritanian women, especially those who had been slaves prior to the abolition of slavery, and any further mission to that country should consult women's organizations there on their problems.

358. It was emphasized that the assistance which was to be given to Mauritania should be better co-ordinated and that the international community should act immediately and effectively to put an end to the vestiges of slavery in Mauritania.

359. The Sub-Commission heard statements from the following non-governmental organizations: International Council of Women and the Anti-Slavery Society.

360. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.19) was submitted by Mr. Alfonso-Martínez, Mr. Bhandare, Mr. Carey, Mr. Cepeda Ulloa, Mr. Chowdhury, Mr. Despouy, Mr. Joinet, Mr. Martínez-Báez, Mr. Mazilu, Mr. Simpson, Mr. Türk, Mr. Whitaker and Mr. Yimer.

361. At the 37th meeting, the draft resolution was introduced by Mr. Whitaker and was considered by the Sub-Commission.

362. At the same meeting, the Chairman drew attention to the administrative and programme budget implications of the draft resolution as set out in document E/CN.4/Sub.2/1985/L.31



363. At the same meeting, the Sub-Commission adopted the draft resolution, without a vote. For the text of the resolution, see chapter XX, section A, resolution 1985/11.

#### XIV. ENCOURAGEMENT OF UNIVERSAL ACCEPTANCE OF HUMAN RIGHTS INSTRUMENTS

364. The Sub-Commission considered agenda item 14 at its 12th, 13th and 33rd meetings on 13 and 27 August 1985.

365. The Sub-Commission had before it the following documentation: (a) a note by the Secretary-General containing a summary of the information submitted by Governments, in accordance with Sub-Commission resolution 1 B (XXXII), 1982/3, 1983/27 and 1984/36 (E/CN.4/Sub.2/1985/27); (b) a report by the Secretary-General pursuant to the Sub-Commission resolution 1984/36 (E/CN.4/Sub.2/1985/37).

366. At its 9th meeting, on 9 August 1985, in accordance with Sub-Commission resolution 1984/36 of 30 August 1984, the Chairperson appointed Mr. M. Bossuyt to report to the Sub-Commission on the information received under Sub-Commission resolutions 1 B (XXXII), 1982/3, 1983/27 and 1984/36.

367. At its 12th meeting on 13 August 1985, Mr. Bossuyt presented a brief analysis of the information submitted by Governments under this item. He pointed out that only five Governments had replied to the notes verbales of the Secretary-General since the last session of the Sub-Commission, and noted that most of the replies dealt with the two protocols additional to the Geneva Conventions of 12 August 1949 which were added at the last session to the list of human rights instruments under paragraph 1 of the Sub-Commission resolution 1 B (XXXII). He suggested that in view of the small number of replies from Governments the item could be considered at alternate sessions of the Sub-Commission. In this connection, Mr. Bossuyt expressed the hope that the Sub-Commission could be informed of the action undertaken in pursuant of paragraphs 5, 6 and 7 of the Sub-Commission resolution 1984/36 of 30 August 1984.

368. The Assistant Secretary-General for Human Rights explained that with regard to paragraph 5 of Sub-Commission resolution 1984/36 the programme of Advisory Services was being increasingly geared to the provision of technical assistance for the implementation of international human rights instruments. In this respect, he stated that the Centre for Human Rights was currently co-operating with UNITAR in the organization of a series of pilot training courses for persons whose duties were related to the implementation of international human rights instruments. The first of such training courses had been held in Barbados in June 1985 for 18 participants from the area; two other courses were planned, at this stage, one each for Africa and Asia.

369. With regard to the request contained in paragraph 6, the Assistant Secretary-General explained that the idea of designating regional advisers on international human rights standards which had been put forward by the Secretary-General in his report to the General Assembly in 1983 was under continuing consideration as a possible idea for the future, subject to the availability of resources.

370. As regards the request contained in paragraph 7, that the Secretary-General should hold informal discussions with government delegations concerning the prospects for ratification of human rights instruments, the Assistant Secretary-General explained that such informal contacts were a regular feature

of the activities of the Secretariat; he further pointed out that the Secretary-General during his official visits to Member States endeavoured where appropriate, to promote the ratification of, or the accession to, international human rights instruments.

371. Members of the Sub-Commission welcomed the explanation given by the Assistant Secretary-General for Human Rights and urged that the informal discussions with government delegations concerning prospects for ratification of human rights instruments be continued. Support was expressed for the recommendation to include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in the list of instruments under this item as requested by the Commission on Human Rights in its resolution 1985/18 of 11 March 1985.

372. In the discussion that ensued it was suggested that the tasks of the member of the Sub-Commission to be designated to consider information submitted by Governments on the question of non-adherence to international human rights instruments should include: updating of the list of international human rights instruments, keeping the status of ratification or accession under review; analysing the reasons advanced by Governments for non-adherence; and suggesting means for overcoming obstacles to ratification of, or accession to, international human rights instruments.

373. Considering the principle of "pacta sunt servanda" some experts deplored the withdrawal of the United States from the Nicaragua v. United States of America proceedings before the International Court of Justice. Some members did not agree to that reference.

374. The Observer for the United States of America made a statement at the 13th meeting, on 13 August 1985. Three experts expressed contrary views.

375. Statements were made by the following non-governmental organizations: Amnesty International, International Commission of Jurists and the Procedural Aspects of International Law Institute.

376. At its 33rd meeting, on 27 August 1985, draft resolution (E/CN.4/Sub.2/1985/L.7) was introduced by Mr. Bossuyt.

377. At the same meeting the Sub-Commission considered the draft resolution. Separate votes were taken for a number of paragraphs: paragraph 3 was adopted by 15 votes to none, with 3 abstentions; paragraph 5 by 14 votes to 1, with 2 abstentions; paragraph 6 by 14 votes to none, with 3 abstentions; paragraph 7 by 18 votes to none, with 1 abstention and paragraph 8 by 17 votes to 1, with 1 abstention.

378. At the same meeting, the draft resolution as a whole, was adopted by 15 votes to 1, with 4 abstentions.

379. The text of the resolution, as adopted, appears in chapter XX, section A, as resolution 1985/5.

XV. ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION  
BASED ON RELIGION OR BELIEF

380. At its 32nd meeting, on 27 August 1985, the Sub-Commission, by its decision 1985/106, decided to postpone consideration of item 15 to its thirty-ninth session.

381. For the text of the decision, as adopted, see chapter XX, section B, decision 1985/106.

XVI. PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS  
AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

- A. THE STATUS OF THE INDIVIDUAL AND CONTEMPORARY INTERNATIONAL LAW
- B. DRAFT BODY OF PRINCIPLES AND GUIDELINES ON THE RIGHT AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS
- C. PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES
- D. PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN
- E. PREVENTION OF DISCRIMINATION AND PROTECTION OF WOMEN

A. The status of the individual and contemporary international law

382. At its 35th and 38th meetings on 28 and 29 August 1985, the Sub-Commission considered agenda item 16 (a).

383. The item was introduced by the Deputy-Director of the Centre for Human Rights.

384. The Special Rapporteur, Mrs. Erica-Irene A. Daes, gave an oral report on her work. She stated that she had made substantive progress, taking into account the views and suggestions made by the members of the Sub-Commission. Nevertheless, in the course of the last two months, she had received additional important replies and documentation from Governments which she felt should be taken into account in the preparation of her final report. Consequently, she asked the Sub-Commission to be allowed to submit her final report at its thirty-ninth session.

385. One member congratulating the Special Rapporteur for the work she had accomplished, proposed that in studying the question of the individual as subject of international law the Special Rapporteur should take into account the existing instruments for the protection of the individual in international law. He also said that the Soviet doctrines and socialist concepts in this field should be taken into account by the Special Rapporteur. According to another opinion, which stressed the evolving character of international law, more emphasis should be placed upon the individual and his rights at the international level.

386. In concluding, the Special Rapporteur restated in her view there was need to keep under review the status of the individual in contemporary international law, taking due account of the various legal systems of the world.

387. At its 38th meeting, on 29 August 1985, the Sub-Commission had before it draft resolution E/CN.4/Sub.2/1985/L.74 sponsored by Mr. Cepeda Ulloa, Mr. Chowdhury, Mr. Martínez Báez, Mr. Mazilu, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Whitaker and Mr. Yimer.

388. The Deputy-Director of the Centre for Human Rights orally presented the financial implications of the draft resolution.

389. At the same meeting, the Sub-Commission adopted the draft resolution without a vote.

390. For the text of the resolution, see chapter XX, section A, resolution 1985/31.

B. Draft body of principles and guidelines on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms

391. The Sub-Commission discussed item 16 (b) at its 34th and 35th meetings on 28 August 1985.

392. The Sub-Commission had before it two documents: The draft principles prepared by the Special Rapporteur, Mrs. Erica-Irene A. Daes (E/CN.4/Sub.2/1985/30 and Add.1) and a written statement by the World Association for the School as an Instrument of Peace (E/CN.4/Sub.2/1985/NGO/19).

393. At the 35th meeting, the item was introduced by the Deputy Director of the Centre for Human Rights and by the Special Rapporteur who provided explanations concerning the draft principles and the scope and extent of her report. She stressed that, along with the restatement of agreed principles, she had also proposed new ones. She drew attention to the establishment by the Commission on Human Rights of a pre-sessional group on the draft principles.

394. While the principles and report were well received and welcomed by most of the speakers, certain comments were made with regard to the possible improvement of the draft principles. It was thus suggested that the draft principles could be structured more clearly with appropriate chapter and sub-chapter headings and that distinctions could be made, first, between principles in existing instruments and new standards and, second, between rights and responsibilities, as they affect individuals, groups or governmental authorities. The opinion was voiced that individual rights should be given more prominence, but there was also the view that Governments had already made tremendous progress in their national and international legal systems as far as human rights were concerned. References were also made to, and emphasis placed on, specific draft principles such as those relating to humanitarian law, prisoners of war in internal and international conflicts and abuses perpetrated against human rights activists.

395. Some speakers expressed the hope that the Sub-Commission would still have the opportunity to discuss the item at its thirty-ninth session while many other speakers suggested that the draft principles could be submitted to the Commission with the relevant summary records.

396. The Special Rapporteur thanked the speakers for their valuable comments and requested that in accordance with the relevant decision 33/ by the Commission on Human Rights the draft principles and the report should be submitted to the Commission on Human Rights for its consideration.

33/ Commission decision 1985/112 of 14 March 1985.

397. The Special Rapporteur referred, inter alia, to the chapters of the report and identified in particular the basic obstacles which posed problems in the field of the promotion and protection of human rights, as well as the key elements relating to the rights and responsibility of individuals, groups, organs of society and the State to promote and protect human rights and fundamental freedoms included in the draft principles. She explained further the reasons for which she believed that responsibility, like human rights should be considered indivisible and that protection of human rights was a matter of international concern; accordingly she stated that the restriction provided for in Article 2 (7) of the Charter of the United Nations relating to domestic jurisdiction should not be so applied as to prevent or restrict the international protection of universally recognized human rights. She emphasized that one of the cardinal purposes of the draft principles was to provide more effective protection to individuals, to groups and to human rights activists.

398. At the 35th meeting, the representatives of the following non-governmental organizations made statements: Baha'i International Community, Amnesty International, Human Rights Advocates, and World Association for the School as an Instrument of Peace.

399. On 28 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.68) was submitted by Mr. Bossuyt, Mr. Carey and Mr. Deschênes.

400. At its 38th meeting, on 30 August 1985, the Sub-Commission considered the draft resolution.

401. At the same meeting, the Sub-Commission adopted the draft resolution by a vote of 15 votes to 1, with 1 abstention. The Special Rapporteur, Mrs. Erica-Irene A. Daes, did not participate in the voting.

402. The text of the resolution appears in chapter XX, section A, as resolution 1985/30.

#### C. Prevention of discrimination and protection of minorities

403. The Sub-Commission discussed item 16 (c) at its 13th to 16th meetings on 13, 14 and 15 August 1985. The Sub-Commission had before it a "proposal concerning a definition of the term 'minority' submitted by Mr. Jules Deschênes" (E/CN.4/Sub.2/1985/31). At the 13th meeting of the Sub-Commission Mr. Deschênes introduced his report. He recalled the methodology which he had utilized, and proposed the following definition of the term "minority" for consideration by the Sub-Commission:

"A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law."

In the ensuing consideration of this subitem all the persons who participated expressed their gratitude to Mr. Deschênes for his report and congratulated him on its very high quality.

404. As a preliminary issue, members commented on the desirability of proceeding with the task of defining a minority. According to one set of views, a definition of the term was not necessary in order to draft standards for the protection of minorities. Attention was drawn in this connection to the fact that the United Nations had declared the right of peoples to self-determination without having defined the term "people". Another view shared by various speakers was that the attempt to define the term should not be seen as an academic exercise and the Sub-Commission was not expected to produce a scientifically perfect definition. Rather, the United Nations needed a working definition of the term on the basis of which further norms could be elaborated for the protection of the rights of minorities.

405. Everyone agreed that international standards for the protection of human rights applied to every person. It was therefore necessary, in considering the definition of minority, to bear in mind this universal guarantee which would apply to every member of every minority. It would further be necessary to take into account the specific needs of minorities, as such, for the protection of their rights. It was the latter aspect, it was felt, which should be taken into account by the Sub-Commission in its discussion on this question.

406. Another issue which was raised in the discussion was whether the problem should be tackled from the point of view of the rights of individuals belonging to minorities only or also in relation to the rights of minorities as groups. Several speakers felt that collective aspect would need to be retained in the discussion of the definition of minority. Some speakers disagreed with that proposal.

407. The relationship between the terms "minorities" and "peoples" was suggested as one which might require further clarification.

408. On the question of the sources to be consulted in further work on this matter, attention was drawn to the fact that the Special Rapporteur in his conscientious examination of available materials did not have access to Islamic law. It was suggested that this source might be consulted in further work on the question.

409. It was emphasized by many speakers that the situation of minority groups in different parts of the world varied considerably and it would be necessary to take account of their situations in the course of the work on this question.

410. Specific comments were made on the definition proposed by Mr. Deschênes.

(a) The requirement of citizenship

Several members felt that the definition could not be confined to citizens only. Attention was drawn, in this connection, to the judgement 34/ of the International Court of Justice which, it was felt, did not appear to support the criterion of citizenship in this context. Attention was drawn to the situation of many groups of non-citizens deserving of protection which, it was felt, would be excluded if the definition applied only to citizens.

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34/ See Nottebohm case, Order of March 21st, 1953: I.C.J. Reports 1953, P.7.

(b) Indigenous populations

Several speakers expressed support for the view that indigenous populations should be treated separately. One member expressed the view, however, that some indigenous populations might qualify as minorities; hence while respecting the wish of some indigenous populations to be considered as peoples and not as minorities, it would, nevertheless, be necessary to ensure that those indigenous populations which did appear to share the characteristics of minorities were not excluded from protection.

(c) Numerical minority

Comments were made on the meaning of this term. It was asked whether the group should be a numerical minority in relation to the population of the State as a whole or in relation to particular areas. In this connection, attention was drawn to the fact that in some areas of a country a group - although being a minority in relation to the population of the country as a whole - might be a majority within its particular region.

(d) Non-dominant position

Some speakers felt that non-dominant groups should be protected even if they constituted a numerical majority. Their rights should be taken into account in the further consideration of this topic. Attention was drawn to the fact that some groups, while being in a non-dominant position within a State as a whole, might be in a dominant position within a particular region.

(e) Endowed with ethnic, religious or linguistic characteristics

The view was expressed that certain group characteristics other than those relating to ethnic, religious or linguistic features, should be taken into account. There were, for instance, cultural bonds to be kept in mind which might not be ethnic, religious or linguistic. The example of the gipsies was cited in this connection. Comments were made on the question of national minorities, which existed in various parts of the world, especially in Europe, as specific groups, distinct from ethnic, religious or linguistic minorities.

(f) A sense of solidarity

The view was expressed that this was a term which itself would require further definition and elaboration.

(g) Collective will to survive

It was felt that "survival" could have various possible meanings: physical survival or preservation of language, culture, and way of life. The view was expressed that there were possibly two types of groups: those who wished to be integrated and to be incorporated into the majority and those who wished to retain their identity. The expression "collective will to survive" could lead to the exclusion of the former category from the definition of minority, which would be unfortunate since the group was nevertheless in need of protection.

(h) Whose aim is to achieve equality with the majority in fact and in law

It was recognized that equality and non-discrimination were primary goals for all aspects of the protection of human rights including the protection of minorities. The question was raised, however, as to whether the formulation proposed would mean that once equality had been achieved a group would no longer qualify as a minority.

Other matters

411. Various points were mentioned for consideration in the future, including the following:

To what extent should the element of consent be taken into account in drafting a definition of minority?

To what extent also should the element of origin be kept in mind?

The element of region was raised for further reflection.

The elements of geography and geographic boundaries were also raised for discussion: Because of the accident of boundaries a group might be in a minority situation in one country but if those boundaries were changed it could, in fact, become the majority. In this regard attention was drawn to the fact that many of the newer countries were engaged in the process of nation building and had inherited different groups within their existing boundaries. The territorial integrity of States, it was mentioned, should be fully kept in mind as one of the elements of the future discussion.

412. Finally, the comment was made that perhaps difficulties arose because what was being attempted was an abstract definition of a minority. It was suggested that if the realities were looked at and the enjoyment of specific rights were used as the starting point, it might be possible to define groups which should enjoy those rights. An example was mentioned of the right to education in one's own language. The question was, therefore, raised whether it might not be a more profitable approach to go about stating specific rights and identifying groups which should enjoy those rights.

413. At the end of the discussion Mr. Deschênes commented on the interventions made and thanked the members of the Sub-Commission for the high-level of the debate and the constructive comments, as well as for the valuable observations which they had made, on his proposed definition.

414. On 22 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.8/Rev.1) was submitted by Mr. Bhandare, Mr. Carey, Mr. Joinet, Mr. Khalifa, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Takemoto, Mr. Turk and Mr. Whitaker.

415. At its 35th meeting, on 28 August 1985, the Sub-Commission considered the draft resolution when it was introduced by Mr. Carey. Mr. Bossuyt proposed the following amendments to the draft resolution E/CN.4/Sub.2/1985/L.8/Rev.1:

(a) second preambular paragraph: replace "the following" by "a tentative" and add "minority" after "term", and delete the definition;



(b) fourth preambular paragraph: replace "exhaustive" by "thorough";

(c) operative paragraph 1: replace "excellent" by "thorough" and add after "and" the words "takes note of his".

416. At the same meeting, Mr. Al Khasawneh proposed that at the end of the fifth preambular paragraph the following words should be added: "and that the definition proposed did not command general approval by the Sub-Commission".

417. At the same meeting, Mr. Sofinsky proposed to replace, in the third line of the fourth preambular paragraph, "the following" by "his".

418. Following a discussion, the sponsors accepted the amendments proposed and revised the fourth preambular paragraph by adding at the end of its third line the words "as follows".

419. At the same meeting, the Sub-Commission adopted the draft resolution, as amended, without a vote.

420. For the text of the resolution as amended and adopted, see chapter XX, section A, resolution 1985/6.

D. Prevention of discrimination and protection of children

421. The Sub-Commission considered item 16 (d) at its 34th and 37th meetings held on 28 and 29 August 1985.

422. The Sub-Commission had before it written statements submitted by the Anti-Slavery Society and the International Commission of Jurists.

423. During the debate, several speakers stressed that the question of the prevention of discrimination and protection of children was a fundamental one to which the Sub-Commission and other United Nations bodies should give high priority. It was felt that, in too many countries, the physical, emotional and intellectual development of children was impeded not only through poverty, malnutrition and ill-health, but also through the disregard or active connivance of many adults. The view was expressed that this critical situation was due to the disastrous social and economic conditions of the parents.

424. Other members referred to the questions of child labour and the alleged imprisonment of children with adults in various countries and the efforts made for the eradication of those practices.

425. It was said that the protection of children was possible only through the elimination and reduction of social inequality as a root cause and the acceleration of a development process in third world countries.

426. Many speakers referred to the programmes and achievements of the International Youth Year. It was stressed that those activities were related at various levels with the Human Rights programmes of the United Nations and specifically the programmes of the Sub-Commission.

427. Concern was expressed by many participants for the isolated situation of youth in various countries or at least the inadequacy of communication channels between youth and the other sectors of society. Too often young people had no

effective access to governmental authorities and were unable to act in their own defence. It was felt by various speakers that the Sub-Commission should undertake a study on the human rights problems of youth, taking into account the programme and achievement of the International Youth Year.

428. At its 34th meeting, the observer for Bulgaria made a statement.

429. At the same meeting the following non-governmental organizations made statements: Defense for Children International, International Commission of Jurists, International Federation of Human Rights, International Abolitionist Federation and Minority Rights Group.

430. At its 37th meeting, on 29 August 1985, the Sub-Commission considered a draft resolution (E/CN.4/Sub.2/1985/L.23), submitted by Mr. Al Khasawneh, Mr. Alfonso Martínez, Mr. Bhandare, Mr. Bossuyt, Mr. Carey, Mr. Cepeda Ulloa, Mr. Chowdhury, Mr. Dahak, Mr. Despouy, Mr. George, Mrs. Gu, Mr. Joinet, Mr. Khalifa, Mr. Martínez Báez, Mr. Mubanga-Chipoya, Mr. Simpson, Mr. Takemoto, Mr. Türk and Mr. Yimer, which was introduced by Mr. Türk.

431. At the same meeting, a statement concerning the administrative and programme budget implications was made by the Deputy Director of the Centre for Human Rights.

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

433. For the text of the resolution, see chapter XX, section A, resolution 1985/12.

E. Prevention of discrimination and protection of women

434. The Sub-Commission discussed item 16 (e) at its 34th and 37th meetings on 28 and 29 August 1985.

435. At the 34th meeting, the item was introduced by the Deputy Director of the Centre for Human Rights.

436. Observations were made to the effect that systematic and institutionalized discrimination against women in education, employment and other spheres at both the national and international level, were at the heart of the problem under discussion. The Secretary-General of the United Nations was praised for measures taken to enhance the recruitment and advancement of women within the Secretariat, but it was stated that far more remained to be done in this respect. Similarly, attention was drawn to the fact that there were only two female members on the Sub-Commission. Several references were made to the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women held at Nairobi and to its Forward-looking Strategy adopted in July 1985.

437. With regard to the Working Group on Traditional Practices affecting the Health of Women and Children, the suggestion was made that less harmful practices could be considered as a substitute for existing ones.

438. At the same meeting, the observer for Venezuela made a statement.

439. At the same meeting, the observers of the following non-governmental organizations made statements: International Council of Women, International Abolitionist Federation, and International Federation of Human Rights.

440. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.36) was submitted by Mr. Whitaker.

441. At its 37th meeting, on 29 August 1985, the Sub-Commission considered the draft resolution. Mr. Chowdhury, Mr. Dahak, Mr. Despouy, Mr. Joinet, Mr. Mazilu and Mr. Mubanga-Chipoya joined as co-sponsors.

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

443. For the text of the resolution, see chapter XX, section A, resolution 1985/19.

#### XVII. HUMAN RIGHTS AND DISABILITY

444. The Sub-Commission considered agenda item 17 at its 22nd, 23rd, 24th and 37th meetings on 20, 21 and 29 August 1985.

445. The Sub-Commission had before it (a) the preliminary report on human rights and disability prepared by Mr. Leandro Despouy, Special Rapporteur (E/CN.4/Sub.2/1985/32); (b) a written statement submitted by the Baha'i International Community (E/CN.4/Sub.2/1985/NGO/3); and (c) a written statement submitted by the Disabled People's International (E/CN.4/Sub.2/1985/NGO/10).

446. At the 22nd meeting the item was introduced by the Assistant Secretary-General for Human Rights.

447. In introducing his report, the Special Rapporteur outlined the background of his mandate; gave a description of the structure of the preliminary report; drew attention to the methodological aspects of his study; described a general outline for the future report; sketched some causes of disability, particularly human rights violations committed against persons who were already disabled; and underlined the importance for disabled persons of the realization of social, economic and cultural rights.

448. During the debate, appreciation was expressed by many speakers for Mr. Despouy's preliminary report. According to various speakers, it could be considered as a valuable basis for the progress and final reports. Emphasis was placed upon the breadth and great complexity of the study, which had required and would still require much research.

449. Several members of the Sub-Commission felt that, in the future study, particular attention should be paid to the legal and standard-setting aspects of the issue. In this context, comments were made by several speakers on relevant national legislation and on international standards in this field.

450. One member of the Sub-Commission opposed the use of drugs which might cause disability on normal and healthy persons. Experiments on human beings were also criticized during the discussion.

451. It was claimed that indigenous populations were more exposed to disability and that there was a direct relationship between malnutrition and the loss of land rights.

452. It was recommended by a number of speakers that the legal sources for the study should include the International Convention on the Suppression and Punishment of the Crime of Apartheid, since resolution 1984/26 of the

Economic and Social Council referred to the relationship between the questions dealt with in human rights instruments and disability. Social and economic conditions leading to disability should also be included.

453. Several speakers referred to the issue of disability caused through the imposition of certain punishments for crime. In this connection, it was stated that amputation and other disabling penalties should be strictly prohibited regardless of the offence committed, whether based on religious, cultural or other grounds.

454. Another member of the Sub-Commission, referring to the legal aspects of the study, said that the definition of disability should take into account a large number of various factors, and the approach to the problem should be an integrated and comprehensive one.

455. The view was expressed that closer co-operation with non-governmental organizations concerned would be invaluable in the preparation of the study, particularly for identifying the violations of the human rights of disabled persons.

456. The Sub-Commission heard statements by observers for the following member States: Canada (24th meeting), El Salvador (24th meeting), Guatemala (24th meeting), Japan (24th meeting), Peru (24th meeting) and Portugal (24th meeting).

457. The Sub-Commission heard a statement by the representative of the International Labour Organisation (23rd meeting).

458. The Sub-Commission also heard a statement by the representative of the Pan Africanist Congress of Azania (24th meeting).

459. Statements were made by the representatives of the following non-governmental organizations: Disabled People's International (23rd meeting), Baha'i International Community (23rd meeting), Four Directions Council (23rd meeting), Human Rights Advocates (23rd meeting), International Federation of Human Rights (23rd meeting) International League for Human Rights (24th meeting) and International Commission of Jurists (24th meeting).

460. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.17) was submitted by Mr. Cepeda Ulloa, Mr. Joinet, Mr. Martínez Báez, Mr. Mubango-Chipoya, Mr. Simpson, Mr. Türk, Mr. Whitaker and Mr. Yimer.

461. At the 37th meeting, on 29 August 1985, the draft resolution was introduced by Mr. Simpson.

462. Mr. Alfonso Martínez proposed to add to the end of operative paragraph 1 the following words: "in view of the comments elaborated in respect of the preliminary report during its consideration at the thirty-eighth session". The amendment was accepted by the sponsors.

463. A statement on the administrative and programme budget implications was made by the Deputy Director of the Centre for Human Rights.

464. At the same meeting, the draft resolution, as amended, was adopted without a vote.

465. For the text of the resolution, as amended, see chapter XX, section A, resolution 1985/10.

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

466. The Sub-Commission considered its agenda item 18 at its 35th and 39th meetings, on 30 August 1985.

467. The Sub-Commission had before it the following document in connection with its consideration of the item:

A note prepared by the Secretary-General (E/CN.4/Sub.2/1985/L.73) in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII) of 1 August 1974, containing a draft provisional agenda for the thirty-ninth session of the Sub-Commission and a listing of the documents to be submitted under each item and the legislative authority for their preparation.

468. On 26 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.14) was submitted by the Bureau.

469. At its 35th meeting, on 28 August 1985 the Sub-Commission considered the draft resolution when it was introduced by the Chairman.

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

471. For the text, see chapter XX, section A, resolution 1985/8.

472. On 27 August 1985, a draft resolution (E/CN.4/Sub.2/1985/L.35) was submitted by Mr. Bossuyt and Mr. Whitaker.

473. At its 39th meeting, on 30 August 1985, the Sub-Commission considered the draft resolution when Mr. Bossuyt introduced it.

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

475. For the text, see chapter XX, section A, resolution 1985/34.

476. In its resolution 1985/34, the Sub-Commission decided the following items would be considered on a biennial basis starting at its thirty-ninth and fortieth sessions respectively.

Thirty-ninth session:

(a) The new international economic order and the promotion of human rights;

(b) Elimination of all forms of intolerance and of discrimination based on religion or belief;

(c) International peace and security as an essential condition for the enjoyment of human rights, above all the right to life;

Fortieth session:

- (d) Human rights and disability;
- (e) Human rights and scientific and technological developments;
- (f) Encouragement of universal acceptance of human rights instruments.

477. At the same meeting, the Chairman pointed out that, although item 10: Human rights and scientific and technological developments would not be dealt with in plenary at the thirty-ninth session, the Working Group on principles and guidelines for the protection of persons detained on grounds of mental ill-health would meet in 1986 as its report had to be completed as soon as possible in accordance with General Assembly resolution 39/132.

478. At the same meeting, the draft provisional agenda, as amended, was adopted without a vote.

479. The text, as amended, of the draft provisional agenda for the thirty-ninth session of the Sub-Commission reads as follows:

1. Election of officers
2. Adoption of the agenda
3. Review of the work of the Sub-Commission

Report by the Secretary-General

Legislative authority: Sub-Commission decision 2 (XXXIV) and resolution 1985/24

4. Review of further developments in fields with which the Sub-Commission has been concerned

Reports by the Secretary-General, ILO and UNESCO

Legislative authority: Sub-Commissions resolution 5 (XIV).

5. Elimination of racial discrimination

- (a) Measures to combat racism and racial discrimination and the role of the Sub-Commission

Report by Mr. Eide

Legislative authority: General Assembly resolution 3377 (XXX), Sub-Commission resolutions 1 (XXX1), 1984/5, Sub-Commission decisions 1985/105 and 1985/106

- (b) Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régimes of South Africa

Report by Mr. Khalifa

Legislative authority: Sub-Commission resolution 1985/3

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

Report by Mr. Mubanga-Chipoya

Reports by the Secretary-General

Legislative authority: Sub-Commission resolutions 1985/16, 1985/17, 1985/18, 1985/20 and 1985/29

7. International peace and security as an essential condition for the enjoyment of human rights, above all the right to life

Report by the Secretary-General

Legislative authority: Sub-Commission resolution 1985/1

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

Confidential report of the Working Group and supporting papers.

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

9. The administration of justice and the human rights of detainees

- (a) Question of human rights of persons subjected to any form of detention and imprisonment

Reports by the Secretary-General

Explanatory paper by Mr. Joinet

Report of the Working Group

Legislative authority: Sub-Commission resolutions 1985/26 and decisions 1985/108 and 1985/110

- (b) Individualization of prosecution and penalties, and repercussions of violations of human rights on families

- (c) Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

Report by Mr. Singhvi

Legislative authority: Sub-Commission decision 1985/107

- (d) Implementation of the right to derogation provided for under article 4 of the International Covenant on Civil and Political Rights and violations of human rights

Report by Mr. Despouy

Report by the Secretary-General

Legislative authority: Sub-Commission resolutions 1985/13 and 1985/32

- (e) Elaboration of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Report by Mr. Bossuyt

Legislative authority: Sub-Commission resolution 1984/7

10. Discrimination against indigenous populations

Report of the Working Group

Report by the Secretary-General

Legislative authority: Sub-Commission resolutions 1985/22 and 1985/25

11. The New International Economic Order and the promotion of human rights

Report by Mr. Eide

Report by the Secretary-General

Legislative authority: Sub-Commission resolutions 1984/15 and 1984/19 and decisions 1985/105 and 1985/106

12. Slavery and slavery-like practices

- (a) Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

Report by the Working Group on Slavery at its twelfth session



Report by Mr. Bossuyt on Mauritania

Legislative authority: Sub-Commission resolutions 11 (XXVII), 1985/11, and 1985/23

(b) Exploitation of child labour

13. Elimination of all forms of intolerance and of discrimination based on religion or belief

Report by Mrs. Odio Benito

Legislative authority: Sub-Commission resolution 1984/31 and decision 1985/106

14. Promotion, protection and restoration of human rights at national, regional and international level

(a) The status of the individual and contemporary international law

Report by Mrs. Daes

Legislative authority: Sub-Commission resolution 1985/31

(b) Prevention of discrimination and protection of minorities

(c) Prevention of discrimination and protection of children: Human rights and youth

Report by Mr. Mazilu

Report by the Secretary-General

Legislative authority: Sub-Commission resolutions 1985/12 and 1985/19

(d) Prevention of discrimination and protection of women

15. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the fortieth session of the Sub-Commission

A note by the Secretary-General.

16. Report of the thirty-ninth session

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

XIX. ADOPTION OF THE REPORT OF THE THIRTY-EIGHTH SESSION

480. At its 39th meeting, on 30 August 1985, the Sub-Commission considered the draft report on the work of its thirty-eighth session.

481. At the same meeting, the draft report, as amended during the course of discussion, was adopted, as a whole, without a vote.

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

A. Resolutions

1985/1 International peace and security as an essential condition for the enjoyment of human rights, above all the right to life: Contribution of the Sub-Commission to the strengthening of international peace and security and the achievement of the objectives and tasks of the International Year of Peace. 35/

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

Stressing the determination of the peoples of the United Nations to save succeeding generations from the scourge of war, reaffirm faith in the dignity and worth of the human person, maintain international peace and security, and develop friendly relations among nations and international co-operation in promoting and encouraging universal respect for human rights and fundamental freedoms,

Recalling that in resolutions 1982/7 of 19 February 1982, 1983/43 of 9 March 1983 and 1984/28 of 12 March 1984 the Commission on Human Rights reaffirmed that all people and all individuals have an inherent right to life, and that the safeguarding of this foremost right is an essential condition for the enjoyment of the entire range of economic, social and cultural, as well as civil and political, rights,

Also recalling that in the said resolutions the Commission expressed its profound concern that international peace and security continues to be threatened by the arms race, particularly the nuclear arms race, and stressed the urgent need to make every effort to strengthen peace, remove the threat of war, particularly nuclear war, halt the arms race, achieve general and complete disarmament under effective international control and prevent violations of the principles of the Charter of the United Nations,

Emphasizing the primary importance of the implementation of practical disarmament measures so as to liberate substantial additional resources, which should be used for purposes of social and economic development, in particular for the benefit of developing countries,

Taking into account that in the contemporary world the relationship between the full realization of human rights and questions of peace and security is emerging into sharper focus,

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35/ Adopted at the 32nd meeting on 27 August 1985, by 16 votes to 5 with 1 abstention. See chap. VII.

Convinced that the maintenance of international peace and security is an essential condition for the enjoyment of the entire range of economic, social and cultural, as well as civil and political, rights and, above all, the inherent right to life,

Bearing in mind General Assembly resolution 37/16 of 16 November 1982, in which 1986 is declared to be the International Year of Peace and all organizations within the United Nations system are invited, in particular, to exert all possible efforts for the preparation and observance of the International Year of Peace,

Taking into account resolution 39/10 of 8 November 1984, in which all organizations of the United Nations system are invited to make an even greater contribution to promote international peace and security on the basis of the Charter of the United Nations,

Recalling its resolution 1984/30 of 30 August 1984,

Having examined the report 36/ of the Secretary-General on the item under consideration,

Bearing in mind the comments of Governments and non-governmental organizations submitted in response to Sub-Commission resolutions 1983/32 of 6 September 1983 and 1984/30 of 30 August 1984,

Having considered the guide prepared by the Secretary-General to conventions and resolutions adopted and reports published by the United Nations relating to the adverse consequences of the arms race, particularly the nuclear arms race, for the universal realization of human rights,

1. Expresses its appreciation to the Secretary-General for the documents he has submitted in accordance with resolutions 1983/32 of 6 September 1983 and 1984/30 of 30 August 1984;

2. Stresses the importance of the contribution of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the strengthening of international peace and security and the achievement of the objectives of the International Year of Peace;

3. Recognizes that maintenance of international peace and security is an essential condition for the enjoyment of the entire range of economic, social and cultural, as well as civil and political rights and, first and foremost, the right to life and that violation of basic rights may threaten international peace and security;

4. Notes the close relationship between the activities of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the objectives and tasks of the International Year of Peace;

5. Requests the Secretary-General, in the light of comments and views of Member States, organizations of the United Nations system and non-governmental organizations, to submit to the Sub-Commission at its thirty-ninth session a report on the contribution of the Sub-Commission to the strengthening of international peace and security and the achievement of the objectives and tasks of the International Year of Peace;

6. Decides that item 7 of the agenda of the Sub-Commission be expressed as follows: "International peace and security as an essential condition for the enjoyment of human rights, above all the right to life".

7. Decides to continue its consideration of the Sub-Commission's contribution to the strengthening of international peace and security and the achievement of the objectives and tasks of the International Year of Peace, as a subitem of the item entitled "International peace and security as an essential condition for the enjoyment of human rights, above all the right to life" on the agenda.

1985/2 Gross violations of human rights and  
international peace 37/

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

Recognizing that respect for human rights and fundamental freedoms, including self-determination and elimination of discrimination, apartheid, colonialism and foreign occupation, is one of the important conditions for securing international peace,

Also recognizing that peace, independence, disarmament and development, the central issues of our time, are all necessary for securing in full measure, human dignity and basic human rights and fundamental freedoms,

Convinced that all the rights and freedoms as well as all material goods and spiritual wealth that both man and nations possess, have a common foundation - the right to life,

Believing that the peoples of the world must not be forced to live under the fear of annihilation and that they have individually and collectively the right to eliminate the source of this fear,

Conscious that the escalating nuclear arms race and the introduction and dissemination of nuclear arms in hitherto non-nuclear areas in the world accentuate tensions and contribute to fomenting an arms race in the areas affected,

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37/ Adopted at the 33rd meeting, on 27 August 1985, by 19 votes to none with 3 abstentions. See chap. VII.

Being aware that rising military expenditures particularly those of nuclear-weapon States have acquired a staggering magnitude which stand in dramatic contrast to the sombre state of the global economy and have serious implications for the economic prospects of the world and especially those of the developing countries,

Mindful that the nuclear arms race is consuming the scarce material resources of our planet, destroying the ecological balance and wasting much of our human and scientific resources in destructive pursuit,

Also mindful that the resources released as a result of the implementation of disarmament measures, could be used to promote the well-being of all the peoples of the world and to improve socio-economic conditions in the developing countries,

Bearing in mind Economic and Social Council resolution 1983/18 of 26 May 1983 which drew the attention of the international community to the need to achieve general and complete disarmament and to channel the resources for social and economic progress for the welfare of people everywhere and Economic and Social Council resolution 1984/16 of 24 May 1984 reaffirming the undeniable link between peace and development and the imperative need to halt the arms race,

Recalling Commission on Human Rights resolution 4 (XXXIII) of 21 February 1977, resolution 1982/7 of 19 February 1982 and resolution 1984/28 of 12 March 1984 affirming, inter alia, that resources released as a result of disarmament were of particular importance in securing economic and social development and, consequently, the implementation of economic, social and cultural rights, especially in developing countries, the inherent right of all peoples to life and the pressing need for urgent measures towards general and complete disarmament,

Recalling also its resolution 1984/30 of 30 August 1984 which stresses the threat that the arms race, particularly the nuclear arms race, posed for the achievement of social and economic progress and for the universal realization of all human rights,

1. Requests the Secretary-General to provide the Sub-Commission at its fortieth session with a report on the interrelationship between human rights and international peace in all its aspects and dimensions including the adverse impact of escalating military expenditure particularly those of nuclear-weapon States on the international social and economic situation and the right to development and in particular to examine the adverse consequences of the extension and dissemination of nuclear arms in non-nuclear regions for international peace and security, the social and economic development of the countries of the region, and the enjoyment of human rights and fundamental freedoms;
2. Recommends to the Commission on Human Rights that an item entitled "The adverse consequences of the arms race, especially the dissemination of nuclear arms in non-nuclear regions, for international peace and security and for the protection of human rights and fundamental freedoms" be included in its agenda at its forty-third session.

1985/3 Adverse consequences for the enjoyment of  
human rights of political, military,  
economic and other forms of assistance  
given to the racist and colonialist  
régime of South Africa 38/

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

Recalling General Assembly resolution 39/15 of 23 November 1984,

1. Expresses its satisfaction to the Special Rapporteur, Mr. Ahmed Khalifa, for his updated report 39/ and its appreciation for his continuing attention to the relevant comments expressed during the debates thereon;
2. Expresses also its thanks to all Governments and organizations which supplied the Special Rapporteur with information;
3. Welcomes with satisfaction resolution 1985/9 of 26 February 1985 of the Commission on Human Rights, in which the Commission, inter alia, called once again upon all Governments that have not yet done so to take legislative, administrative or other measures in respect of their nationals and the bodies corporate under their jurisdiction that own and operate enterprises in South Africa and Namibia, with a view to putting a stop to their trading, manufacturing and investing activities in the territory of South Africa as well as on the territory of Namibia illegally occupied by the racist Pretoria régime;
4. Welcomes also the issuance of the report as a United Nations publication;
5. Invites, in accordance with resolution 1985/9 and General Assembly resolution 39/15, the Special Rapporteur, Mr. Ahmed Khalifa:
  - (a) To continue to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the racist régime of South Africa, giving such details regarding enterprises listed as the Rapporteur may consider necessary and appropriate, including explanations of responses, if any, and to submit the updated report through the Sub-Commission to the Commission on Human Rights;
  - (b) To use all available material from other United Nations organs, Member States, specialized agencies and other intergovernmental organizations, non-governmental organizations and other relevant sources in order to indicate the volume and nature of the assistance given to the racist régime in South Africa;
  - (c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, with a view to consolidating mutual co-operation in updating his report;

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38/ Adopted at the 33rd meeting, on 27 August 1985, by 19 votes to none with 3 abstentions. See chap. V.

39/ E/CN.4/Sub.2/1985/8 and Add.1-2. See also E/CN.4/Sub.2/1984/8/Rev.1.

6. Decides to consider the revised report at its thirty-ninth session within the framework of the agenda item "The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonial régime of South Africa";

7. Recommends to the Commission on Human Rights the adoption of the following draft resolution:

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

1985/4 Elimination of racial discrimination 40/

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

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other international instruments relating to human rights,

Recalling General Assembly resolutions 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, 2621 (XXV) of 12 October 1970, containing the programme of action for the full implementation of the Declaration, and 35/118 of 11 December 1980, the annex to which contains the Plan of Action for the full implementation of the Declaration,

Recalling further the relevant provisions of the Paris Declaration on Namibia and the Programme of Action on Namibia adopted by the International Conference in Support of the Struggle of Namibian People for Independence, 41/

Deeply conscious that 40 years after the signing of the Charter of the United Nations and 25 years since the adoption of the United Nations Declaration on Decolonization, Namibia continues under the illegal colonial and racist occupation by the racist Government of South Africa in defiance of world public opinion and the United Nations General Assembly,

Expressing grave concern about the continuing obstacles in the efforts of the United Nations and the international community to bring about the independence of Namibia as well as the renewed and brazen attempts by the racist Pretoria régime to subvert that plan and impose an international settlement in Namibia,

Noting with deep regret the announcement on 18 April 1985 by the racist régime in South Africa of the installation of an "interim Government" in Namibia,

Also noting with regret the activities of all foreign interests in Namibia especially those of the transnational corporations which illegally exploit the resources of the territory leading to a drain of resources from Namibia and the further accentuation of racist oppression of its population,

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40/ Adopted at the 33rd meeting, on 27 August 1985, by 18 votes to none with 2 abstentions. See chap. V.

41/ See Report of the International Conference in Support of the Struggle of the Namibian People for Independence, Paris 25-29 April 1983 (A/CONF.120/13), part three.

Recognizing that the struggle for the independence of Namibia forms part of the struggle against all forms of foreign domination and racist oppression and for the liberation of the African peoples from colonialism, neo-colonialism, hegemonism, imperialism, racism and apartheid,

1. Reaffirms the inalienable rights of the Namibian people to self-determination and independence in a United Namibia with complete territorial integrity, including Walvis Bay, the Penguin Islands and other islands of the Namibian shore and the importance of the urgent implementation of Security Council resolution 435 (1978) for the realization of these inalienable rights;

2. Demands the immediate and unconditional release of all the Namibian political prisoners from detention and concentration camps in Namibia and South Africa as well as the according of prisoner-of-war status to all captured freedom-fighters;

3. Calls upon the Government of the Member States of the United Nations to take appropriate legislative, administrative and other measures, both unilaterally and collectively, particularly under Chapter VII of the Charter of the United Nations, against South Africa in order to isolate it effectively in the political, economic, military and cultural fields, in accordance with relevant United Nations resolutions;

4. Requests the Chairman of the Commission on Human Rights to convey to the Secretary-General of the United Nations, the President of the General Assembly and the President of the Economic and Social Council the deep concern of the members of the Sub-Commission at the continuing failure to bring about the independence of Namibia and the latest efforts of the Pretoria régime to impose an "internal settlement" in Namibia;

5. Requests the Secretary-General to give the widest possible dissemination to the present resolution.

1985/5 Encouragement of universal acceptance of  
human rights instruments 42/

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

Recalling its resolutions 1 B (XXXII) of 5 September 1979, 19 (XXXIV) of 10 September 1981, 1982/2 of 7 September 1982, 1983/27 of 6 September 1983, 1984/36 of 30 August 1984 and its decision 2 (XXXIII) of 11 September 1980 on the encouragement of universal acceptance of human rights instruments,

Having considered the report 43/ of the Secretary-General transmitting the information submitted by Governments,

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42/ Adopted at the 33rd meeting, on 27 August 1985, by 15 votes to 1 with 4 abstentions. See chap. XIV.

43/ E/CN.4/Sub.2/1985/27.



1. Expresses its appreciation to those Governments which have conveyed information to the Sub-Commission;
2. Decides to include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the list of human rights instruments under paragraph 1 of the Sub-Commission resolution 1 B (XXXII), as complemented by resolutions 1982/3, 1983/27 and 1984/36;
3. Requests the Secretary-General to renew the invitation for submission of information communicated by his earlier notes verbales to the Governments of Member States which have not yet replied to those communications, making particular reference to the human rights instruments to which those Governments have not yet become party and drawing the attention of each Government to the instruments which it has already signed but not ratified;
4. Requests the Secretary-General to examine further the idea of offering technical assistance in the form of legal training of the local staff or by providing human rights experts to assist in the drafting of the necessary legislation and regulations, with a view to enabling the Member States to ratify or accede to international human rights instruments;
5. Requests the Secretary-General to keep under review the idea of designating regional advisers on international human rights standards whose function would include advising the States concerned on acceptance and implementation of international human rights instruments;
6. Requests the Secretary-General to continue holding informal discussions concerning prospects for ratification of human rights instruments, with government delegations on the occasion, for example, of the sessions of the General Assembly and the Commission on Human Rights, priority being given to the instruments prepared by the Commission on Human Rights such as the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Optional Protocol to that Covenant; the International Convention on the Elimination of All Forms of Racial Discrimination; the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
7. Requests the Secretary-General to inform the Sub-Commission as appropriate on his endeavours under the present resolution and to update the table containing a country-by-country record of developments which have taken place in connection with ratification of, or accession to, the human rights instruments included in the terms of reference of the Working Group;
8. Decides, until further review of its mandate, to suspend the work of the Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments and to request the Chairman of the Sub-Commission to appoint one of its members to report to it at its fortieth session on information received under the present resolution;

9. Decides to inscribe on the agenda of its fortieth session an item entitled: "Encouragement of Universal Acceptance of Human Rights Instruments", and subsequently to consider the item at alternate sessions of the Sub-Commission.

1985/6 Prevention of discrimination  
and protection of minorities 44/

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

Recalling that the Commission on Human Rights, in its resolution 1984/62 of 15 March 1984, requested the Sub-Commission to prepare a definition of the term "minority" in relation to article 27 of the International Covenant on Civil and Political Rights and that accordingly at its thirty-seventh session, 45/ at which the Sub-Commission had before it a note by the Secretary-General, E/CN.4/Sub.2/1984/31, the Sub-Commission requested its member Mr. Jules Deschênes to prepare guidelines on this question for its discussion at a later stage in the session,

Recalling further that, at the 30th meeting, Mr. Deschênes presented a tentative definition of the term "minority", 46/

Noting that, following a brief discussion, the Sub-Commission, by decision 1984/101, decided to postpone further consideration of this question to its thirty-eighth session,

Appreciating that for the thirty-eighth session of the Sub-Commission, Mr. Deschênes prepared a thorough study, 47/ concluding with his proposed definition of the term as follows:

"A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law.",

Noting that different views were expressed by the members of the Sub-Commission with regard to the definition of the term "minority" and that the definition proposed did not command general approval by the Sub-Commission,

Deeply indebted to Mr. Deschênes for his thorough analysis of the subject, both in his study and in the discussion thereon by the Sub-Commission at its thirty-eighth session,

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44/ Adopted at the 35th meeting, on 28 August 1985, without a vote.  
See chap. XVI.

45/ At its 6th meeting held on 13 August 1984.

46/ E/CN.4/Sub.2/1984/43, para. 423.

47/ E/CN.4/Sub.2/1985/31, para. 181.

1. Congratulates and thanks Mr. Deschênes for his thorough study and takes note of his proposal concerning a definition of the term "minority";
2. Decides to transmit to the Commission on Human Rights in response to its resolution 1984/62 Mr. Deschênes' study and proposal concerning a definition of the term "minority", together with the records 48/ of the discussion thereon by the Sub-Commission from its 13th to 16th meetings.

1985/7 Human rights and scientific and technological developments 49/

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

Noting that scientific and technological progress is one of the most important factors in the development of human society,

Recalling the importance of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, adopted by the United Nations General Assembly in its resolution 3384 (XXX) of 10 November 1975,

Bearing in mind that the effects of scientific and technological development on human rights have both beneficial and harmful aspects, and therefore, must be examined in their totality,

Recognizing that inadequate information and the absence of uniform protection and safety measures with regard to the potential dangers of the application of hazardous technologies result in a grave threat to the right to health and to life,

Noting with concern industrial accidents involving very large loss of lives in all countries, but particularly in developing countries, and a lack of adequate information regarding the hazards of the processes, products and technologies,

Also noting with concern the continued use and production in developing countries of potentially harmful and hazardous products which have been banned or restricted in other countries,

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48/ E/CN.4/Sub.2/1985/SR.13 to SR.16.

49/ Adopted at the 35th meeting, on 28 August 1985, without a vote.  
See chap.X.

Convinced that the risks facing the developing countries in the area of the application of scientific and technological developments have increased manifold but procedures of surveillance of policies and practices of transnational corporations and enterprises have yet to acquire form and content,

1. Requests all transnational corporations and enterprises to disclose all the information at their disposal regarding the hazards to human lives of their processes, products and technologies to Governments, employees, consumers and the general public;

2. Requests the Secretary-General to communicate the present resolution to all Governments with a view to their informing, as appropriate, transnational corporations and enterprises operating under their jurisdiction and obtaining the relevant information for transmittal to the Secretary-General;

3. Requests further the Secretary-General to place before the Sub-Commission at its fortieth session information regarding existing practices followed by transnational corporations and enterprises regarding the disclosure by them of all the information at their disposal on the actual and potential hazards of their processes, products and technologies to Governments, employees, consumers and the general public, including any information received in pursuance of the present resolution.

1985/8 Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-ninth session of the Sub-Commission 50/

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

Having considered the note by the Secretary-General on the feasibility of instituting an abbreviated form of summary record, 51/

Mindful of its character as an organ of experts engaged in the consideration of studies and reports as well as in the drafting of standards on human rights,

Believing that the provision of adequate summary records is important for the work of the Sub-Commission,

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50/ Adopted at the 35th meeting, on 28 August 1985, without a vote. See chap. XVIII.

51/ E/CN.4/Sub.2/1985/45.

1. Requests the Secretary-General to inform the Committee on Conferences that it is the view of the Sub-Commission that the summary records provided for the Sub-Commission cannot be further abbreviated;

2. Requests the Secretary-General to continue to provide summary records for the Sub-Commission in the existing format.

1985/9 Review of further developments in fields with which the Sub-Commission has been concerned:  
Study on genocide 52/

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

Recalling Economic and Social Council resolution 1983/33 of 27 May 1983 by which the Council requested the Sub-Commission to appoint one of its members as Special Rapporteur with the mandate to revise, as a whole, and update the study on the question of the prevention and punishment of the crime of genocide, taking into consideration the views expressed by the members of the Sub-Commission and the Commission on Human Rights, as well as replies of Governments, specialized agencies and other organizations of the United Nations system, regional organizations and non-governmental organizations to a questionnaire to be prepared by the Special Rapporteur,

Recalling also its decision 1983/2 of 18 August 1983 by which the Sub-Commission decided to appoint Mr. Benjamin Whitaker to undertake this revised and updated study,

Having read the preliminary report 53/ submitted by the Special Rapporteur to the Sub-Commission at its thirty-seventh session,

Having now considered and debated the revised and updated Study 54/ submitted by the Special Rapporteur to the Sub-Commission at its thirty-eighth session,

Noting that divergent views were expressed about the content and proposals of the report.

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52/ Adopted at the 36th meeting on 29 August 1985, by 14 votes to 1, with 4 abstentions. See chap. IV.

53/ E/CN.4/Sub.2/1984/40.

54/ E/CN.4/Sub.2/1985/6.

1. Takes note of the Study of the Special Rapporteur, Mr. Benjamin Whitaker, entitled: Revised and updated report on the question of the prevention and punishment of the crime of genocide;

2. Expresses its thanks and congratulations to the Special Rapporteur for his proposals;

3. Recommends that the United Nations renew its efforts so as to make ratification by States Members of the Convention on the Prevention and Punishment of the Crime of Genocide 55/ universal as soon as possible.

1985/10 Human rights and disability 56/

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

Recalling its resolution 1984/20 of 29 August 1984 by which it requested Mr. Leandro Despouy to prepare a comprehensive study on human rights and disability,

Having considered the preliminary report 57/ and the introductory statement of the Special Rapporteur outlining the methodological and substantive approach,

Noting the many valuable comments made by members, Governments, specialized agencies, and non-governmental organizations,

Noting further the wide concern expressed for the relationship between extreme poverty, underdevelopment and social inequality to both the incidence of disability and the enjoyment of human rights by disabled persons,

Expressing its appreciation to the Special Rapporteur for his work in preparing the preliminary report and the importance and usefulness of the work so far accomplished,

1. Requests the Special Rapporteur to continue his work and to submit a progress report to the Sub-Commission at its fortieth session in view of the comments elaborated in respect of the preliminary report during its consideration at the thirty-eighth session;

2. Requests the Secretary-General to provide all possible assistance to the Special Rapporteur so as to facilitate his work;

3. Decides to consider the progress report at its fortieth session under the agenda item "Human rights and disability".

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55/ General Assembly resolution 260 A (III).

56/ Adopted at the 37th meeting, on 29 August 1985, without a vote.  
See chap. XVII.

57/ E/CN.4/Sub.2/1985/32.

1985/11 Slavery and slavery-like practices:  
Mission to Mauritania 58/

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

Recalling Economic and Social Council decision 1985/143 of 30 May 1985 approving the Commission's request to the expert of the Sub-Commission to prepare a follow-up report on the basis of replies received, and taking into account the views expressed on the question - in particular with respect to assistance which could be provided to Mauritania - by the Sub-Commission at its thirty-seventh session and by the Commission at its forty-first session, and to submit to the Sub-Commission an interim report at its thirty-eighth session and a final report at its thirty-ninth session,

Recalling also Commission on Human Rights resolution 1985/24 requesting the Secretary-General to transmit the expert's report to the Government of the Islamic Republic of Mauritania, inviting it to inform the Sub-Commission of any action it felt able to take thereon, as well as to the United Nations bodies, specialized agencies and regional and sub-regional organizations concerned, as mentioned in paragraph 4 of the resolution,

Having considered the interim follow-up report 59/ on the mission to Mauritania prepared by its expert, Mr. Marc Bossuyt,

Having noted the statement made by the Representative of the Islamic Republic of Mauritania at its thirty-eighth session,

1. Expresses its appreciation to the expert for his valuable interim follow-up report;

2. Expresses further its appreciation to the Government of the Islamic Republic of Mauritania for its continued co-operation with the Sub-Commission in this matter.

3. Expresses also its appreciation to the United Nations bodies, specialized agencies and regional commission which informed the Sub-Commission of the assistance which they could give to Mauritania for the purpose of contributing to the eradication of the consequences of slavery, in accordance with the aims and objectives of the Mauritanian plan of social and economic development;

4. Looks forward to the information the Government of the Islamic Republic of Mauritania will provide on the action it feels able to take on the recommendations contained in the report of the expert on his mission to Mauritania; 60/

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58/ Adopted at the 37th meeting, on 29 August 1985, without a vote.  
See chap. XIII.

59/ E/CN.4/Sub.2/1985/26.

60/ E/CN.4/Sub.2/1984/23.

5. Requests the Secretary-General to renew the invitation to the organizations mentioned in paragraph 4 of Commission resolution 1985/24 which have not yet replied and to address a similar invitation to the United Nations Development Programme donor States;

6. Expresses the hope that the United Nations Development Programme and the other United Nations organs and specialized agencies will consider to undertake an additional and specific effort in order to assist the Government of the Islamic Republic of Mauritania in eliminating the consequences of slavery;

7. Invites the Commission on Human Rights to consider ways and means to ensure the co-ordination of the assistance which could be provided to Mauritania in order to eliminate the consequences of slavery;

8. Requests the expert to present his final follow-up report to the Sub-Commission at its thirty-ninth session taking into account the views expressed by the Sub-Commission at its thirty-eighth session and by the Commission at its forty-second session;

9. Requests the Secretary-General to provide the expert with all necessary assistance he may require in preparing his follow-up report.

1985/12 Human rights and youth 61/

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

Recalling General Assembly resolutions 38/21 of 22 November 1983 and 39/21 of 23 November 1984 which have underlined the importance of undertaking concerted action programmes in favour of youth,

Bearing in mind Economic and Social Council resolution 1985/27 of 29 May 1985 regarding the measures for securing the implementation and enjoyment by youth of human rights, particularly, the right to life, education and work and its resolution 1985/30 of 29 May 1985 concerning co-ordination and information in the field of youth,

Recalling the Commission on Human Rights resolution 1985/13 of 11 March 1985 emphasizing the necessity to ensure full enjoyment by youth of the rights stipulated in all relevant international instruments as indispensable for human dignity and the free development of the human personality, and requesting the Sub-Commission on Prevention of Discrimination and Protection of Minorities to pay due attention to the role of youth in the field of human rights,

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61/ Adopted at the 37th meeting, on 29 August 1985, without a vote.  
See chap. XVI.



1. Requests Mr. Dumitru Mazilu, in order to facilitate the Sub-Commission's discussion of the topic, to prepare a report on human rights and youth analysing the efforts and measures for securing the implementation and enjoyment by youth of human rights, particularly, the right to life, education and work;
2. Requests the Secretary-General to provide all necessary assistance to Mr. Dumitru Mazilu for the completion of this task;
3. Decides to deal with the question of "Human Rights and Youth" under its item: "Promotion, protection and restoration of human rights at national, regional and international levels" at its thirty-ninth session.

1985/13 Implementation of the right to derogation provided for under Article 4 of the International Covenant on Civil and Political Rights and violations of human rights: State of siege in Paraguay 62/

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

Recalling its resolutions 1983/28 of 6 September 1983 and 1984/9 of 4 August 1984 as well as Commission on Human Rights resolution 1984/46 of 13 March 1984 by which it requested the Government of Paraguay to consider ending the state of siege in force in the country for the last thirty years,

Taking note of the document 63/ prepared by the Secretary-General concerning new developments on the question of putting an end to the state of siege in Paraguay, is highly satisfied with the spirit of co-operation of the Government of Paraguay and recommends that it persevere in its efforts,

Noting the information communicated in which it was mentioned that the state of siege was enforced in conformity with the national Constitution and was limited to the geographic area of the capital,

Observing that according to the Constitution of Paraguay a state of siege may be declared only for a limited period,

Considering that the systematic renewal of the state of siege every three months, since 1954, seems to be at variance with this provision,

Considering that this situation can be clarified if Paraguay ratified the International Covenant on Civil and Political Rights specially because of the article 4,

1. Considers with appreciation the spirit of co-operation of the Paraguayan authorities and invites them to persevere in their efforts;

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62/ Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. IX.

63/ E/CN.4/Sub.2/1985/41.

2. Takes note with satisfaction of recent releases of political prisoners, but insists upon cancelling, without any exception, all forms of interdiction concerning the return to their country of persons who have been either exiled or banished;

3. Requests once more the Commission on Human Rights to recommend to the Government of Paraguay to ratify the International Covenant on Civil and Political Rights;

4. Requests also the Secretary-General to transmit information available concerning new developments in these fields to the Sub-Commission at its thirty-ninth session.

1985/14 Guidelines on the use of computerized  
personal files 64/

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

Recalling the relevant provisions of the Proclamation of Teheran and the resolutions of the General Assembly concerning human rights and scientific and technological developments, as well as resolution 1984/27 of the Commission on Human Rights welcoming the study on guidelines concerning the use of computerized personal files, prepared by the Special Rapporteur, Mr. L. Joinet,

Reaffirming that the use of computers, which now extends to most regions of the world, is an important factor for progress provided that it is accompanied by suitable guarantees, in particular in the case of files intended for processing data relating to individuals,

Responding to the request addressed by the Commission to the Sub-Commission to consider measures which could be taken in this field, particularly by elaborating guidelines on the use of computerized personal files,

Considering with satisfaction the revised draft guidelines submitted to the Sub-Commission by the Special Rapporteur, Mr. L. Joinet, with a view to encouraging Member States to adopt regulations based on those guidelines,

Holding the view that, for the purposes of effectiveness, Governments should be consulted more widely on the revised draft guidelines,

1. Requests the Secretary-General to continue to obtain the comments and suggestions of Governments on the revised guidelines;

2. Requests the Secretary-General to render the Special Rapporteur all the assistance he needs in submitting the final report on guidelines to the Sub-Commission at its fortieth session.

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64/ Adopted at the 37th meeting, on 29 August 1985, without a vote.  
See chap. X.

1985/15 Question of the violation of human rights and fundamental freedoms: Inter-sessional meetings of the Bureau 65/

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

Mindful of Commission on Human Rights resolution 1985/28 which recalled the particular responsibilities of the Sub-Commission established in Commission resolution 8 (XXIII) of 16 March 1967,

Recalling that Commission resolution 8 (XXIII) invited the Sub-Commission to bring to the attention of the Commission any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms in any country,

Recalling further that Commission resolution 8 (XXIII) also requested the Sub-Commission to prepare, for the use of the Commission in its examination of this question, a report containing information on violations of human rights and fundamental freedoms from all available sources,

Having reviewed the situation of violations of human rights and fundamental freedoms in the world at its thirty-eighth session,

Conscious of resolution 34/175 of the General Assembly entitled "Effective action against mass and flagrant violations of human rights" which urged the appropriate United Nations bodies, within their mandates, particularly the Commission on Human Rights, to take timely and effective action in existing and future cases of mass and flagrant violations of human rights,

Believing deeply that the United Nations must react in a timely and effective manner to the most urgent violations of human rights and fundamental freedoms,

1. Requests the authorization of the Commission on Human Rights and the Economic and Social Council for the Bureau elected by the Sub-Commission at each of its sessions to hold two inter-sessional meetings per year, one between the sessions of the Sub-Commission and those of the Commission, and the other between the sessions of the Commission and those of the Sub-Commission, in order to enable the Bureau to review developments and to ensure timely collection of appropriate information needed so as to enable the Sub-Commission to perform its responsibilities under Commission resolution 8 (XXIII) of bringing to the attention of the Commission any situation which it has reasonable cause to believe reveals a consistent pattern of violations of human rights and fundamental freedoms in any country, and to assist the Commission in carrying out its responsibilities under General Assembly resolution 34/175 and at such meetings of the Bureau the presence in person or by telephone of three members shall be sufficient to take any action provided for in the present resolution so long as actual notice of at least one week shall have been given to all members of the Bureau;

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65/ Adopted at the 37th meeting, on 29 August 1985, by 7 votes to 4 with 8 abstentions. See chap. VI.

2. Submits the following draft resolution to the Commission on Human Rights for adoption:

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

1985/16 The situation in the Arab territories occupied by Israel 66/

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

Guided by the purposes and principles of the United Nations, and in particular respect for the principle of equal rights and self-determination of all peoples,

Mindful of the humanitarian principles and provisions of the Geneva Conventions of 1949 67/ and the Additional Protocols 68/ thereto, and of the obligations arising from the regulations annexed to the Hague Convention IV of 1907, 69/

Recalling the General Assembly resolutions ES-7/2 of 29 July 1980, 37/88 A to G of 10 December 1982, 37/123 A to F of 16 and 20 December 1982, 38/79D of 15 December 1983, 39/49 A to D of 11 December 1984, 39/95 A to H of 14 December 1984 and all other relevant General Assembly resolutions on Israeli violations of the human rights of the population of the occupied Arab territories,

Recalling the Commission on Human Rights resolutions 1983/1, 1983/2, 1983/3, of 15 February 1983, 1983/27 of March 1983, 1984/1 A and B and 1984/2 of 20 February 1984 and 1985/1 A and B of 19 February 1985 on the question of violation of human rights in the occupied Arab territories including Palestine, as well as resolution 1985/4 of 26 February 1985 on the right of the Palestinian people to self-determination,

Also recalling its resolutions 1982/18 of 8 September 1982, and 1983/9 of 31 August 1983,

Taking note of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories submitted to the General Assembly at its thirty-seventh, thirty-eighth and thirty-ninth sessions,

Also taking note of the report 70/ of the Seminar on Violations of Human Rights in the Palestinian and Other Arab Territories Occupied by Israel, held at Geneva from 29 November to 3 December 1982,

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66/ Adopted at the 37th meeting, on 29 August 1985, by a roll-call vote of 10 in favour, 1 against and 6 abstentions. See chap. VI.

67/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

68/ A/32/144, annexes I and II.

69/ Carnegie Endowment for International Peace, The Hague Conventions of 1899 and 1907 (New York, Oxford University Press, 1915), p. 100.

70/ ST/HR/SER.4/14.

Affirming the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other occupied Arab territories,

1. Strongly affirms that the perpetuation of the Israeli occupation of the Palestinian and other Arab territories, including Jerusalem, can only be a source of increasing violations of the human rights of the populations of these territories and of increasing tension in the region;

2. Reiterates that the inalienable rights of the Palestinian people include:

(a) Their right to self-determination without external interference;

(b) Their right to return to their homes and property from which they have been displaced and uprooted by Israel;

(c) Their right to the establishment of a fully independent and sovereign State of Palestine;

3. Reaffirms the basic principle that the future of the Palestinian people can only be decided with its full participation, through its representative organ, the Palestine Liberation Organization;

4. Affirms its support for the Geneva Declaration on Palestine adopted by the International Conference on the Question of Palestine <sup>71/</sup> and by the General Assembly of the United Nations and welcomes the call to convene an international peace conference on the Middle East under the auspices of the United Nations, in which all parties to the Arab-Israeli conflict, including the Palestine Liberation Organization, the Union of Soviet Socialist Republics and the United States of America, as well as other States concerned, participate on an equal footing and with equal rights;

5. Affirms that the Palestinian and other freedom fighters detained by Israel are entitled to benefit of the status of prisoner of war, according to the Geneva Conventions of 1949 and the Additional Protocols;

6. Affirms that the Palestinian and other civilians arbitrarily detained by Israel should be immediately released;

7. Strongly reaffirms that the Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 12 August 1949 <sup>72/</sup> is fully applicable to the Palestinian and other Arab territories occupied by Israel, including Jerusalem and the Syrian Golan Heights.

8. Expresses its deep concern at the consequences of Israel's systematic refusal to apply the Geneva Convention Relative to the Protection of Civilian Persons in Time of War in all its provisions to these territories;

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<sup>71/</sup> Report of the International Conference on the Question of Palestine, Geneva, 29 August - 7 September 1983 (United Nations publication, Sales No. E.83.I.21) chap. I, sect. B.

<sup>72/</sup> United Nations, Treaty Series, vol. 75, No. 973, p. 287.

9. Expresses its deep concern that, until a just and equitable solution to the problem of Palestine has been implemented, the Palestinian people will be exposed to grave dangers such as the appalling massacres perpetrated in Sabra and Shatila refugee camps which have been qualified as an act of genocide, and for which the responsibility of the Israeli Government has been established;

10. Requests the Secretary-General of the United Nations to supply the Sub-Commission, at its thirty-ninth session with a list of the latest reports, studies, documents, statistics and with the texts of relevant decisions and resolutions adopted by the United Nations concerning Palestine and other Arab occupied territories, including Lebanon;

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

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

1985/17 The situation of human rights in  
the Islamic Republic of Iran 73/

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

Recalling its resolutions 10 (XXXIII) of 10 September 1980, 8 (XXXIV) of 9 September 1981, 1982/25 of 8 September 1982, 1983/14 of 5 September 1983 and 1984/14 of 29 August 1984,

Welcoming the appointment of Mr. Andres Aguilar as Special Representative of the Commission on Human Rights, with a mandate to establish contacts with the Government of the Islamic Republic of Iran and to make a thorough study of the human rights situation in that country in accordance with Commission resolution 1984/54,

Taking into account the number and gravity of the alleged violations of human rights to which the Special Representative refers in his preliminary report,

Welcoming Commission on Human Rights resolution 1985/39, in which the Commission decided to extend the mandate of the Special Representative for one year and requested him to present an interim report to the General Assembly at its fortieth session on the human rights situation in the Islamic Republic of Iran, including the situation of minority groups such as the Baha'is, and a final report to the Commission at its forty-second session,

1. Expresses its alarm at the continuing reports of gross violations of human rights and fundamental freedoms in the Islamic Republic of Iran, and in particular of violations of the right to life, the right to freedom from torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person and the freedom from arbitrary arrest or detention, the right to a fair trial, the right to freedom of thought, conscience and religion and to freedom of expression and the right of religious minorities to profess and practise their own religion;

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73/ Adopted at the 37th meeting on 29 August 1985, by 10 votes to 3, with 4 abstentions. See chap. VI.

2. Expresses its alarm in particular at the evidence of persecution of the Baha'i religious minority and of political, ethnic and national minority groups such as the Kurds;

3. Endorses the general observations of the Special Representative contained in his preliminary report, in particular the conclusion that the Universal Declaration of Human Rights and the International Covenants on Human Rights contain norms which represent universal standards of conduct for all peoples and all nations;

4. Expresses the hope that the initial contacts of the Government of the Islamic Republic of Iran with the Special Representative will develop into a positive co-operation;

5. Requests the Secretary-General to bring to the attention of the Commission on Human Rights and its Special Representative the allegations and information received by the Sub-Commission concerning the grave violations of human rights and fundamental freedoms in the Islamic Republic of Iran and of the action taken by the Sub-Commission in this matter.

6. Requests the Secretary-General to transmit to the Sub-Commission at its thirty-ninth session the reports submitted by the Special Representative of the Commission on Human Rights to the General Assembly and to the Commission, and also to inform the Sub-Commission of the deliberations of and actions taken by the General Assembly, Economic and Social Council and Commission on Human Rights in response to these reports and other allegations and information pertaining to the human rights situation in the Islamic Republic of Iran.

1985/18 The situation in El Salvador 74/

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

Guided by the principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the humanitarian rules of war contained in the Geneva Conventions,

Recalling that, in its resolution 39/119 of 14 December 1984, the General Assembly expressed its deep concern at the fact that, although the number of human rights violations has decreased, they are still serious and numerous, resulting in suffering for the Salvadorian people,

Bearing in mind that, in its resolution 1985/35 of 13 March 1985; the Commission on Human Rights recognized that dialogue is the best way, in a spirit of generosity and openness, to achieve a negotiated comprehensive political settlement that will promote genuine national reconciliation, put an end to the suffering of the Salvadorian people and stem the growing tide of refugees and internally displaced persons,

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74/ Adopted at the 37th meeting, on 29 August 1985, by 16 votes to 3 with 1 abstention. See chap. VI.

Observing that the Special Representative of the Commission on Human Rights points out in his report that, although there has been a decrease in the number of political assassinations and disappearances, he is gravely concerned at the fact that a situation of generalized war continues to exist in El Salvador, that serious violations of human rights still persist, that the number of attacks on life and the economic structure remains a cause for concern, that the Salvadorian Government continues to show a lack of respect for trade union freedoms and that the capacity of the legal system to investigate and punish all these human rights violations continues to be patently inadequate,

Believing that efforts to establish a climate of protection of human rights could be more effective if all States abstain from intervening in the internal situation in El Salvador and suspend all supplies of arms and any type of military assistance.

Regretting that, to date, dialogue between the Government of El Salvador and the Frente farabundo Martí para la Liberación Nacional - Frente Democrático Revolucionario continues to be at a standstill because of the former's failure to implement the agreements both parties made in previous meetings - specially those agreements which relate to the establishment of a Joint Commission - in spite of the reiterated appeals of the General Assembly and the Commission on Human Rights for a negotiated comprehensive political settlement,

1. Expresses its deep concern at the fact that, although the number of human rights violations has decreased, the Salvadorian Government continues to commit serious and massive violations of these rights as a result, primarily, of its non-observance of the Geneva Conventions;
2. Recognizes that in El Salvador there exists in armed conflict not of an international character where Article 3 common to the Geneva Conventions of 1949 75/ and Protocol II Additional to these Conventions 76/ must be applied;
3. Ratifies the point stated by the Special Representative of the Commission on Human Rights that according to the Geneva Conventions as long as the so-called "masses" do not participate directly in combat, although they may sympathize, accompany, supply food and live in zones under the control of the insurgents, they preserve their civilian character, and therefore they must not be subjected to military attacks and forced displacement by Government forces;
4. Recommends the Special Representative to inform the Commission on whether both parties accept their obligation to respect the Geneva Conventions and to what extent they are truly observing them, specially in those aspects which refer to the protection of war prisoners, military hospitals, wounded persons, the medical personnel of both parties and the civilian population;
5. Deeply regrets that the persistence of bombings and other attacks by Government armed forces have resulted in numerous civilian victims and material damage, and also regrets that the hostilities of the insurgent forces have on occasion caused civilian victims and material damage to the economic structure;

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75/ United Nations, Treaty Series, vol. 75, Nos. 970-973.

76/ A/32/144, annex II.



6. Welcomes the fact that the parties in the conflict agreed, in their first round of talks, to create a Joint Commission to examine the positions and proposals presented by both parties, to develop appropriate mechanisms to integrate all sectors of national life in the search for peace, to study measures that make possible the humanization of the armed conflict, and consider all those aspects that can lead to the achievement of peace in the shortest time possible;

7. Requests the Commission on Human Rights to reiterate its appeal to the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional - Frente Democrático Revolucionario for the immediate resumption of talks and implementation of the agreements they have made in order to achieve a negotiated comprehensive political settlement that would guarantee the full respect of human rights for all Salvadorians;

8. Urges all States to refrain from intervening in the internal situation of El Salvador and, instead of supplying arms and all sorts of military assistance and support, to encourage a just and lasting political settlement;

9. Requests the Secretary-General to report to the Sub-Commission at its thirty-ninth session on the results of the investigation of the Commission on Human Rights Special Representative and on the deliberations of the General Assembly and the Commission on Human Rights relating thereto.

1985/19 Prevention of discrimination and protection of children 77/

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

Recalling the Declaration of the Rights of the Child which states that mankind owes to the child the best it has to give,

Recalling also, article 10 of the International Covenant on Civil and Political Rights and article 8 of the Standard Minimum Rules for the Treatment of Prisoners 78/ which call for the separation of juveniles and adults.

Recalling further, article 5 of the Universal Declaration of Human Rights which states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

1. Requests the Secretary-General to invite Governments, United Nations organs, specialized agencies, intergovernmental organizations, the International Committee of the Red Cross and non-governmental organizations to submit information concerning the incarceration of children under the age of 18 with adult prisoners, and to solicit their views on the ways and means of preventing this practice;

2. Further requests the Secretary-General to compile the information received and submit it in a report to the Sub-Commission at its thirty-ninth session;

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77/ Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. XVI.

78/ First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

3. Encourages States, even those where the placement of children in adult penal facilities is officially prohibited, to maintain records concerning children who are placed, for whatever reason, in an adult penal facility;

4. Decides to consider at its thirty-ninth session under the agenda item entitled "Protection of Children" what further action could be taken by the Sub-Commission in this field with a view to contributing to the formulation of standards.

1985/20 The situation in Albania 79/

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

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 the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 80/

Considering that 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 various international instruments in this field,

Deeply disturbed by the constitutional and legal measures adopted by the People's Socialist Republic of Albania to forbid the exercise of the right to freedom of conscience and religion to all individuals within its territory,

Believing that these measures constitute an affront to human dignity, a flagrant and systematic violation of human rights, a disavowal of the principles of the Charter of the United Nations and an obstacle to friendly and peaceful relations between nations,

Bearing in mind Commission on Human Rights resolution 1985/51 of 14 March 1985 in which the Commission urged States, in accordance with their respective constitutional systems, to provide, where they have not already done so, adequate constitutional and legal guarantees for freedom of thought, conscience, religion and belief,

1. Requests the Commission on Human Rights to urge the Government of the People's Socialist Republic of Albania to provide adequate constitutional and legal measures consistent with the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief with a view to ensuring that freedom of religion or belief is assured in a concrete manner, that discrimination on ground of religion or belief is proscribed, and that adequate safeguards and remedies are provided against such discrimination;

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79/ Adopted at the 37th meeting, on 29 August 1985, by 11 votes to 1, with 3 abstentions. See chap VI.

80/ General Assembly resolution 36/55 of 25 November 1981.

2. Also requests the Secretary-General to inform the Sub-Commission, at its thirty-ninth session, of the deliberations of the Commission on Human Rights on this matter, as well as of any consideration which may be given to it by the General Assembly or the Economic and Social Council.

1985/21 The situation in Pakistan 81/

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

Guided by the principles of the United Nations Charter, the Universal Declaration of Human Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, 82/

Bearing in mind the Proclamation of Teheran in which the International Conference on Human Rights proclaimed that the gross denials of human rights arising from discrimination on grounds of religion outrage the conscience of mankind and endanger the foundations of freedom, justice and peace in the world, 83/

Recognizing that the independence of the judiciary and judicial review, as general principles of law of civilized nations, are an essential element of the effective legal remedy required of all nations,

Taking into account Commission resolution 1985/40 of 13 March 1985 in which the Sub-Commission is requested, inter alia, to keep in mind the relationship between violations of human rights and mass exoduses,

1. Expresses its grave concern at the promulgation by Pakistan of Ordinance XX of 28 April 1984 which, prima facie, violates the right to liberty and security of the persons, the right to freedom from arbitrary arrest or detention, the right to freedom of thought, expression, conscience and religion, the right of religious minorities to profess and practise their own religion, and the right to an effective legal remedy;

2. Further expresses its grave concern that persons charged with and arrested for violations of Ordinance XX have been reportedly subjected to various punishments and confiscation of personal property, and that the affected groups as a whole have been subjected to discrimination in employment and education and to the defacement of their religious property;

3. Requests the Commission on Human Rights to call on the Government of Pakistan to repeal Ordinance XX and to restore the human rights and fundamental freedoms of all persons in its jurisdiction;

4. Alerts the Commission on Human Rights of the situation in Pakistan which is one with great potential to cause a mass exodus, especially of members of the Ahmadi community.

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81/ Adopted at the 37th meeting, on 29 August 1985, by 10 votes to 2, with 6 abstentions. See chap. VI.

82/ General Assembly resolution 36/55 of 25 November 1981.

83/ Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968 (United Nations publication, Sales No. E.68.XIV.2) chap. II, para. 11.

1985/22 Study of the problem of discrimination against indigenous populations: Report of the Working Group on Indigenous Populations 84/

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

Recalling resolution 1982/34 of 7 May 1982 of the Economic and Social Council, authorizing the establishment of a pre-sessional Working Group on Indigenous Populations,

Recalling, further, that in its resolution 1984/35 B the Sub-Commission requested the Working Group to consider in 1985 the drafting of a body of principles on indigenous rights,

Bearing in mind that the Commission on Human Rights, in resolution 1985/21 of 11 March 1985, urged the Working Group to intensify its efforts, in carrying out its Plan of Action, to develop international standards in this field,

Considering that in its resolution 1985/38 of 30 May 1985, the Economic and Social Council recommended to the General Assembly the establishment of a voluntary trust fund for indigenous populations,

Convinced of the urgent need to promote and protect indigenous rights by means of a continued and comprehensive review of developments in this field, as well as through the evolution of standards, particularly by means of the preparation of a draft declaration of principles on indigenous rights,

Having examined the report of the Working Group in its fourth session, 85/

1. Expresses its appreciation to the Working Group and especially to its Chairman/Rapporteur, Mrs. Erica-Irene Daes, for the progress made at its fourth session in carrying out its mandate, particularly in its standard-setting activities, as reflected in annex II of its report;

2. Expresses its deep satisfaction with the continued constructive participation of government observers, specialized agencies, non-governmental organizations, and particularly of representatives of the indigenous peoples themselves in the annual sessions of the Working Group;

3. Endorses the Plan of Action adopted by the Working Group for its future work, contained in annex I of its present report, as well as its decision to emphasize in its forthcoming sessions the part of its mandate related to standard-setting activities, with the aim of producing, in due course, a draft declaration on indigenous rights which may be proclaimed by the General Assembly;

4. Requests the Working Group to focus its attention, at its fifth session in 1986, on the following:

(a) Drafting specific proposals for the content and scope of the rights and principles enumerated in annex II of its report, on the basis of the conclusions, proposals and recommendations of the final report of Mr. José R. Martínez Cobo, 86/

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84/ Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. XI.

85/ E/CN.4/Sub.2/1985/22.

86/ E/CN.4/Sub.2/1983/21/Add.8.

as well as the comments and suggestions received from Governments, specialized agencies, organizations of indigenous peoples and other non-governmental organizations;

(b) Gathering information on the rights and principles enumerated in paragraphs 3 and 4 of annex I to its present report, with the purpose of considering the preparation of additional principles for circulation and comments;

5. Requests the Secretary-General:

(a) To transmit the Working Group's report and its annexes to Governments, specialized agencies, organizations of indigenous peoples and other non-governmental organizations, as soon as possible after the present session of the Sub-Commission, for comments and suggestions, calling their attention to annexes I and II of the report;

(b) To prepare an analytical compilation of the comments and suggestions received, and to make it available to members of the Working Group, Governments, organizations of indigenous peoples and other non-governmental organizations well in advance of the Working Group's fifth session in 1986;

(c) To prepare an analytical compilation of existing international legal instruments and proposed draft standards relating to indigenous rights and to circulate it to Governments, specialized agencies, organizations of indigenous peoples and other non-governmental organizations, and to members of the Working Group, by November 1985, and to submit it to the Working Group at its fifth session in 1986;

(d) To give all necessary assistance to the Working Group in discharging its tasks, including the adequate dissemination of information about its activities to indigenous organizations, to encourage their wider participation;

6. Welcomes the adoption by the Economic and Social Council of resolution 1985/38 of 30 May 1985, recommending the establishment of a United Nations Voluntary Fund for Indigenous Populations, and expresses its hope that the General Assembly will establish this Fund at its fortieth session;

7. Reiterates its recommendation that the reports of the Working Group should be made available to the Commission on Human Rights at each of its sessions;

8. Decides to include in the agenda of its thirty-ninth session, as a matter of high priority, an item entitled "Discrimination against Indigenous Populations".

1985/23 Exploitation of child labour 87/

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

Having considered the report of the Working Group on Slavery submitted at its thirty-eighth session,

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<sup>87/</sup> Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. XIII.

Gravely concerned at the evidence of the perpetuation and even the recrudescence of various slavery-like practices in many parts of the world,

1. Takes note with appreciation of the report of the Working Group on Slavery;

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

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

1985/24 Review of the Work of the Sub-Commission 88/

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

Recalling its resolution 1983/21 of 5 September 1983 by which it decided to give priority attention to the consideration of its role and activities during its thirty-seventh session, and to establish a working group to consider these questions,

Recalling its resolution 1984/37 of 31 August 1984 on the review of the work of the Sub-Commission,

Having carefully examined Commission on Human Rights resolution 1985/28 of 11 March 1985 on the Report of the Sub-Commission on its thirty-seventh session,

1. Draws the attention of the Commission on Human Rights to the Report of the Working Group on the Review of the Work of the Sub-Commission 89/ and to the relevant summary records of the meetings of the Sub-Commission at its thirty-eighth session;

2. Recommends to the Commission on Human Rights

(a) That, in order to ensure a greater continuity in its membership, half of the members should be elected every two years, which would require that the term of membership be increased to four years;

(b) that, in order to enable a maximum of three sessional working groups of the Sub-Commission to meet concurrently, additional services for three 3-hour meetings should be authorized;

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88/ Adopted at the 37th meeting, on 29 August 1985, by 18 votes to 1. See chap. III.

89/ E/CN.4/Sub.2/1985/2.

(c) that consideration should be given to changing the name of the Sub-Commission, in order to describe its work more clearly, to that of "Sub-Commission of Experts of Human Rights";

(d) that ways and means should be explored in order to ensure the quality of the studies of the special rapporteurs of the Sub-Commission by providing them with the necessary resources and assistance required for the performance of the tasks entrusted to them within the proposed time schedule;

3. Requests the Secretary-General to inform the Sub-Commission at its thirty-ninth session of the consideration given to the Report of the Sub-Commission by the Commission at its forty-second session;

4. Decides that the Working Group on the Review of the Work of the Sub-Commission shall discontinue its work in order to ensure the full participation of all members of the Sub-Commission in the discussions which have to be fully reflected in the summary records;

5. Decides further to include in its agenda on an annual basis an item of high priority entitled "The Review of the Work of the Sub-Commission".

1985/25 Study of the problem of discrimination  
against indigenous populations 90/

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

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

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

1985/26 Question of the human rights of persons subjected  
to any form of detention or imprisonment 91/

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

Recalling its resolution 1983/23, by which it requested the Working Group on Detention to prepare a first draft of a Declaration Against Unacknowledged

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90/ Adopted at the 37th meeting, on 29 August 1985, by 16 votes to 1, with 2 abstentions. See chap. XI.

91/ Adopted at the 37th meeting, on 29 August 1985, by 14 votes to 1, See chap. IX.

Detention of Persons, as well as its resolution 1984/13, requesting that the Working Group prepare a revised version of the draft Declaration to be submitted to the Sub-Commission at its thirty-eighth session, for submission to the Commission on Human Rights at its forty-second session,

Deeply concerned by the continuing problem of disappearance of persons,

Having considered the report of the Working Group on its work at the thirty-eighth session of the Sub-Commission, which included a revised text of the draft Declaration Against Unacknowledged Detention of Persons,

1. Thanks the Working Group on Detention for the work it has accomplished during the thirty-eighth session of the Sub-Commission towards the adoption of a draft Declaration Against Unacknowledged Detention of Persons;

2. Adopts the following draft Declaration Against Unacknowledged Detention of Persons as recommended by the Working Group on Detention:

"Declares that Governments shall, (a) disclose the identity, location and condition of all persons detained by members of their police, military or security authorities or others acting with their knowledge, together with the cause of such detention, and (b) seek to locate all other persons who have disappeared. In countries where legislation does not exist to this effect, steps shall be taken to enact such legislation as soon as possible.";

3. Requests the Working Group on Detention at the thirty-ninth session of the Sub-Commission to continue to consider any possible further provisions relating to the draft Declaration Against Unacknowledged Detention of Persons and forced and involuntary disappearances of persons;

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

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



1985/27. The situation in Chile 92/

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

Bearing in mind its resolutions 1982/19 of 8 September 1982 and 1983/19 of 5 September 1983, 1984/29 of 30 August 1984 and resolution 1985/47 of 14 March 1985 of the Commission on Human Rights, 93/

Taking into account the report by the Special Rapporteur of the Commission on Human Rights, and the recent information which confirms the persistence of systematic violations of human rights in Chile,

Deploring the fact that the peaceful demonstrations organized by democratic groups continue to be violently repressed, with the consequent loss of numerous lives and/or injury to many persons, assignment to forced residence and imprisonment,

Deeply concerned by the situation of human rights in general and by the situation of the indigenous populations in particular,

Especially disturbed by the impunity enjoyed by the forces of repression, particularly the National Information Agency (CNI), which have continued to apply a systematic policy of physically eliminating opponents,

Concerned also by the legislative measures taken by the Chilean authorities which suspend or considerably limit and/or restrict the freedoms established in different international instruments to which Chile is party,

1. Urges the Chilean authorities to put an end to all measures of repression such as intimidation, persecution, assignment to forced residence, torture and cruel, inhuman or degrading treatment;

2. Calls upon the Chilean authorities to identify the persons responsible for all repressive measures, in particular the disappearances, torture and cruel, inhuman or degrading treatment, and to punish the guilty;

3. Calls likewise upon the Chilean authorities to respect and, where necessary, restore economic, social and cultural rights, in particular the rights intended to preserve the cultural identity and improve the economic and social status of the indigenous populations, including the right to their land;

4. Recommends to the Commission on Human Rights to address an urgent appeal to the Chilean authorities to respect and promote human rights in conformity with the international instruments to which Chile is a party, and that they end the "states of exception" under which serious and continuous human rights violations are committed.

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92/ Adopted at the 38th meeting, on 30 August 1985, without a vote. See chapter VI.

93/ A/39/631, annex.

1985/28. The situation in Guatemala 94/

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

Guided by the principles embodied in the Charter of the United Nations and, in particular, in the preamble of the Universal Declaration of Human Rights, which states that it is essential for human rights to be protected by law,

Recalling decision 12 (XXXV) of 14 March 1979, of the Commission on Human Rights, as well as Commission resolutions 32 (XXXVI) of 17 March 1980, 33 (XXXVII) of 11 March 1981, 1982/31 of 11 March 1982, 1983/37 of 8 March 1983, 1984/53 of 14 March 1984 and 1985/36 of 13 March 1985, in which deep concern was reiterated for the grave and systematic violation of human rights in Guatemala,

Having in mind the resolutions 37/184 of 17 December 1982, 38/100 of 16 December 1983 and 39/120 of 14 December 1984 of the General Assembly and the resolutions 1982/17 of 7 September 1982, 1983/12 of 5 September 1983 and 1984/23 of 29 August 1984 of the Sub-Commission,

Bearing in mind resolution 1985/36 of 13 March 1985 of the Commission on Human Rights in which note was taken of the final report of the Special Rapporteur and it was decided to extend his mandate so that he could continue with the study in depth on the human rights situation in Guatemala,

Observing with concern that historic discrimination against the indigenous population, who constitute the majority of the population of the country, has been made worse by a series of restrictive measures imposed by the Guatemalan Government which violate the human rights and fundamental freedoms of the predominantly indigenous rural and peasant population, and by this sector of the population's insufficient access to the country's political processes,

Also observing with concern that the cases of forced disappearances and extrajudicial executions have increased, as well as the fact that the relatives of the disappeared people associated with the Mutual Support Group have been subjected to tendentious accusations, harassment and threats which have recently culminated in the assassination of two of the leaders of this group and the exile of several of its members, including two of the leaders.

Recognizing that today in Guatemala there exists an armed conflict of a non-international character, which stems from economic, social and political factors of a structural nature, and that within that conflict, the army and the governmental forces continue to disrespect the norms of international humanitarian law,

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94/ Adopted at the 38th meeting, on 30 August 1985, by 11 votes to 1, with 6 abstentions. See chapter VI.

1. Expresses once again its deep concern for the massive, grave and systematic violations of human rights which continue to take place in Guatemala, and in particular acts of violence against the non-combatant population, the disappearances, the assassinations, acts of torture and extrajudicial executions;

2. Expresses also its deep concern for the restrictive measures that limit the freedom of the indigenous rural population, especially their forced displacement and their concentration in militarized villages, as well as their forced participation in the Civil Patrols organized and controlled by the armed forces;

3. Urges, once again, the Government of Guatemala to take effective measures to ensure that all its authorities and agencies, including its security forces, observe full respect of the human rights and fundamental freedoms of its citizens; and that those responsible for the violation of human rights, including members of the army, its paramilitary groups and the security forces are immediately and effectively brought to trial and punished accordingly;

4. Urges, again, the Government of Guatemala to effectively clarify the fate of all those persons who have disappeared since the outset of the conflict, and calls upon the Government to halt, impede and prevent all harassment and persecution of the members and leaders of the Mutual Support Group and to respond to their demands in a satisfactory manner;

5. Notes with satisfaction that the Government of Guatemala invited certain international human rights organizations to visit Guatemala to assess the situation of human rights and fundamental freedoms, and expects that it will take their reports in due account;

6. Requests the Government of Guatemala to allow the entrance of other international humanitarian organizations to aid the civilian population in the areas of conflict, in particular the International Committee of the Red Cross, and to investigate the fate of the disappeared;

7. Calls upon all parties concerned in Guatemala to ensure the application of the relevant rules of International Law, in particular the Geneva Conventions of 1949 and the Additional Protocols thereto;

8. Expresses its profound conviction that the solutions to the crisis will be greatly facilitated by allowing the people of Guatemala freely to determine its political, social and economic future without foreign interference and in a climate devoid of intimidation and terror, as set out in article 1 of the International Covenant of Economic, Social and Cultural Rights;

9. Expresses its concern to the Government of Guatemala, in this respect, for the climate of intimidation and terror which prevails in the country, which is an impediment to the free participation of all political forces, all social sectors and all citizens in the Presidential elections to be carried out from November 1985 on, as well as the insufficient conditions for the effective participation of the indigenous population, the same as for the rest of the rural and peasant population, in the country's political processes;

10. Takes note of the promulgation of the new Constitution of Guatemala by the National Constituent Assembly, of the Electoral and Constitutional Laws that have been decreed and of the final time-table for the elections to establish the Constitutional Government to take office on 14 January 1986;

11. Takes note with satisfaction of the invitation made by the Government of Guatemala to the Sub-Commission to be present in the country to assess the forthcoming Presidential elections;

12. Urges, once again, all Governments to abstain from intervening in any form in the internal situation of Guatemala and in particular that they abstain from providing arms or any other kind of military assistance as long as grave violations of human rights continue to occur in Guatemala;

13. Invites the Special Rapporteur to take due account of the situation of the indigenous population for the elaboration and presentation of his forthcoming reports, as well as all testimonies submitted to the Sub-Commission and any other relevant data furnished him.

1985/29. The right to leave any country, including one's own and the right to return to one's own country 95/

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

Recalling its resolutions 1982/23, 1983/5 and 1984/21,

Recalling also Commission resolutions 1984/37 and 1985/22, of which the latter requested the Sub-Commission to consider the progress report of the Special Rapporteur as a matter of priority, with a view to submitting to the Commission as soon as possible a draft declaration on the right of everyone to leave any country, including his own, and to return to his country,

Recalling also Economic and Social Council resolutions 1788 (LIV) of 18 May 1973 and 1984/29 of 24 May 1984, 96/

Having considered the progress report of the Special Rapporteur at its thirty-eighth session,

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95/ Adopted at the 38th meeting, on 30 August 1985, without a vote. See chapter VI.

96/ E/CN.4/Sub.2/1985/9.

1. Expresses its appreciation to the Special Rapporteur for his progress report and his excellent introductory statement and responses to the comments of members of the Sub-Commission;
2. Requests the Special Rapporteur, Mr. Mubanga-Chipoya, to continue his important work in order to present to the Sub-Commission at its thirty-ninth session:
  - (a) A final report on (i) the right to leave any country, including one's own; (ii) the extent and effect of restrictions under article 12 (3) of the International Covenant on Civil and Political Rights; and (iii) the possibility to enter another country;
  - (b) A preliminary draft of a draft declaration on the right of everyone to leave any country, including his own, and to return to his country;
3. Further requests the Special Rapporteur to continue his important work in order to present to the Sub-Commission at its fortieth session:
  - (a) A final report on (i) the right to employment; (ii) the right to return to one's own country; and (iii) the phenomenon of the "brain drain" or the outflow of trained personnel from developing countries;
  - (b) A proposed final draft of the draft declaration on the right of everyone to leave any country, including his own, and to return to his country;
4. Calls upon Governments, international organizations, non-governmental organizations that have not yet responded to the Special Rapporteur's questionnaire to do so expeditiously; in this regard, requests the Secretary-General to send reminders accordingly;
5. Requests the Secretary-General to provide adequate assistance to the Special Rapporteur in the execution of his mandate.

1985/30. Draft Body of Principles and Guidelines on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Human Rights and Fundamental Freedoms 97/

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

Recalling that the Commission on Human Rights, in its decision 1985/112, decided to convene at the forty-second session of the Commission in 1986 an open-ended working group which would take into account, inter alia, the report and

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97/ Adopted at the 38th meeting, on 30 August 1985, by 15 votes to 1, with 1 abstention. See chapter XVI.

documentation from the Sub-Commission arising from its work on the draft principles on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

Having taken note of the documents 98/ on the Draft Body of Principles and Guidelines on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Human Rights and Fundamental Freedoms,

Expresses warm appreciation to the Special Rapporteur,  
Mrs. Erica-Irene A. Daes, for her efforts in elaborating this documentation,

Decides to refer to the Commission on Human Rights, for further consideration by its working group, the Draft Body of Principles and Guidelines on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Human Rights and Fundamental Freedoms and all other relevant documentation of the Sub-Commission including the summary records of the discussions thereon.

1985/31. The status of the individual and contemporary international law 99/

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

Recalling resolution 18 (XXXVII) of 10 March 1981 of the Commission on Human Rights by which the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission to appoint Mrs. Erica-Irene A. Daes as Special Rapporteur with the mandate of undertaking a study on the topic entitled: "The status of the individual and contemporary international law",

Recalling also its resolution 1983/17 of 5 September 1983 and 1984/2 of 28 August 1984 and Commission on Human Rights resolutions 1984/41 of 12 March 1984,

Having heard an oral statement of the Special Rapporteur explaining the reasons for which the final report of the study should be submitted during the thirty-ninth session of the Sub-Commission,

1. Expresses its appreciation to the Special Rapporteur for the important work she has so far accomplished;
2. Requests the Special Rapporteur to continue her work on the above-mentioned study with a view to submitting her final report to the Sub-Commission during its thirty-ninth session;
3. Requests the Secretary-General to give to the Special Rapporteur all the assistance she may require to carry out her work.

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98/ E/CN.4/Sub.2/1985/30.

99/ Adopted at the 38th meeting, on 30 August 1985, without a vote. See chapter XVI.

1985/32. The administration of justice and the  
human rights of detainees 100/

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

Recalling Economic and Social Council resolution 1985/37 of 30 May 1985, by which the Council authorized the Sub-Commission to appoint a special rapporteur to carry out the work referred to in paragraph 1 of Sub-Commission resolution 1983/30 of 6 September 1983 and Commission on Human Rights resolution 1983/18 of 22 February 1983 and decision 1984/104 of 6 March 1984 on an annual basis,

Recalling that, in paragraph 1 of resolution 1983/30, the Sub-Commission requested the drawing up and updating of a list of countries which proclaim or terminate a state of emergency each year, and the submission of an annual special report to the Commission on Human Rights containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency,

Recalling that, in its resolution 1983/18, the Commission on Human Rights requested the Sub-Commission to give further attention to the study 101/ of Mrs. Nicole Questiaux and to propose to the Commission measures designed to ensure the respect throughout the world of human rights and fundamental freedoms in situations where states of siege or emergency exist, especially of those rights referred to in article 4, paragraph 2, of the International Covenant on Civil and Political Rights,

Recalling that, in its decision 1984/104, the Commission on Human Rights decided to examine the report provided for in resolution 1983/30 as a matter of high priority with a view to deciding what action should be taken on the question of states of siege or emergency,

Recalling Commission on Human Rights resolution 1985/23 of 11 March 1985 and Sub-Commission resolution 1984/27 of 30 August 1984,

1. Expresses its appreciation to Mr. Leandro Despouy for his explanatory paper on the best way of undertaking the drawing up and updating of a list of countries which proclaim or terminate a state of emergency each year, and submitting an annual report to the Commissions on Human Rights containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency;

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100/ Adopted at the 39th meeting, on 30 August 1985, without a vote. See chapter IX.

101/ E/CN.4/Sub.2/1982/15.

2. Requests the Special Rapporteur, Mr. Leandro Despouy, to carry out the work referred to in paragraph 1 of Sub-Commission resolution 1983/30 and Commission on Human Rights resolution 1983/18 and decision 1984/104 on an annual basis;

3. Requests the Special Rapporteur to present his first annual report and draw up an initial list for submission to the Sub-Commission at its thirty-ninth session on the basis of the information contained in his explanatory paper and taking into consideration the views expressed by the members of the Sub-Commission at its thirty-eighth session;

4. Requests the Secretary-General to give the Special Rapporteur all the assistance he might require in his work;

5. Decides to examine the report and the list transmitted by the Special Rapporteur at its thirty-ninth session as a matter of high priority.

1985/33. Study on amnesty laws 102/

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

Bearing in mind its resolution 1983/34 of 6 September 1983 approving the preparation of a study on amnesty laws and their role in the safeguard and promotion of human rights,

Also bearing in mind its resolution 1984/8 of 28 August 1984 expressing the appreciation of the Sub-Commission to the Special Rapporteur, Mr. L. Joinet, for his preliminary report 103/ and requesting him to submit his final report to the Sub-Commission at its thirty-eighth session,

Having become aware in the course of its work at its thirty-sixth, thirty-seventh and thirty-eighth sessions of the importance that the promulgation of amnesty laws could have for the safeguard and promotion of human rights and fundamental freedoms,

Considering that the Special Rapporteur's technical study shows the principal elements of amnesty laws, taking into account the specific characteristics of the various legal systems, and could prove very useful for those considering the elaboration of such laws,

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102/ Adopted at the 39th meeting, on 30 August 1985, without a vote. See chapter IX.

103/ E/CN.4/Sub.2/1985/16.



Noting that a number of statements at the present session of the Sub-Commission have mentioned the usefulness of the said report,

Having heard the introductory statement by the Special Rapporteur,

1. Expresses its appreciation to the Special Rapporteur for his final report;
2. Recommends to the Commission on Human Rights the adoption of the following draft resolution:

[For the text see chapter I, section A, draft resolution VII]

1985/34. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the thirty-ninth session of the Sub-Commission 104/

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

Being aware of the increasing difficulties encountered by the Sub-Commission to devote sufficient time to the various items on its agenda,

Taking into account that the Commission on Human Rights has in its resolution 1985/28 of 11 March 1985 urged the Sub-Commission to consider items biennially whenever possible,

Decides that the following items will be considered on a biennial basis starting at its thirty-ninth session for the items:

- (a) The new international economic order and the promotion of human rights;
- (b) Elimination of all forms of intolerance and of discrimination based on religion or belief;
- (c) International peace and security as an essential condition for the enjoyment of human rights, above all the right to life;

and at its fortieth session for the items:

- (d) Human rights and disability;
- (e) Human rights and scientific and technological developments;
- (f) Encouragement of universal acceptance of human rights instruments.

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104/ Adopted at the 39th meeting, on 30 August 1985, without a vote. See chapter XVIII.

1985/35. The situation in Afghanistan 105/

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

Recalling its resolutions 11 (XXXIV) of 9 September 1981 and 1982/21, 1983/20 which called for a political settlement on the basis on the withdrawal of foreign troops and full respect for the independence, sovereignty and territorial integrity of Afghanistan,

Also recalling General Assembly resolution 39/13 and resolutions 1982/14, 1983/7 and 1985/3 of the Commission on Human Rights, which expressed the view that the withdrawal of foreign forces from Afghanistan is essential for restoring the right to self-determination and the enjoyment of human rights in Afghanistan,

Alarmed by continuing reports of human rights violations and the suffering of civilian populations in Afghanistan,

Expressing its concern and anxiety at the continuous presence of foreign forces in Afghanistan and the reports of extensive human rights violations,

Noting also with appreciation that the Commission on Human Rights requested the appointment of a special rapporteur to examine the situation of human rights in Afghanistan and that the Chairman of the Commission had appointed Mr. F. Ermacora Special Rapporteur,

Commending the report 106/ of the Special Rapporteur to the Commission on Human Rights and that the Commission has requested the Special Rapporteur to further study the human rights situation in Afghanistan and to report on it to the General Assembly,

Deploring the situation of human rights in Afghanistan and in particular the continuous suffering of the civilian population including women and children caused by the military operations in the country and the situation on economic and social rights,

Appealing to those who are responsible for the situation and to the competent organs of the United Nations that deal with negotiations between the parties to the conflict in Afghanistan not to lose time for a settlement of the conflict on the basis of relevant United Nations resolutions so that more human suffering can be avoided,

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105/ Adopted at the 39th meeting, on 30 August 1985, by 11 votes to 3. See chapter VI.

106/ E/CN.4/1985/21.

1. Requests the Commission on Human Rights to ask the Special Rapporteur to look in particular into the fate of women and children as a consequence of the conflict in Afghanistan;
2. Requests the Commission on Human Rights to ask all specialized agencies of the United Nations and all those concerned in the conflict to give the necessary information about the situation to the Special Rapporteur and to collaborate with him fully.

1985/36. The situation in South Africa  
and Namibia 107/

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

Recalling that in its resolution 1985/6 of 26 February 1985 the Commission on Human Rights rejected categorically the so-called "new constitution" in South Africa and expressed its profound indignation at the brutal repression which followed its imposition in defiance of international public opinion,

Also recalling resolution 1985/7 of 26 February 1985 of the Commission on Human Rights, in which it denounced the fraudulent constitutional and political schemes through which the South African racist régime is attempting to perpetuate its colonial domination of Namibia, and strongly condemned the use of mercenaries to suppress the Namibian people and the practice of torture and other forms of brutality against the population and, in particular, against captured freedom fighters,

Recalling further that in its resolution of 1985/8 of 26 February 1985, the Commission on Human Rights expressed its profound indignation at the extreme use of violence in dealing with legitimate protests and demonstrations against policies of apartheid,

Bearing in mind its resolution 1984/34 of 30 August 1984, in which the Sub-Commission demanded the immediate cessation of the campaign of terror launched by the racist authorities against the civil population,

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107/ Adopted at the 39th meeting, on 30 August 1985, without a vote. See chapter VI.

Profoundly shocked by the increases repression and massive acts of brutality carried out by the racist South African régime against the black population of South Africa in recent months,

Deeply concerned at the continued occupation of parts of Angolan territory by South African troops and at the continued acts of aggression carried out by South Africa against front-line and other neighbouring States,

1. Reaffirms once again that apartheid is an international crime and that the apartheid régime is both illegitimate and contrary to the Universal Declaration of Human Rights;

2. Strongly condemns South Africa for:

(a) The brutal acts of terrorism carried out to suppress the mass movement in favour of the realization of human rights and fundamental freedoms of the black majority;

(b) The continued acts of international terrorism carried out against front-line and other neighbouring States;

(c) The refusal to implement the United Nations plan for the independence of Namibia in accordance with Security Council resolution 435 (1978) through the insistence on the so-called issue of "linkage" which is totally extraneous and irrelevant to the exercise of the right to self-determination by the people of Namibia;

3. Demands the immediate lifting of the state of emergency and the cessation forthwith of all acts of brutality by South African police and military forces and the immediate release of all political prisoners in that country;

4. Calls upon the international community to continue its efforts towards the total economic, cultural and political isolation of South Africa until that country abandons its policy of apartheid, colonialism and its illegal occupation of Namibia.

B. Decisions

1985/101. Organization of the session 108/

At its 2nd meeting, on 6 August 1985, the Sub-Commission decided to observe a minute of silence in tribute to the memory of the victims of the first atomic bomb and all other victims of the Second World War.

1985/102. Organization of the session 109/

At its 2nd meeting, on 6 August 1985, the Sub-Commission decided to invite the Special Rapporteurs, Mr. Singhvi and Mr. Eide, to present their reports to the Sub-Commission at its current session.

1985/103. Elimination of racial discrimination 110/

At its 7th meeting, on 8 August 1985, the Sub-Commission adopted the following decision by consensus.

"The Sub-Commission authorizes the Chairman to send an urgent communication to the Chairman of the Commission on Human Rights requesting him to send a cable to the Government of South Africa as soon as possible urging: (a) the release of the leaders of the liberation movements, in particular Mr. Nelson Mandela and Mr. Zephania Motupeng, and (b) that Mr. Nelson Mandela and Mr. Zephania Motupeng be allowed to come to Geneva to participate in the discussion of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at the current session."

1985/104. Encouragement of universal acceptance  
of human rights instruments 111/

At its 9th meeting, on 9 August 1985, the Sub-Commission decided to appoint Mr. M. Bossuyt as an expert to report to it at the thirty-eighth session on information received under Sub-Commission resolution 1984/36.

1985/105. Organization of the session 112/

At its 26th meeting, on 22 August 1985, the Sub-Commission decided to invite Mr. Asbjørn Eide, Special Rapporteur on the Right to Adequate Food and on the achievements made and obstacles encountered during the Decade for Action to Combat Racism and Racial Discrimination to present his studies at its thirty-ninth rather than at its thirty-eighth session.

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108/ Adopted at the 2nd meeting, on 6 August 1985, without a vote.

109/ Adopted at the 2nd meeting, on 6 August 1985, without a vote.

110/ Adopted at the 7th meeting, on 8 August 1985, without a vote.

111/ Adopted at the 9th meeting, on 9 August 1985, without a vote.

112/ Adopted at the 26th meeting, on 22 August 1985, without a vote.

1985/106. Organization of the session 113/

At its 32nd meeting, on 27 August 1985, the Sub-Commission, owing to lack of time for an appropriate consideration of the issues mentioned hereunder, decided to postpone consideration of the following agenda items to its thirty-ninth session:

- (a) Elimination of all forms of intolerance and of discrimination based on religion or belief (item 15);
- (b) The report on Measures to combat racism and racial discrimination and the role of the Sub-Commission (submitted by Mr. Eide under item 5 (a));
- (c) The new international economic order and the promotion of human rights (item 12).

1985/107. The administration of justice 114/

At its 33rd meeting, on 27 August 1985, the Sub-Commission having heard the introductory statement of Mr. Singhvi, and considering that it would not have sufficient time to proceed to a thorough discussion of the final study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers submitted by Mr. L.M. Singhvi (E/CN.4/Sub.2/1985/18) at its thirty-eighth session decided:

- (a) To postpone consideration of that study to its thirty-ninth session and to consider it at that session on a priority basis devoting sufficient time for its discussion;
- (b) To request the Secretary-General to circulate the study to the members of the Sub-Commission at the latest by December 1985 and to invite those members of the Sub-Commission wishing to do so to submit within two months from the receipt of the study written comments for transmittal to Mr. Singhvi;
- (c) To request the Secretary-General to circulate the comments received in accordance with the preceding paragraph in document form to the members of the Sub-Commission;
- (d) To request the Special Rapporteur to take into account any comments received from members of the Sub-Commission when presenting his report to the Sub-Commission at its thirty-ninth session.

1985/108. Question of human rights of persons subjected to any form of detention or imprisonment 115/

At its 37th meeting, the Sub-Commission decided (a) to submit the following proposal, through the Secretary-General, to the Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders: that the Seventh Congress

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113/ Adopted at the 32nd meeting, on 27 August 1985, without a vote. See chap. II.

114/ Adopted at the 33rd meeting, on 27 August 1985, without a vote. See chap. IX.

115/ Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. VI.

study ways and means to promote international technical co-operation in the area of restraints on the use of force by law enforcement officials and military personnel; (b) to request the Secretary-General to inform the Sub-Commission regarding the results of the Seventh Congress in this matter; and (c) to consider further at its thirty-ninth session under the item "The Administration of Justice and the Human Rights of Detainees" a subitem entitled "Restraints on the use of force by law enforcement and military personnel".

1985/109. Question of the violation of human rights and fundamental freedoms 116/

At its 37th meeting the Sub-Commission decided to observe at the commencement of its future annual sessions, beginning with the thirty-ninth session, a minute of silence in honour of the victims of the evil and inhuman system of apartheid in South Africa.

1985/110. Question of the human rights of all persons subjected to any form of detention or imprisonment 117/

The Sub-Commission at its 37th meeting decided to request Mr. Joinet to prepare in advance of the thirty-ninth session an explanatory paper suggesting to the Sub-Commission procedures by which it might carry out its responsibilities under Commission resolution 1985/16 concerning administrative detention without charge or trial.

1985/111. Decision on draft resolution E/CN.4/Sub.2/1985/L.63 118/

The Sub-Commission decided not to take action on draft resolution E/CN.4/Sub.2/1985/L.63, pursuant to rule 65, paragraph 2, of the Rules of Procedure of the functional commissions of the Economic and Social Council.

1985/112. Decision on draft resolution E/CN.4/Sub.2/1985/L.10 119/

The Sub-Commission decided not to take action on draft resolution E/CN.4/Sub.2/1985/L.10, pursuant to rule 65, paragraph 2, of the Rules of Procedure of the functional commissions of the Economic and Social Council.

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116/ Adopted at the 37th meeting, on 29 August 1985, without a vote. See chap. VI.

117/ Adopted at the 37th meeting, on 29 August 1985 without a vote. See chap. IX.

118/ Adopted at the 38th meeting, on 30 August 1985, by 10 votes to 4, with 5 abstentions. See chap. VI.

119/ Adopted at the 39th meeting, on 30 August 1985, by 7 votes to 6, with 5 abstentions. See chap. X.

1985/113. Composition of working groups of the Sub-Commission 120/

<u>Regional Group</u>	<u>Communications</u>	<u>Slavery</u>	<u>Indigenous Populations</u>
Africa	Mr. Yimer (Alternate: Mr. George)	Mr. Mubanga-Chipoya (Alternate: Mr. Yimer)	Mr. Simpson (Alternate: Mr. Dahak)
Asia	Mr. Al Khasawneh (Alternate: Mr. Bhandare)	Mr. Chowdhury (Alternate: Mr. Takemoto)	Mrs. Gu Yijie (Alternate: Mr. Al Khasawneh)
Latin America	Mr. Martínez-Baez (Alternate: Mr. Uribe Portocarrero)	Mr. Uribe Portocarrero (Alternate: Mr. Valdez Baquero)	Mr. Alfonso Martínez (Alternate: Mr. Despouy)
Eastern Europe	Mr. Sofinsky (Alternate: Mr. Toševski)	Mr. Mazilu (Alternate: Mr. Sofinsky)	Mr. Toševski (Alternate: Mr. Mazilu)
Western Europe and other	Mr. Carey (Alternate: Mr. Bossuyt)	Mr. Whitaker (Alternate: Mr. Deschênes)	Mrs. Daes (Alternate: Mr. Joinet)



Annex I

ATTENDANCE

Members and Alternates

Mr. Awn Shawkat Al Khasawneh <u>a/</u>	(Jordan)
Mr. Miguel Alfonso Martínez <u>a/</u> Mr. Julio Heredia Pérez <u>*/</u>	(Cuba)
Mr. Murlidhar Chandrakant Bhandare <u>a/</u>	(India)
Mr. Mark Bossuyt <u>a/</u> Mr. Patrick Dubois <u>*/</u>	(Belgium)
Mr. Justice Abu Sayeed Chowdhury <u>a/</u>	(Bangladesh)
Mrs. Erica-Irene A. Daes <u>a/</u>	(Greece)
Mr. Driss Dahak <u>a/</u> Mr. Mohamed Sbihi <u>*/</u>	(Morocco)
Mr. Jules Deschênes <u>a/</u> Mrs. Rita Cadieux <u>*/ a/</u>	(Canada)
Mr. George Dove-Edwin Mr. Olufemi Oyewale George <u>*/ a/</u>	(Nigeria)
Mr. Enzo Giustozzi Mr. Leandro Despouy <u>*/ a/</u>	(Argentina)
Mrs. Gu Yijie <u>a/</u> Mr. Li Daoyu <u>*/</u>	(People's Republic of China)
Mr. Aidiid Abdillahi Ilkahanaf	(Somalia)
Mr. Louis Joinet <u>a/</u> Mr. Alain Pellet <u>*/</u>	(France)
Mr. Ahmed M. Khalifa <u>a/</u>	(Egypt)
Mr. Antonio Martínez Báez <u>a/</u> Mr. Héctor Fix Zamudio <u>*/</u>	(Mexico)
Mr. Dumitru Mazilu <u>a/</u> Mr. Mircea Nicolae <u>*/</u>	(Romania)

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\*/ Alternate.

a/ Present.

Mr. C.L.C. Mubanga-Chipoya <u>a/</u> Mrs. Beatrice Mulamfu <u>*/</u>	(Zambia)
Mr. John P. Roche Mr. John Carey <u>*/</u> <u>a/</u>	(United States of America)
Mr. Kwesi B.A. Simpson <u>a/</u> Mrs. Kate Abankwa <u>*/</u>	(Ghana)
Mr. Vsevolod N. Sofinsky <u>a/</u> Mr. Viktor M. Tchikvadze <u>*/</u> <u>a/</u>	(Union of Soviet Socialist Republics)
Mr. Masayuki Takemoto <u>a/</u> Mr. Nisuke Ando <u>*/</u> <u>a/</u>	(Japan)
Mr. Ivan Toševski <u>a/</u> Mr. Danilo Türk <u>*/</u> <u>a/</u>	(Yugoslavia)
Mr. Antonio Jose Uribe Portocarrero Mr. Fernando Cepeda Ulloa <u>*/</u> <u>a/</u>	(Colombia)
Mr. Rodrigo Valdez Baquero Mr. Mario Aleman Salvador <u>*/</u>	(Ecuador)
Mr. Benjamin C.G. Whitaker <u>a/</u> Mr. J.R. Patrick Montgomery <u>*/</u>	(United Kingdom of Great Britain and Northern Ireland)
Mr. Fisseha Yimer <u>a/</u>	(Ethiopia)

States Members of the United Nations represented by observers

Afghanistan, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burundi, Canada, China, Cuba, Cyprus, Democratic Kampuchea, Egypt, El Salvador, Ethiopia, Finland, France, German Democratic Republic, Germany, Federal Republic of, Guatemala, Honduras, India, Indonesia, Iraq, Ireland, Islamic Republic of Iran, Israel, Italy, Japan, Jordan, Libyan Arab Jamahiriya, Mauritania, Morocco, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Romania, Senegal, Sri Lanka, Syrian Arab Republic, Turkey, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Viet Nam.

Non-member States represented by observers

Holy See, Republic of Korea, Switzerland.

United Nations bodies

Office of the United Nations High Commissioner for Refugees.

Specialized agencies

International Labour Organisation, United Nations Educational, Scientific and Cultural Organization.

Other intergovernmental organizations

League of Arab States.

National liberation movements

Pan-Africanist Congress of Azania, Palestine Liberation Organization.

Non-governmental organizations in consultative status

Category I

International Alliance of Women, International Confederation of Free Trade Unions, International Council of Women, International Council on Social Welfare, International Youth and Student Movement for the United Nations, United Towns Organization, World Federation of Trade Unions, World Federation of United Nations Associations, World Muslim Congress.

Category II

All-India Women's Conference, Amnesty International, Anti-Slavery Society for the Protection of Human Rights, Arab Lawyers Union, Baha'i International Community, Commission of the Churches on International Affairs of the World Council of Churches, Co-ordinating Board of Jewish Organizations, Disabled People's International, Four Directions Council, Human Rights Advocates, Indigenous World Association, International Abolitionist Federation, International Association for Religious Freedom, International Association of Democratic Lawyers, International Association of Penal Law, International Commission of Jurists, International Committee of the Red Cross, International Council of Jewish Women, International Federation of Human Rights, International Federation of University Women, International Federation of Women in Legal Careers, International Federation of Women Lawyers, International Fellowship of Reconciliation, International Indian Treaty Council, International Law Association, International League for Human Rights, International Movement for Fraternal Union Among Races and Peoples, International Union of Family Organizations, International Organization for the Elimination of All Forms of Racial Discrimination, Latin American Federation of Associations for Relatives of Disappeared Detainees, Pax Christi, Pax Romana, National Aboriginal and Islander Legal Services Secretariat, World Council of Indigenous Peoples, World Federation for Mental Health, World Jewish Congress, World Student Christian Federation, World University Service.

Roster

Centre Europe - Tiers Monde, Defence for Children International, International Association for the Defence of Religious Liberty, Indian Council of South America, International Federation for the Protection of the Rights of Ethnic, Religious Linguistic and other Minorities, International Human Rights Internship Programme, International Humanist and Ethical Union, International League for the Rights and Liberation of Peoples, International Progress Organization, Minority Rights Group, Movement Against Racism and for Friendship Among Peoples, Procedural Aspects of International Law Institute, Survival International, World Association for the School as an Instrument of Peace.

Annex II

ADMINISTRATIVE AND PROGRAMME BUDGET IMPLICATIONS OF RESOLUTIONS AND DECISIONS  
ADOPTED BY THE SUB-COMMISSION AT ITS THIRTY-EIGHTH SESSION

1. In the course of its thirty-eighth session the Sub-Commission on Prevention of discrimination and Protection of Minorities adopted 13 resolutions and two decisions having financial implications. Prior to the adoption of these resolutions and decisions statements of their administrative and programme implications were submitted on behalf of the Secretary-General, in compliance with financial regulation 13.1 and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council. These are reproduced below:

2. Should the action taken by the Commission on Human Rights and the Economic and Social Council in respect of the above-mentioned resolutions of the Sub-Commission require the Secretary-General to enter into commitments during 1986 and 1987, additional credits, as appropriate, would be required for the current biennium and for the biennium 1987-1988.

Resolution 1985/2: Gross violations of human rights and international peace

A. Requests contained in the resolution

3. In paragraph 1 of resolution 1985/2 the Sub-Commission requested the Secretary-General to provide the Sub-Commission at its fortieth session with a report on the interrelationship between human rights and international peace in all its aspects and dimensions including the adverse impacts of escalating military expenditure particularly those of nuclear-weapon States on the international social and economic situation and the right to development and in particular to examine the adverse consequences of the extension and dissemination of nuclear arms in non-nuclear regions for international peace and security, the social and economic development of the countries of the region and the enjoyment of human rights and fundamental freedoms.

B. Relationship of proposed request to approved programme of work

4. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

5. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

6. Arrangements would be made to provide the Sub-Commission at its fortieth session with the requested report in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

7. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

8. The relevant costs under Section 23 (Human Rights) are estimated at \$12,400 for 1986 and \$25,600 for 1987.

	<u>1986</u>	<u>1987</u>
	(US dollars)	
<u>Consultancy fees</u>		
Resources to hire a consultant for preparation of the report (one consultant at the P-5 level for a period of two months in 1986 and four months in 1987)	12 400	25 600
	<u>12 400</u>	<u>25 600</u>

Resolution 1985/3: Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa

A. Requests contained in the resolution

9. By paragraph 5 of resolution 1985/3 the Special Rapporteur was invited:

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

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

(c) To intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, with a view to consolidating mutual co-operation in updating his report.

10. By operative paragraph 4 of draft resolution I, the Commission on Human Rights would request the Secretary-General to give the Special Rapporteur all the assistance that he may require in the exercise of his mandate, with a view to intensifying direct contacts with the United Nations Centre on Transnational Corporations and the Centre against Apartheid, and making available to him two economists to assist him on the analyses and annotations of certain selected cases as reflected in his report.

11. By operative paragraph 5 of draft resolution I, the Secretary-General would be invited to continue to give the updated report the widest distribution and publicity as a United Nations publication.

E. Relationship of proposed request to approved programme of work

12. The activities proposed in the resolution 1985/3 and draft resolution I would fall under Chapter 6, programme: Centre for Human Rights, subprogramme 2 "Elimination and prevention of discrimination and protection of minorities and vulnerable groups", the strategy for which is described in paragraph 6.27 of the medium-term plan for the period 1984-1989.

13. The activities are relevant to section 23, Human Rights, of the proposed programme budget for the biennium 1986-1987, subprogramme 2 "Elimination and prevention of discrimination and protection of minorities and vulnerable groups", programme element 2.1, output (xvii), which calls for the preparation of an annual report containing lists of organizations giving support to racist régimes in southern Africa (third quarter, 1986 and 1987).

C. Activities by which the proposed request would be implemented

14. It is envisaged that the Special Rapporteur would travel from Cairo to New York for a period of five working days in the early part of 1986 in order to establish direct contacts with the Centre on Transnational Corporations and the Centre against Apartheid. Later in the year he would travel from Cairo to Geneva for five working days for consultations with the Centre for Human Rights. As requested in paragraph 4 of the draft resolution; two economists would be recruited, one at the P-3 level and one at the P-4 level for a period of one year (six months in 1986 and six months in 1987). Computer services would also be provided to the Special Rapporteur in order to facilitate the updating of his report. The updated report would be translated and published in Arabic, Chinese, English, French, Russian and Spanish and made available to all interested parties.

D. Modifications required in the approved programme of work for 1986-1987

15. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

16. The estimated cost of the above programme of work is itemized as follows:

	<u>1986</u>	<u>1987</u>
	(US dollars)	
Travel and subsistence costs for the Special Rapporteur	5 600	
Staffing resources to assist the Special Rapporteur with analytical work: 2 economists, one at the P-3 level and one at the P-4 level for a period of one year (six months in 1986 and six months in 1987)	58 100	59 900
	<u>63 700</u>	<u>59 900</u>

17. The relevant costs to be financed under section 23 (Human Rights) are estimated at \$63,700 for 1986 and at \$59,900 for 1987.

Resolution 1985/10: Human rights and disability

A. Requests contained in the draft resolution

18. In paragraph 1 of resolution 1985/10 the Sub-Commission requested the Special Rapporteur to continue his work on a comprehensive study on human rights and disability and to submit a progress report to the Sub-Commission during its fortieth session. Paragraph 2 requested the Secretary-General to provide all possible assistance to the Special Rapporteur so as to facilitate his work.

B. Relationship of proposed request to approved programme of work

19. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

20. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

21. Arrangements would be made to provide the Sub-Commission at its fortieth session with the requested progress report in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme  
of work for 1986-1987

22. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

23. The relevant costs under section 23 (Human Rights) are estimated at \$23,800 for 1986 as follows:

	<u>1986</u>
	(US dollars)
<u>One round-trip to Geneva of the Special Rapporteur for consultations at the Centre for Human Rights (5 working days)</u>	
Travel (Buenos Aires/Geneva/Buenos Aires)	3 600
Subsistence	600
<u>Consultancy fee</u>	
Resources to hire a consultant at the P-5 level for a period of three months in 1986 including travel to Geneva for 5 working days for briefing and consultations	19 600
	<u>23 800</u>

Resolution 1985/11: Slavery and Slavery-like practices:  
Mission to Mauritania

A. Requests contained in the draft resolution

24. Paragraph 8 of resolution 1985/11 requested the Special Rapporteur to present his final follow-up report on his mission to Mauritania to the Sub-Commission at its thirty-ninth session, taking into account the views expressed by the Sub-Commission at its thirty-eighth session and by the Commission at its forty-second session.

B. Relationship of proposed request to approved programme of work

25. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

26. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:



Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

27. Arrangements would be made to provide the Sub-Commission at its thirty-ninth session with the requested final follow-up report in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

28. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

29. The relevant costs under section 23 (Human Rights) are estimated at \$950 for 1986 as follows:

	<u>1986</u>
	(US dollars)
<u>One round-trip to Geneva of the Special Rapporteur for consultations at the Centre for Human Rights (5 working days)</u>	
Travel (Edegem/Geneva/Edegem)	350
Subsistence	600
	<u>950</u>

Resolution 1985/12: Prevention of discrimination and protection of children: Human rights and youth

A. Requests contained in the draft resolution

30. Paragraph 1 of resolution 1985/12 requested Mr. Dumitru Mazilu to prepare a report on human rights and youth, in order to facilitate the Sub-Commission's discussion of the topic, analysing the efforts and measures for securing the implementation and enjoyment by youth of human rights; particularly the right to life, education and work.

B. Relationship of proposed request to approved programme of work

31. The activities referred to above fall under chapter 6, section "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6)

32. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

33. Arrangements would be made to provide the Sub-Commission at its thirty-ninth session with the requested report in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

34. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

35. The additional costs under section 23 (Human Rights) are estimated at \$1,900 for 1986 as follows:

	<u>1986</u>
	(US dollars)
<u>One round-trip for consultations at the Centre for Human Rights (8 working days)</u>	
Travel (Bucharest/Geneva/Bucharest)	900
Subsistence	1 000
	<u>1 900</u>

Resolution 1985/14: Guidelines on the use of computerized files

A. Requests contained in the resolution

36. In paragraph 2 of resolution 1985/14 the Sub-Commission requested the Secretary-General to furnish the Special Rapporteur, Mr. L. Joinet with all the assistance that he might require in order to present his final draft body of principles to the Sub-Commission at its fortieth session.

B. Relationship of proposed request to approved programme of work

37. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

38. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

39. Arrangements would be made to provide the Sub-Commission at its fortieth session with the requested final draft body of principles in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

40. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

41. The additional costs under section 23 (Human Rights) are estimated at \$900 for 1986.

	1986
	(US dollars)
<u>Round trip for consultations at the Centre for Human Rights</u> (5 working days)	
Travel (Paris/Geneva/Paris)	300
Subsistence	600
	<u>900</u>

Resolution 1985/15: Question of the violation of human rights and fundamental freedoms: Inter-sessional meeting of the Bureau

A. Requests contained in the resolution

42. In paragraph 1 of resolution 1985/15 the Sub-Commission requested the authorization of the Commission on Human Rights and the Economic and Social Council for the Bureau elected by the Sub-Commission at each of its sessions to hold two inter-sessional meetings per year, one between the sessions of the Sub-Commission and those of the Commission, and the other between the sessions of the Commission and those of the Sub-Commission. These meetings would enable the Bureau to review developments and ensure timely collection of appropriate information in order for the Sub-Commission to bring to the attention of the Commission on Human Rights any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms in any country.

B. Relationship of proposed request to approved programme of work

43. The activities referred to above fall under chapter 6, Section II, "Programme: Centre for Human Rights", subprogramme 1, "Implementation of International Standards, Instruments and Procedures", the objectives of and strategy for which are described in paragraphs 6.20 and 6.23 of the medium-term plan for the period 1984-1989 (A/37/6).

44. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 1.2: Implementation procedures for dealing with alleged violations of human rights.

Output: (v) Substantive servicing of the ... Sub-Commission on Prevention of Discrimination and Protection of Minorities, which examines the originals of all communications summarized in the monthly reports, as well as the replies received as provided in Economic and Social Council resolution 1503 (XLVIII) (third quarter 1986 and 1987).

C. Activities by which the proposed request would be implemented

45. Conference servicing facilities would be made available for the two annual inter-sessional meetings, including interpretation. Travel and subsistence would be provided for five members of the Bureau during the meetings.

D. Modifications required in the approved programme of work for 1986-1987

46. No modifications in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

47. The additional costs under section 29 (Conference Service) are estimated at \$54,500 for 1986 and 1987 as follows: (one meeting in 1986 and two meetings in 1987).

	<u>1986</u>	<u>1987</u>
	(US dollars)	(US dollars)
Inter-sessional meeting of the Bureau of the Sub-Commission (on full-costs basis, including meeting facilities, simultaneous interpretation and sound recording)	17 500	37 000

48. The additional costs under section 23 (Human Rights) are estimated at \$45,000 for 1986 and 1987 as follows:

Travel and subsistence of 5 members of the Bureau (on an average-cost basis)	15 000	30 000
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Resolution 1985/24: Review of the work of the Sub-Commission

A. Requests contained in the resolution

49. In paragraph 2 (b) of resolution 1985/24 the Sub-Commission recommended that additional conference services for three meetings of three hours each be authorized in order to enable a maximum of three sessional working groups of the Sub-Commission to meet concurrently.

B. Relationship of proposed request to approved programme of work

50. The activities referred to above fall under "Executive direction and management: substantive servicing of the policy-making organs of the programme, in particular the Commission on Human Rights, and their subsidiary organs".

C. Activities by which the proposed request would be implemented

51. Additional hours of meetings would be available for concurrent scheduling of three sessional working groups.

D. Modifications required in the approved programme of work for 1986-1987

52. No modifications are required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

53. No additional costs would arise under section 23 (Human Rights). The related costs for three meetings of three hours each, or a total of nine hours of fully-serviced meetings, under section 29 (Conference Services), calculated on a full-cost basis, are estimated at \$17,900.

Resolution 1985/25: Study of the problem of discrimination against indigenous populations

A. Requests contained in the resolution

54. By draft resolution V recommended for adoption by the Commission, the Economic and Social Council would, by the draft resolution recommended by the Commission for adoption, decide that the Working Group on Indigenous Populations should meet for up to eight working days before the annual sessions of the Sub-Commission.

B. Relationship of proposed request to approved programme of work

55. The activities referred to above fall under "Executive direction and management: substantive servicing of the policy-making organs of the programme, in particular the Commission on Human Rights, and their subsidiary organs".

C. Activities by which the proposed request would be implemented

56. Three additional days of fully-serviced meetings would be provided for servicing of the Working Group on Indigenous Populations.

D. Modifications required in the approved programme  
of work for 1986-1987

57. No modifications are required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

58. No additional costs would arise under section 23 (Human Rights). The related costs for three additional days of fully-serviced meetings under section 29 (Conference Services), calculated on a full-cost basis, are estimated at \$10,900.

Resolution 1985/29: The right to leave any country including one's  
own and the right to return to one's own country

A. Requests contained in the resolution

59. In paragraph 2 the Sub-Commission requested the Special Rapporteur, Mr. Mubanga-Chipoya, to present a final report to the Sub-Commission at its thirty-ninth session on the right to leave any country, including one's own, the extent and effect of restrictions under article 12 (3) of the International Covenant on Civil and Political Rights and the possibility to enter another country. A preliminary draft is also to be presented at the thirty-ninth session of a draft declaration on the right of everyone to leave any country, including his own, and to return to his country.

60. In paragraph 3 the Sub-Commission further requested the Special Rapporteur to present a final report to the Sub-Commission at its fortieth session on the right to employment, the right to return to one's own country and the phenomenon of the "brain drain" or the outflow of trained personnel from developing countries and a proposed final draft of the draft declaration on the right of everyone to leave any country, including his own, and to return to his country.

61. In paragraph 5 the Sub-Commission requested the Secretary-General to provide adequate assistance to the Special Rapporteur in the execution of his mandate.

B. Relationship of proposed request to approved programme of work

62. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

63. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by  
policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

64. Arrangements would be made to provide the Sub-Commission at its thirty-ninth and fortieth sessions with the requested final reports in all the official languages of the Sub-Commission including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

65. No modifications are required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

66. The additional costs under section 23 (Human Rights) are estimated at \$24,100 for 1986 and \$24,100 for 1987 as follows:

	<u>1986</u>	<u>1987</u>
	(US dollars)	(US dollars)
<u>One round-trip to Geneva of the Special Rapporteur for consultations at the Centre for Human Rights (5 working days)</u>		
Travel (Lusaka/Geneva/Lusaka)	4 000	4 000
Subsistence	600	600
<u>Consultancy fee</u>		
Resources to hire a Consultant at the P-5/4 level for a period of three months in 1986 and three months in 1987	19 500	19 500

Resolution 1985/31: The status of the individual and contemporary international law

A. Requests contained in the resolution

67. In paragraph 2 of resolution 1985/31 the Sub-Commission requested the Special Rapporteur, Mrs. Erica Daes, to continue her work on the study on "The status of the individual and contemporary international law" with a view to submitting her final report to the Sub-Commission during its thirty-ninth session. In paragraph 3 the Sub-Commission requested the Secretary-General to give the Special Rapporteur all the assistance she may require to carry out her work.

B. Relationship of proposed request to approved programme of work

68. The activities referred to above fall under chapter 6, Section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

69. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

70. Arrangements would be made to provide the Sub-Commission at its thirty-ninth and fortieth sessions with the requested final study in all the official languages of the Sub-Commission including reproduction and distribution, and provision would be made for the Special Rapporteur to travel to Geneva in 1986 for consultations at the Centre for Human Rights.

D. Modifications required in the approved programme of work for 1986-1987

71. No modifications are required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

72. The additional costs under section 23 (Human Rights) are estimated at \$1,100 for 1986:

	<u>1986</u>
	(US dollars)
<u>One round-trip to Geneva of the</u> <u>Special Rapporteur for consultations</u> <u>at the Centre for Human Rights</u> (5 working days)	
Travel (Athens/Geneva/Athens)	500
Subsistence	600

Resolution 1985/32: The Administration of Justice and the  
Human Rights of Detainees

A. Requests contained in the resolution

73. In paragraph 2 of resolution 1985/32 the Sub-Commission appointed a Special Rapporteur to prepare reports on situations known as states of siege or emergency, to be submitted annually to the Commission on Human Rights. In paragraph 3 the Special Rapporteur was requested to prepare a first annual report and to draw up a first annual list of countries which proclaim or abrogate the state of siege or emergency for presentation to the Sub-Commission at its thirty-ninth session on the basis of indications contained in his explanatory document and taking into account the views expressed by members of the Sub-Commission at its thirty-eighth session.



B. Relationship of proposed request to approved programme of work

74. The activities referred to above fall under chapter 6, section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

75. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

76. The report in question will be prepared by the Special Rapporteur under his own responsibility. It is expected that he would consult Governments, international organizations and non-governmental organizations as well as the Secretariat. The Special Rapporteur would also need some specialized assistance by the Secretariat.

D. Modifications required in the approved programme of work for 1986-1987

77. No modification in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

78. The relevant costs under section 23 (Human Rights) are estimated at \$21,900 for 1986 as follows:

	1986 (US dollars)
<u>One round-trip to Geneva of the Special Rapporteur for consultations at the Centre for Human Rights (5 working days)</u>	
Travel (Beunos Aires/Geneva/Buenos Aires)	3 600
Subsistence	600
<u>Consultancy fee</u>	
Resources to hire a consultant at the P-3 level for a period of four months in 1986	17 700
	<u>21 900</u>

Resolution 1985/33: Study on amnesty laws

A. Requests contained in the resolution

79. By draft resolution VII recommended for adoption by the Commission, the Economic and Social Council would, by the draft resolution recommended by the Commission for adoption, decide that the study presented by Mr. Louis Joinet on "Amnesty laws and their role in the safeguard and promotion of human rights" be published and given the widest circulation in all official languages of the United Nations.

B. Relationship of proposed request to approved programme of work

80. The activities referred to above fall under chapter 6, Section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

81. The following programme element of section 23 (Human Rights) of the proposed programme of budget for 1986-1987 is directly affected by the activities referred to in the resolution:

Programme element 4.2 - Research and studies

Output: (viii) Twelve substantive reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

82. Arrangements would be made to publish the study in all the official languages of the United Nations including reproduction and distribution.

D. Modifications required in the approved programme of work for 1986-1987

83. No modifications in the approved programme of work for 1986-1987 would be required.

E. Additional requirements at full cost

84. The additional costs under section 29 are estimated at \$27,300 for 1986 as follows:

	1986
	(US dollars)
Editing and external printing of study, 40 pages, in Arabic, Chinese, English, French, Russian and Spanish	27 300

Decision 1985/106: Organization of the session

A. Requests contained in the decision

85. The decision adopted by the Sub-Commission postpones consideration of three items to its thirty-ninth session owing to lack of time at its present session for appropriate consideration of the issues involved. This postponement will require travel in 1986 of three special rapporteurs and in one case provision of resources for temporary assistance to complete a study.

B. Relationship of proposed request to approved programme of work

86. The activities referred to above fall under chapter 6, Section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

87. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the decision:

Programme element 4.2 - Research and studies

Output: (vii) Assistance to special rapporteurs for an estimated number of 18 reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

88. Three special rapporteurs responsible for the studies or reports involved in the consideration of the three items postponed to the thirty-ninth session will be provided travel and subsistence in 1986 for the purpose of consultations with the Centre for Human Rights and in one case provision of resources for temporary assistance is necessary to complete a study.

D. Modifications required in the approved programme of work for 1986-1987

89. No modifications will be required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

90. The relevant costs under section 23 (Human Rights) are estimated at \$19,900 for 1986 as follows:

(a) Item 15 - Elimination of all forms of Intolerance and of Discrimination based on Religion or Belief

	<u>1986</u>
	(US dollars)
<u>One round-trip to Geneva of the Special Rapporteur, Mrs. E. Odio-Benito (5 working days)</u>	
Travel (San José/Geneva/San José)	3 400
Subsistence	600
Resources to provide temporary assistance at the P-3 level for three months	13 300

(b) Item 5a - Report on Measures to Combat Racism and Racial Discrimination and the role of the Sub-Commission

<u>One round-trip to Geneva of the Special Rapporteur, Mr. A. Eide (5 working days)</u>	
Travel (Oslo/Geneva/Oslo)	700
Subsistence	600

(c) Item 12 - The New International Economic Order and the Promotion of Human Rights

<u>One round-trip to Geneva of the Special Rapporteur, Mr. A. Eide (5 working days)</u>	
Travel (Oslo/Geneva/Oslo)	700
Subsistence	600

Decision 1985/107: The Administration of Justice

A. Requests contained in decision 1985/107

91. Under the decision adopted by the Sub-Commission at its 33rd meeting, on 27 August 1985, concerning the study by Mr. Singhvi, consideration of the final study would be postponed to its thirty-ninth session and given priority at that session. The Special Rapporteur is requested to take into account any comments he may receive from members of the Sub-Commission when presenting his report to the Sub-Commission at its thirty-ninth session.

B. Relationship of proposed request to approved programme of work

92. The activities referred to above fall under chapter 6, Section II, "Programme: Centre for Human Rights", subprogramme 4, "Standard setting, research and studies", the objectives of and strategy for which are described in paragraphs 6.38 and 6.40 of the medium-term plan for the period 1984-1989 (A/37/6).

93. The following programme element of section 23 (Human Rights) of the proposed programme budget for 1986-1987 is directly affected by the activities referred to in the decision:

Programme element 4.2 - Research and studies

Output: (vii) Assistance to Special Rapporteur for an estimated number of 18 reports or studies mandated by policy-making organs (first and third quarters, 1986 and 1987).

C. Activities by which the proposed request would be implemented

94. The Secretariat would circulate the study to members of the Sub-Commission by December 1985 and invite them to submit written comments within two months from receipt of the study. The secretariat would transmit these comments to the Special Rapporteur.

95. The Special Rapporteur would then present the study to the Sub-Commission at its thirty-ninth session in the light of the comments received.

D. Modifications required in the approved programme of work for 1986-1987

96. No modifications are required in the approved programme of work for 1986-1987.

E. Additional requirements at full cost

97. The relevant costs under section 23 (Human Rights) are estimated at \$3,100 for 1986 as follows:

	<u>1986</u>
	(US dollars)
<u>One round-trip to Geneva of the</u> <u>Special Rapporteur to present his</u> <u>report to the Sub-Commission at its</u> <u>thirty-ninth session</u> (5 working days)	
Travel (New Delhi/Geneva/New Delhi)	2 500
Subsistence	<u>600</u>
	<u>3 100</u>

Annex III

LIST OF STUDIES AND REPORTS UNDER PREPARATION BY MEMBERS OF THE SUB-COMMISSION  
IN ACCORDANCE WITH EXISTING LEGISLATIVE AUTHORITY \*/

Title of study	Entrusted to	Legislative authority	Time-table for completion
Annual update of the list of banks, transnational corporations and other organizations assisting the colonial and racist régime in South Africa	Mr. Ahmed Khalifa	Sub-Commission resolution 1985/3	Annual review to be submitted at the thirty-ninth session of the Sub-Commission
Study on human rights and disability	Mr. Leandro Despouy	Sub-Commission resolution 1985/10	Progress report to be submitted at the fortieth session of the Sub-Commission
Slavery and slavery-like practices (report on Mauritania)	Mr. Marc Bossuyt	Sub-Commission resolution 1985/11	Final follow-up report to be submitted at the thirty-ninth session of the Sub-Commission
Human rights and youth	Mr. Dumitru Mazilu	Sub-Commission resolution 1985/12	Report to be submitted at the thirty-ninth session of the Sub-Commission
Study on the use of computerized personal files	Mr. Louis Joinet	Sub-Commission resolution 1985/14	Final report to be submitted at the fortieth session of the Sub-Commission

\*/ See Commission resolution 1982/23.

Title of study	Entrusted to	Legislative authority	Time-table for completion
Analysis of the current trends and developments regarding the right to leave any country including one's own and the right to return to one's own country	Mr. C.L.C. Mubanga-Chipoya	Sub-Commission resolution 1985/29	First part of the final report to be submitted at the thirty-ninth session and the second part at the fortieth session
Study on the status of the individual and contemporary international law	Mrs. Erica-Irene A. Daes	Sub-Commission resolution 1985/31	Final report to be submitted at the thirty-ninth session of the Sub-Commission
Annual report containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency	Mr. Leandro Despouy	Sub-Commission resolution 1985/32	First annual report to be submitted at the thirty-ninth session of the Sub-Commission
Study on the achievements made and obstacles encountered during the Decade for Action to Combat Racism and Racial Discrimination	Mr. Asbjørn Eide	Sub-Commission decision 1985/105	Final report to be submitted at the thirty-ninth session of the Sub-Commission
Study on the right to adequate food	Mr. Asbjørn Eide	Sub-Commission decision 1985/105	Final report to be submitted at the thirty-ninth session of the Sub-Commission

Title of study	Entrusted to	Legislative authority	Time-table for completion
Study on the current dimensions of the problem of intolerance and of discrimination on grounds of religion or belief	Mrs. Elisabeth Odio-Benito	Sub-Commission decision 1985/106 (Sub-Commission resolution 1984/31)	Final report to be submitted at the thirty-ninth session of the Sub-Commission
Study on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers	Mr. L.M. Singhvi	Sub-Commission decision 1985/107	Final report to be submitted at the thirty-ninth session of the Sub-Commission
Explanatory paper relating to administrative detention without charge or trial	Mr. Louis Joinet	Sub-Commission decision 1985/110	Paper to be submitted to the thirty-ninth session of the Sub-Commission
The administration of justice and the human rights of detainees: Elaboration of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	Mr. Marc Bossuyt	Sub-Commission resolution 1984/7	Analysis and recommendations to be submitted at the thirty-ninth session of the Sub-Commission



Annex IV

EXTRACTS OF THE SUMMARY RECORD OF THE 39TH MEETING  
(E/CN.4/Sub.2/1985/SR.39/Add.2, paras. 33-73) a/

Chapter IV. Review of further developments in fields in which the Sub-Commission has been concerned (E/CN.4/Sub.2/1985/CRP.1/Add.9)

33. Mr. CAREY proposed that the text of paragraph 9 of document E/CN.4/Sub.2/1985/CRP.1/Add.9 should be recast to read: "Turning specifically to the question of the massacre of the Armenians, the view was expressed that such massacres indeed constituted genocide, as was well documented by the Ottoman military trials of 1919, eye witness reports and official archives. Objecting to this view, various participants argued that the qualification of the Armenian massacre as genocide should have been better documented in the report and that allegations that certain evidence had been forged, recognized by the report, should have been analysed".

34. He also proposed that a new sentence should be inserted after the first sentence in paragraph 12, reading: "He provided further data concerning the massacre of the Armenians".

35. The CHAIRMAN asked Mr. Carey whether the amendments reflected his own point of view or the views expressed in the Sub-Commission in the course of the debate.

36. Mr. CAREY said that the changes he was proposing in connection with paragraph 9 corresponded to his own statements. The proposal concerning paragraph 12 was intended to take account of the statement made by Mr. Whitaker, the Special Rapporteur on the question of genocide, at the close of the debate.

37. The CHAIRMAN noted that Mr. Whitaker was absent and hence it was difficult to see how the Sub-Commission could make any correction to his statements.

38. Mr. MUBANGA-CHIPOYA (Rapporteur) said he could not accept the changes proposed by Mr. Carey.

39. Mr. YIMER said the important thing was for the report to give a faithful account of the statements made. If the assertion had been made that "certain evidence had been forged", it should be reflected in the report. On the other hand, there was no room in the report for anything that had not been said.

40. The CHAIRMAN said that the part of the report under discussion involved a very delicate question and had been drafted carefully by all those concerned, including the Rapporteur. She hoped that, at that stage, a discussion would not be re-opened on the question of genocide.

41. Mr. AL KHASAWNEH said that Mr. Whitaker's absence was not important, since the purpose at the present time was simply to record faithfully the debate that had taken place. Mr. Carey's interpretation was judicious and he was ready to endorse it.

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a/ At its 39th meeting, the Sub-Commission decided to attach the following part of the summary record. See chap. IV.

42. Mr. CHOWDHURY pointed out that, during the debate, the majority of the experts had clearly expressed their disagreement regarding paragraph 24 of Mr. Whitaker's study. Yet that paragraph was precisely a paragraph referred to in the chapter of the draft report under consideration.
43. Mr. MUBANGA-CHIPOYA (Rapporteur) said that, unlike Mr. Chowdhury, he was not sure that one could talk of a "majority" of speakers, in view of the statements made by observers for Governments and non-governmental organizations. Even if the numbers were confined to the members of the Sub-Commission alone, it was not certain that the "majority" of the experts had expressed disagreement with paragraph 24.
44. Mr. CHOWDHURY said he had been speaking only of the experts and he wished to point out that the Sub-Commission had taken no decision about transmitting Mr. Whitaker's report to the Commission on Human Rights. Failing the word "majority", the report should at least speak of "a large number of experts". He hoped that his comments would be faithfully reflected in the summary record.
45. Mr. MUBANGA-CHIPOYA (Rapporteur) said that the Sub-Commission had preferred not to take a decision on transmitting Mr. Whitaker's report to the Commission for a number of reasons, not only because paragraph 24 had raised problems. Some of Mr. Whitaker's proposals would in fact have made the Sub-Commission look ridiculous, more particularly the suggestion that the Economic and Social Council might make amendments to the Convention on the Prevention and Punishment of the Crime of Genocide. The Economic and Social Council was not the appropriate body to engage in such a task. In any event, it was not possible to make a categorical assertion that the "majority" of the members of the Sub-Commission were opposed to paragraph 24. For his own part, he experienced no difficulty in accepting the paragraph.
46. Mr. CHOWDHURY said the important thing was to determine what had actually happened during the debate and to record it faithfully in the report. If the report was speaking of the statements by the members of the Sub-Commission, it should so specify and should speak expressly of the "experts", as Mr. Bossuyt had requested. Unfortunately he did not share the view of the Rapporteur.
47. Mr. DESCHENES said that, at the time of consideration of Mr. Whitaker's report, members had discussed the advisability, indeed the necessity, of studying the questions of cultural genocide, ethnocide and ecocide. If the debate was to be recorded faithfully, those matters should be mentioned in the report, for example by inserting after paragraph 11 a new paragraph that would read: "The questions of cultural genocide, ethnocide and ecocide were also raised and the view was expressed that they deserved to be studied further".
48. The CHAIRMAN suggested that the proposal by Mr. Deschênes should be supplemented by adding: "It was proposed that those questions should be studied by the Special Rapporteur, Mr. Whitaker".
49. Mr. CHOWDHURY said he failed entirely to grasp what was going on. He gained the impression that a proposal was being made for a formulation implying that it expressed the opinion of the Sub-Commission as a whole, without specifying who had said what.
50. Mr. JOINET said that there appeared to be some misunderstanding. Reference was being made not only to some of the debate on Mr. Whitaker's study but also

to some of the debate that had occurred in the course of the consideration of the corresponding draft resolution. However, the Rapporteur should reflect the discussion on the study in question, not the draft resolution.

51. In the opinion of Mr. Chowdhury, a "majority" of experts had been opposed to paragraph 24 of the study by the Special Rapporteur. For his own part, he considered that they had been only a minority. No vote had taken place, and the only answer was to rely on the competence and the honesty of the Rapporteur.

52. Mr. CHOWDHURY said that the report should specify unambiguously whether "one" member, "some" members or "several" members of the Sub-Commission had raised the questions of cultural genocide, ethnocide and ecocide. The formulation now being proposed implied that the proposal had come from the Sub-Commission as a whole, when it had in actual fact been the view of only a few of the members.

53. The CHAIRMAN said that the beginning of the sentence she had suggested for insertion after the proposal by Mr. Deschênes should be altered to read: "Some members proposed ...".

54. Mr. TCHIKVADZE said he was rather perplexed by the behaviour of some members of the Sub-Commission who wished to include in the report matters which had failed to enlist approval during the debate or had led to controversy. All of the members of the Sub-Commission were jurists and logic should normally prevail. It was impossible to include retrospectively in a report something which had not taken place during the work.

55. If the Sub-Commission decided to include all of the proposals already made, and more particularly the proposal by Mr. Deschênes, he would be obliged in turn to propose an amendment. It would also be remembered that, in the view of one expert, the study of genocide entailed the study of genocide in all its aspects, including cultural genocide, ethnocide and ecocide, and even biocide. Was it really necessary to include all those matters in a report that had to be concise? He did not support any of the proposals that had been made and, to avoid complicating things even more, would rely on the Rapporteur.

56. Mr. BOSSUYT said that, in his opinion, the chapter of the draft report under consideration was more a reflection of Mr. Whitaker's view than the opinions of the experts who had spoken during the debate on the question of genocide. It was also his understanding that Mr. Whitaker had been associated in the drafting of the addition.

57. The CHAIRMAN said she had simply pointed out that Mr. Whitaker was not present in order for him to be able to correct the formulation attributed to him in connection with paragraph 12 of the present document.

58. Mr. BOSSUYT said that, in such circumstances, he supported the amendment proposed by Mr. Carey, which made for a more balanced report.

59. Mr. AL KHASAWNEH said that the document under consideration failed to take account of the comments he had made in connection with paragraph 24 of Mr. Whitaker's report. It seemed that the present part of the Sub-Commission's report emphasized certain matters and omitted others. During the debate, most of the members of the Sub-Commission had been against paragraph 24, something which was not mentioned in the draft report. Hence, the latter was not acceptable in its present form.

60. Mr. CHOWDHURY asked the Secretariat to keep the recording of the discussion on Mr. Whitaker's report, as evidence of the positions expressed by the members of the Sub-Commission. He commended the position adopted by Mr. Bossuyt and proposed that paragraph 9 of document E/CN.4/Sub.2/1985/CRP.1/Add.9 should be replaced by the following text: "Turning to the specific question, the view expressed by some speakers was that massacres as mentioned in paragraph 24 constituted genocide, as has been rightly stated therein. The majority of experts were of the view that paragraph 24 should not have found a place in the report".

61. Mr. JOINET said it was deplorable that a case was being made against Mr. Whitaker, the Special Rapporteur, on the basis of assumptions and not facts. It created a disturbing climate of distrust in the Sub-Commission. The recordings would indeed afford reliable evidence of the views expressed in the meetings, as Mr. Chowdhury had said. In the past, he had for his own part found that the recordings were preserved; actually, the members of the Sub-Commission would be able to consult them, even in 10 years' time, if they so wished. Nevertheless, the text submitted by Mr. Mubanga-Chipoza, the Sub-Commission's Rapporteur, seemed a balanced one. The majority view during the discussion could not be determined, for there had been no vote. The recordings would be able to clarify the situation. He would point out that the draft resolution concerning Mr. Whitaker's report simply spoke of "divergent opinions".

62. Mr. CAREY said it was regrettable that his suggestions concerning paragraphs 9 and 12 had not been adopted. He wished to reiterate his request that the first sentence of paragraph 9 should say "the Special Rapporteur", instead of "various speakers".

63. Mr. MUBANGA-CHIPOZA (Rapporteur) expressed the hope that the rest of the meeting would not be taken up with the part of the draft report under discussion. To expedite matters, the Sub-Commission could follow Mr. Takemoto's suggestion that Mr. Whitaker's report should be transmitted to the Commission with a detailed summary of the views expressed by the experts. For his own part, he had obviously been unable to take account of each and every view expressed. He had been compelled to keep to general points of view; time and space had prevented him from doing otherwise. The best course would be to request the Secretariat to record the objections expressed and move on to another part of the draft report.

64. Mr. AL KHASAWNEH pointed out that the procedure suggested by the Rapporteur was different from the procedure which had been followed in connection with other parts of the draft report. However, some of the suggestions made during the present meeting had not met with any objection.

65. Mr. MUBANGA-CHIPOZA (Rapporteur), answering questions by Mr. AL KHASAWNEH, said he could not, in connection with paragraph 9, agree that in the sentence mentioned by Mr. Carey, the point of view expressed should be attributed solely to the Special Rapporteur. Similarly, he could not accept the text proposed by Mr. Chowdhury. Only the suggestion by Mr. Deschênes seemed acceptable.

66. Mr. YIMMER proposed that, in order to save time, the text by the Rapporteur should not be altered and that the objections should be reflected in the summary records.

67. Mr. MARTINEZ BAEZ called on the Sub-Commission to follow the procedure proposed by the Rapporteur, so as not to prolong the discussion any further. In addition, the Spanish version of paragraph 9 should be brought into line with the French and English texts; in particular, the phrase "Volviendo concretamente a la cuestión de la matanza de los armenios" and the word "falseadas" were not satisfactory.
68. The CHAIRMAN said that, if there were no objections, she would take it that the part of the draft report contained in document E/CN.4/Sub.2/1985/CRP.1/Add.9 was adopted, on the understanding that the views expressed by the members of the Sub-Commission would be attached as an annex.
69. Mr. CHOWDHURY asked in what form his suggestion would be annexed to the report.
70. Mr. HERNDL (Assistant Secretary-General for Human Rights) said that, logically, if the Sub-Commission had not reached agreement on the present part of the draft report, that fact should be reflected in the report. For example, it might be possible to say: "The various views on this part of the draft report are reflected in the summary record". The summary record could be annexed to the report adopted: in that way, all of the debate would be brought to the knowledge of the reader. Technically, it was also possible to annex to the report the parts of the summary record relating to document E/CN.4/Sub.2/1985/CRP.1/Add.9. In addition, something should be said in the main body of the report; otherwise the reason for annexing the summary record would not be clear. In that connection a footnote might suffice.
71. Mr. CAREY, following the suggestion by the Assistant Secretary-General, proposed that the following text should be inserted in the main body of the report: "With respect to paragraphs 9 to 12, various views were expressed by the members of the Sub-Commission at the 39th meeting. These views are reflected in the attached summary record".
72. Mr. JOINET pointed out that the Chairman had already proposed adoption by the Sub-Commission of the part of the draft report appearing in document E/CN.4/Sub.2/1985/CRP.1/Add.9. Hence, a decision should be taken in that regard and the discussion should be closed.
73. Document E/CN.4/Sub.2/1985/CRP.1/Add.9 was adopted.

Annex V

LIST OF DOCUMENTS ISSUED FOR THE THIRTY-EIGHTH SESSION  
OF THE SUB-COMMISSION

<u>Documents issued in the general series</u>		<u>Agenda item</u>
E/CN.4/Sub.2/1985/1	Provisional agenda	2
E/CN.4/Sub.2/1985/1/Add.1	Annotations to the provisional agenda	2
E/CN.4/Sub.2/1985/1/Add.2	Annotated provisional agenda - Addendum	2
E/CN.4/Sub.2/1985/2	Report of the Working Group on the Review of the Work of the Sub-Commission	3
E/CN.4/Sub.2/1985/3	Note by the Secretary-General	4
E/CN.4/Sub.2/1985/4	Report submitted by the ILO	4
E/CN.4/Sub.2/1985/5	Report submitted by UNESCO	4
E/CN.4/Sub.2/1985/6	Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. B. Whitaker	4
E/CN.4/Sub.2/1985/6/ Corr.1	Revised and updated report on the question of the prevention and punishment of the crime of genocide prepared by Mr. B. Whitaker - Corrigendum	4
E/CN.4/Sub.2/1985/7	Study on the achievements made and obstacles encountered during the first Decade to Combat Racism and Racial Discrimination - First part: Description - Report by Mr. Asbjørn Eide, Special Rapporteur	5(a)
E/CN.4/Sub.2/1985/8 and Add.1-2	Updated report prepared by Mr. Ahmad M. Khalifa, Special Rapporteur	5(b)
E/CN.4/Sub.2/1985/9	Analysis of the current trends and developments regarding the right to leave any country including one's own, and the right to return to one's own country, and some other rights or considerations arising therefrom - Progress report prepared by Mr. Mubanga-Chipoya	6

		<u>Agenda item</u>
E/CN.4/Sub.2/1985/10	Guide by the Secretary-General to conventions, resolutions and reports of the United Nations concerning the adverse consequences of the arms race, particularly the nuclear arms race, for the universal realization of human rights	7
E/CN.4/Sub.2/1985/11	Progress report of the Secretary-General prepared in accordance with Sub-Commission resolution 1984/30	7
E/CN.4/Sub.2/1985/12 and Add.1-2	Report of the Secretary-General	9(a)
E/CN.4/Sub.2/1985/13	Synopsis of material received from non-governmental organizations in consultative status with the Economic and Social Council prepared by the Secretariat	9
E/CN.4/Sub.2/1985/14	Report on restraints in the use of force prepared by the Secretary-General in accordance with Sub-Commission resolution 1984/10	9
E/CN.4/Sub.2/1985/15	Incorporated in the report of the Working Group on Detention (E/CN.4/Sub.2/1985/17)	9(a)
E/CN.4/Sub.2/1985/16	Study on amnesty laws and their role in the safeguard and promotion of human rights - Preliminary report by Mr. Louis Joinet, Special Rapporteur	9(a)
E/CN.4/Sub.2/1985/17	Report of the Working Group on Detention	9(a)
E/CN.4/Sub.2/1985/18 and Add.1-6	Final report by the Special Rapporteur, Mr. L.M. Singhvi	9(c)
E/CN.4/Sub.2/1985/19	Explanatory paper on the best way of undertaking the drawing up and updating of a list of countries which proclaim or terminate a state of emergency each year, and the submission of an annual report to the Commission on Human Rights containing reliably attested information on compliance with the rules, internal and international, guaranteeing the legality of the introduction of a state of emergency prepared by Mr. L. Despouy (Argentina)	9(d)
E/CN.4/Sub.2/1985/20	Report of the sessional Working Group on the Question of Persons detained on the Grounds of Mental Ill-Health or suffering from Mental Disorder	10

		<u>Agenda item</u>
E/CN.4/Sub.2/1985/21	Draft guidelines for the regulation of computerized personal data files - Report submitted by Mr. Louis Joinet	10
E/CN.4/Sub.2/1985/22 and Add.1	Report of the Working Group on Indigenous Populations on its fourth session	11
E/CN.4/Sub.2/1985/23	Progress report on the right to adequate food as a human right submitted by Mr. Asbjørn Eide, Special Rapporteur	12
E/CN.4/Sub.2/1985/24 and Add.1-2	Technical assistance for the strengthening of legal institutions - Report of the Secretary-General prepared in accordance with Sub-Commission resolution 1984/19	12
E/CN.4/Sub.2/1985/25 and Corr.1	Report of the Working Group on Slavery on its eleventh session	13
E/CN.4/Sub.2/1985/26	Interim follow-up report on the mission to Mauritania prepared by Mr. Marc Bossuyt, expert of the Sub-Commission	13(a)
E/CN.4/Sub.2/1985/27	Note by the Secretary-General	14
E/CN.4/Sub.2/1985/28	Progress report by Mrs. Elizabeth Odio Benito, Special Rapporteur	15
E/CN.4/Sub.2/1985/29	Document not issued	
E/CN.4/Sub.2/1985/30 and Add.1	Draft body of principles and guidelines on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms	16(b)
E/CN.4/Sub.2/1985/31 and Corr.1	Proposal concerning a definition of the term "minority" submitted by Mr. Jules Deschênes	16(c)
E/CN.4/Sub.2/1985/32	Preliminary report prepared by Mr. Leandro Despouy, Special Rapporteur	17
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Annex VI

OPENING ADDRESS BY MR. KURT HERNDL, ASSISTANT SECRETARY-GENERAL  
FOR HUMAN RIGHTS ON THE OCCASION OF THE FORTIETH ANNIVERSARY  
OF THE UNITED NATIONS \*/

Mme. Chairperson:

It gives me great pleasure, once again, to welcome you at the start of another session of the Sub-Commission. May I welcome you all - members, representatives of specialized agencies, observers of Governments and non-governmental observers - and wish you a most fruitful session for the promotion and protection of the rights of the individual.

Your session this year takes place against the background of the fortieth anniversary of the United Nations. This is something that no organ of the United Nations can ignore, for it is important that we remember and are conscious of the ideals of the founders of the United Nations, the ideals and principles of the Charter, and the evolutions which have taken place since the establishment of the Organization 40 years ago. How have our efforts measured up to the ideals and hopes of the founding fathers of the world organization, or to the problems which have arisen during this period?

Equality and non-discrimination are the two main principles which permeate the Charter of the United Nations. These principles are applicable to States and individuals alike. At the same time the rights and freedoms of the individual human being were made the cornerstone for the building of the peace envisaged by the Charter. When the Commission on Human Rights began its historic task of drafting the International Bill of Human Rights it turned to this Sub-Commission for assistance which proved to be invaluable. It is this Sub-Commission which, more than any other, has contributed to giving life and meaning to the principles of equality and non-discrimination which are enshrined in the Charter. Your achievements and your contributions have been of a historic nature and you deserve to be congratulated in your own names, as well as in the names of your predecessors who have served so nobly and valiantly on this organ.

The Commission on Human Rights looks forward increasingly to the expert contribution of this Sub-Commission and it has on recent occasions, repeatedly called on, and been in need of, the expertise which is present in this body. At its forty-first session, for example, in the resolution which it adopted on the report of the Sub-Commission (that is Commission resolution 1985/28) the Commission reaffirmed that the Sub-Commission could best assist the Commission by providing it with different views and perspectives of independent experts, which should be appropriately reflected in the Sub-Commission's report, as well as in the expert studies carried out under its auspices.

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\*/ At the 2nd meeting, the Chairman announced that, on the occasion of the fortieth anniversary of the United Nations, the opening address to the Sub-Commission's thirty-eighth session made by Mr. Kurt Herndl, Assistant Secretary-General for Human Rights should appear in the report of the Sub-Commission.

It is appropriate that, at this juncture, you have been re-examining and will continue to re-examine your long-term programme and methods of work. You may wish to note that in the resolution to which I have just referred the Commission endorsed the list of regular items to be included in the agenda of the Sub-Commission as contained in annex IV to your last report as well as the principle which you proposed last year that studies should be completed within a three-year cycle. The schedule of studies for 1985 to 1989, which you proposed last year, was also endorsed by the Commission.

You will, at the present session, be continuing the review of your work. Indeed, the Commission has requested the Sub-Commission to complete the review and to submit concrete suggestions and recommendations relating especially to the further rationalization of its work to the Commission at its forty-second session. We may thus say that, on the basis of the review of your work which you did last year, as well as of the decisions of the Commission to which I have just referred, the formal basis has been laid for you to plan your activities in the coming period. As you do so, however, it might be appropriate for the Sub-Commission as the expert organ of the United Nations which has broad and general competence over human rights, to ponder on the achievements and difficulties of the United Nations in promoting and protecting human rights. Such a substantive evaluation might contribute to a clearer understanding of the tasks which lie ahead.

Dealing, first of all, with the accomplishments of the United Nations, no one can deny that perhaps the greatest realization has been to consolidate and establish for all times the principle that human rights are a matter of international concern. This is a principle which is enshrined in the Charter of the United Nations and which has been consolidated through 40 years of continuous practice. The international community, as represented in and through the United Nations, is entitled to discuss any situation giving rise to international concern. It must also count as one of the great accomplishments of the United Nations that, today, we have an international code of human rights which establishes within the domain of international law detailed norms for regulating the way in which the State treats the individual. Nowadays, from all parts of the world we hear and see, including in this very organ, individuals and groups coming forward to claim that their rights must be respected. The collection of instruments contained in the United Nations compilation speaks for itself. When you come to discuss particular situations or cases, you have international norms which can be cited and pleaded. This is no small achievement. Let us not underestimate it. The United Nations, thirdly, has further engaged Governments through international conventions. There are now 124 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination. There are around 80 States parties to the International Covenants on Human Rights. Under these and related instruments Governments come to the United Nations, submit, explain and defend reports on their human rights record and engage in a dialogue with the international community. In short, Governments are bound to submit and are submitting their systems, laws and practices to international scrutiny and to examination for their consistency with internationally recognized human rights norms. Let us think of this for a moment. Governmental systems are subject to human rights scrutiny by international organs. It is something remarkable, indeed revolutionary in its significance.

Fourth, the United Nations has, especially in the past few years, developed a broad range of procedures for dealing with allegations of violations of human rights. Let us refer to the wide range of working groups or rapporteurs who are examining global phenomena, such as arbitrary and summary executions, disappearances, torture or country-specific situations. Groups or rapporteurs receive information, visit countries, draw up reports, make recommendations, send urgent telegrams.

Fifth, newly emerging problems are studied, examined and analysed and further standards and procedures are developed for dealing with them. The development of new standards and the refinement of existing ones is indeed an on-going task of the United Nations. This is "par excellence" an area for the Sub-Commission. Let us just ponder for a moment on the range of issues which you are presently dealing with: human rights and scientific and technological developments, the promotion and protection of human rights generally, equality and non-discrimination of individuals and groups, the rights of minorities, indigenous populations and the disabled, the right to leave and return, religious freedom, the rights of persons in detention - either in police custody or in mental health institutions - and the protection of human rights defenders. It is truly a remarkable catalogue and it shows that the United Nations is in fact responding to myriad problems which are thrown up in everyday life in all parts of the world. Can it be said that there is a problem being experienced at the present time which has not been brought before the Sub-Commission for discussion or for consideration in one form or another? I doubt it, and herein lies one of your great roles - the role of probing new problems and of opening up new frontiers.

Sixth, the United Nations has increasingly been developing its advisory services and technical assistance to Governments. Governments which need to develop their laws or institutions or wish to have personnel trained in the field of human rights can now approach the United Nations for appropriate assistance. And then, finally, there is the role of the United Nations as a great forum, which assembles experts such as yourselves, representatives of Governments, the representatives of international organizations, the representatives of non-governmental organizations, as well as the ordinary individual and brings them together as we see here remarkably in this Sub-Commission. Let us just pause and think of this for a moment. As we assemble here, right now, let us be conscious that it is the United Nations which enables us all to come together in this manner to work for the cause of human rights.

By any measure, the examples which I have cited of the accomplishments of the Organization must be counted as a remarkable success story; and yet we must nevertheless recognize that if we meet here, and if so much activity is taking place, it is because there is a continuing need for keeping a watch over the rights and freedoms of the individual and for being constantly vigilant about violations of those rights. We cannot deny for a moment that violations do take place and often in very tragic proportions. And so, when we come to reflect upon the accomplishments of the United Nations, we must also reflect on areas where there is room for improvement. Many States have not yet ratified the relevant international conventions. In many countries the laws or institutions have not been brought into conformity with the international standards proclaimed by the United Nations and the protection of the individual is thereby correspondingly reduced. The resources of the United Nations are limited and do not enable it to deal with all of the problems or with all of the difficulties which arise.

Problems which occur are dealt with during the sessions of human rights organs but there is still no machinery for dealing with urgent problems which may occur between sessions. Violations of human rights on massive scales still continue to take place in various parts of the world. Minorities and indigenous populations are often inadequately protected and have, therefore, sought redress at the United Nations, including at this very Sub-Commission. In more recent times we have even seen challenges to the universality of the Universal Declaration of Human Rights proclaimed by the United Nations in 1948 and it has been claimed, for example, that religious laws would take precedence over the provisions of the Declaration. There are, besides, many instances in which the co-operation of Governments with the United Nations and its organs leaves much to be desired. In short, problems there certainly are.

How does this rough balance sheet relate to your work in this Sub-Commission? Permit me to offer the following thoughts: The issue of our times is undoubtedly the issue of application or implementation of the international standards which have already been proclaimed. If what we have already declared by way of standards were to be applied universally the situation of human rights and fundamental freedoms globally would certainly be much improved. Secondly, problems encountered in the application of internationally recognized standards need to be focused to a greater extent. In some ways you are doing this already. You are, for example, considering problems in the enjoyment of human rights experienced by groups such as disabled persons and indigenous populations. Third, ways and means should be found of inducing Governments to act more and more for the promotion and defence of human rights. For while international organizations can back up or scrutinize what takes place at the national level, the primary actor is the Government in each country. Let us, therefore, not forget that it is of the utmost importance that Governments be induced and persuaded to adopt policies which are geared towards the implementation of human rights. Fourth, we must certainly use every weapon at our disposal to deal with violations of human rights. A great deal, as I have already said, has been established and set in place for this. The fact, however, that violations continue to take place tells us that we have to redouble our efforts in this area.

Fifth, education, training and the dissemination of information will be absolutely crucial. For it is through education particularly at the primary and secondary levels, that the universal culture of human rights can be built up in the long term. The Sub-Commission has, for some time now, perhaps not given enough attention to this area of education, training and the dissemination of information which their importance would seem to warrant. The General Assembly, it may be noted, when it commemorated the thirty-fifth anniversary of the Universal Declaration of Human Rights, especially singled out the question of education and decided that it would discuss it further at the fortieth anniversary of the Universal Declaration of Human Rights in 1988. The subject of education is one which should be given priority attention.

We cannot shirk from, or even compromise on, the principles of equality and non-discrimination. Discrimination on the grounds of race, sex, language or religion is one of your priority domains. The protection of persons belonging to minority groups or to indigenous populations also features in this context. The activities of the Working Group on Slavery and Slavery-like Practices are designed to foster de facto equality of treatment. We must continue to place the maximum emphasis on combating adverse discrimination of all sorts and seek to eliminate odious systems, such as that of apartheid.

For you, the members of the Sub-Commission, there will also be technical challenges. As further standard-setting continues the dangers of conflicts or contradictions in standards will be increasingly present. You will have a particular role to watch over the integrity of the already-proclaimed standards. You, as the body of experts, will need to be mindful of co-ordination in the interpretation and application of the proclaimed standards. You will need to promote the overall quality of United Nations work for the promotion and protection of human rights. You will need to evaluate and assess experience in the functioning of the various procedures established for dealing with violations of human rights. You will need to develop the notions of equity and due process in the application of United Nations standards, as well as in the implementation of United Nations procedures. In short, the key words for an organ such as the Sub-Commission in the future will be quality in application. While proceeding energetically with the application of international standards of human rights and dealing with new problems which are encountered, it will be necessary at the same time to ensure that the quality of the work done within the Organization and its organs, such as the Sub-Commission, is of the highest order and of an unimpeachable character. This, I firmly believe, is the challenge which faces you as you commence your session in this the fortieth anniversary year of the United Nations.