

# **COMMISSION ON HUMAN RIGHTS**

## **REPORT ON THE THIRTY-SEVENTH SESSION**

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**ECONOMIC AND SOCIAL COUNCIL**

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**NOTE**

**Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.**

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## ABBREVIATIONS

ANC	African National Congress
EEC	European Economic Community
ICRC	International Committee of the Red Cross
ILO	International Labour Organisation
OAS	Organization of American States
OAU	Organization of African Unity
PLO	Palestine Liberation Organization
SWAPO	South West Africa People's Organization
UNESCO	United Nations Educational, Scientific and Cultural Organization
WHO	World Health Organization

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

A. Draft resolutions

I. Draft Declaration on the Elimination of All Forms of Intolerance  
and of Discrimination Based on Religion or Belief <sup>1/</sup>

The Economic and Social Council,

Recalling General Assembly resolution 3267 (XXIX), of 10 December 1974, in which it requested the Commission on Human Rights to submit, through the Economic and Social Council, to the General Assembly a single draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief,

Expressing its appreciation to the Commission on Human Rights for having concluded the elaboration of a draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief,

Recommends to the General Assembly that it consider, with a view to adopting and solemnly proclaiming, at its thirty-sixth session, the annexed Declaration as the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

ANNEX

Draft Declaration on the Elimination of All Forms of Intolerance  
and of Discrimination Based on Religion or Belief

Preamble

The General Assembly,

Considering that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all States members have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief, including the right to choose, manifest and change one's religion or belief,

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or belief, have brought, directly or indirectly, wars and great suffering to mankind,

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<sup>1/</sup> See chap. XXVIII, sect. A, resolution 20 (XXXVII), and chap. XVII.

especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

Considering that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

Convinced that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

Noting with satisfaction the adoption of several, and the coming into force of some, conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief,

Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief:

#### Article I

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

#### Article II

1. No one shall be subject to discrimination by any State, institution, group of persons or person on grounds of religion or other beliefs.

2. For the purpose of the Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion,

restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

### Article III

Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants relating to human rights, and as an obstacle to friendly and peaceful relations between nations.

### Article IV

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

### Article V

1. The parents or as the case may be the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interest of the child being their guiding principle.

3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

5. The practices of a religion or beliefs in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article I, paragraph 3.

## Article VI

In accordance with article I, and subject to the provisions of paragraph 3 of article I, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- (a) To worship or assembly in connection with a religion or belief, and to establish and maintain places for these purposes;
- (b) To establish and maintain appropriate charitable or humanitarian institutions;
- (c) To make, to acquire and to use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- (d) To write, to publish and to disseminate relevant publications in these areas;
- (e) To teach a religion or belief in places suitable for these purposes;
- (f) To solicit and receive voluntary financial and other contributions from individuals and institutions;
- (g) To train, to appoint, to elect or to designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- (h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- (i) To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

## Article VII

The rights and freedoms set forth in this Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail themselves of such rights and freedoms in practice.

### II. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment 2/

#### The Economic and Social Council,

Recalling General Assembly resolution 35/178 of 15 December 1980 by which the Commission on Human Rights was requested to complete as a matter of urgency, at its thirty-seventh session, the drafting of a convention on torture and other cruel, inhuman or degrading treatment or punishment, and resolution 1980/32 of 2 May 1980 by which the Economic and Social Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to its thirty-seventh session to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment,

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

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2/ See chap. XXVIII, sect. A, resolution 25 (XXXVII) and chap. VIII.

Taking note of Commission on Human Rights resolution 25 (XXXVII), of 10 March 1981,

1. Authorizes a meeting of an open-ended working group for a period of one week prior to the thirty-eighth session of the Commission on Human Rights to complete the work on a draft convention against torture;

2. Requests the Secretary-General to transmit to the Commission on Human Rights at its thirty-eighth session all relevant material relating to the draft convention.

III. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 3/

The Economic and Social Council,

Recalling its decision 1980/137, of 8 May 1980, on the situation of human rights in Equatorial Guinea, as well as resolutions 15 (XXXV) of 13 March 1979, 33 (XXXVI) of 11 March 1980 and 31 (XXXVII) of 11 March 1981, of the Commission on Human Rights.

Taking note with appreciation of the report submitted by Professor Fernando Volio Jimenez, 4/ expert appointed by the Secretary-General in pursuance of resolution 33 (XXXVI) of the Commission on Human Rights,

Bearing in mind resolutions 34/123 of 14 December 1979 and 35/105 of 5 December 1980 of the General Assembly on assistance to Equatorial Guinea,

Conscious of the need to ensure that such assistance should include a response to the human rights requirements of the situation,

Mindful of the efforts being made by the Government of Equatorial Guinea to ensure respect for human rights and fundamental freedoms in that country,

Noting that the Government of Equatorial Guinea would be prepared to accept the working plan submitted by the expert to assist it in its efforts to restore the full enjoyment of human rights in the country,

1. Expresses its appreciation to Professor Fernando Volio Jimenez, expert appointed in accordance with resolution 33 (XXXVI) of the Commission of 11 March 1980 for his efforts to provide advice and assistance to the Government of Equatorial Guinea and also for his report;

2. Expresses its appreciation also to the Government of Equatorial Guinea for its efforts towards the restoration of human rights in Equatorial Guinea and for the co-operation extended to the expert and invites the Government to continue its efforts to restore the democratic freedoms abolished by the former Government and to encourage the participation of the citizens in the restoration of the democratic system in the country;

3. Reiterates its readiness to assist the Government of Equatorial Guinea, at its request, in the task of restoring human rights in Equatorial Guinea and to this end, requests the Secretary-General to invite the expert to continue to place his advice and assistance at the disposal of the Government of Equatorial Guinea

3/ See chap. XXVIII, sect. A, resolution 31 (XXXVII), and chap. XI.

4/ E/CN.4/1439 and Add.1

particularly with a view to the implementation of his recommendations to that Government, taking into account the political, economic and social conditions of the country;

4. Requests the Secretary-General, bearing in mind the need for co-ordination with other assistance activities, to draw up, in consultation with the expert and the Government, and to submit to the Economic and Social Council for consideration at its second regular session for 1981, a draft plan of action for implementing those recommendations of the expert which he deems feasible;

5. Further requests the Secretary-General, in drawing up the draft plan of action, to consult Governments, other United Nations organs and the relevant parts of the United Nations Secretariat, specialized agencies, non-governmental organizations in consultative status, as well as the Organization of African Unity, with a view to determining in what ways they may be able to contribute towards implementing the plan, and to inform the Council of the results of these consultations.

IV. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 5/

The United Nations Voluntary Fund for victims of torture

The Economic and Social Council,

Taking note of Commission on Human Rights resolution 35 (XXXVII), of 11 March 1981,

1. Recommends that the General Assembly should adopt the following draft resolution:

"The General Assembly,

Recalling its resolution 33/174, of 20 December 1978, by which it established a United Nations Trust Fund for Chile as a voluntary fund to receive contributions and distribute humanitarian, legal and financial aid to persons whose human rights have been violated by detention or imprisonment in Chile,

Recalling also its resolution 35/190, of 15 December 1980, by which it requested the Commission on Human Rights to study the possibility of extending the mandate of the fund,

Taking note of Economic and Social Council resolution 1981/... and Commission on Human Rights resolution 35 (XXXVII) of 11 March 1981,

Noting that all Governments have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments,

Noting with deep concern that acts of torture take place in various countries,

Considering the plight of victims of torture wherever it takes place,

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5/ See chap. XXVIII, sect. A, resolution 35 (XXXVII), and chap. XI.

Recognizing the need to provide assistance to the victims of torture in a purely humanitarian spirit,

1. Decides

(a) To extend the mandate of the Fund established by its resolution 33/174, of 20 December 1978, in order to enable it to receive voluntary contributions for distribution through established channels of humanitarian assistance as humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of torture, and to relatives of such victims with priority being given to aid to victims of violations by States in which the human rights situation has been the subject of resolutions or decisions by either the General Assembly, the Economic and Social Council, or the Commission on Human Rights;

(b) That such a United Nations Voluntary Fund for victims of torture shall be administered in accordance with the financial regulations of the United Nations by the Secretary-General with the advice of a board of trustees composed of a chairman and four members with wide experience in the field of human rights, acting in their personal capacity, to be appointed by the Secretary-General with due regard to equitable geographical distribution and in consultation with their Governments;

(c) To redesignate the United Nations Trust Fund for Chile into a United Nations Voluntary Fund for victims of torture;

(d) To adopt the arrangements for the management of the Fund set forth in the annex to the present resolution;

(e) To authorize the board of trustees to promote and solicit contributions and pledges;

(f) To request the Secretary-General to give the board of trustees all the assistance it may require;

2. Appeals to all Governments to respond favourably to requests for contributions to the fund."

2. Requests the Secretary-General to submit to the Economic and Social Council at its first regular session in 1982 specific proposals for the arrangements for the management of the Fund in accordance with the principles set forth in paragraph 1 (a) of the draft resolution recommended for adoption by the General Assembly.

B. Draft decisions

1. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 6/

The Economic and Social Council, noting Commission on Human Rights resolution 5 (XXXVII), of 23 February 1981, decides to transmit the text of that resolution to the General Assembly, the Security Council and the Special Committee against Apartheid.

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6/ See chap. XXVIII, sect. A, resolution 5 (XXXVII), and chap. IV.

2. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 7/

The Economic and Social Council approves the decision of the Commission on Human Rights in its resolution 5 (XXXVII) of 23 February 1981, to renew the mandate of the Ad Hoc Working Group of Experts and requests the Secretary-General to provide every assistance and the resources required to enable the Ad Hoc Working Group of Experts to discharge its responsibilities in accordance with its terms of reference.

3. Question of human rights in Chile 8/

The Economic and Social Council approves the decision of the Commission on Human Rights in its resolution 9 (XXXVII), of 26 February 1981, in response to General Assembly resolution 35/188 of 15 December 1980, to extend the mandate of the Special Rapporteur on the situation of human rights in Chile for another year. The Council requests the Secretary-General to make arrangements for the provision of adequate financial resources and staff for the implementation of Commission resolution 9 (XXXVII).

4. Question of enforced or involuntary disappearances 9/

The Economic and Social Council approves the decision of the Commission on Human Rights in its resolution 10 (XXXVII), of 26 February 1981, to extend for one year the term of the mandate of the Working Group on Enforced or Involuntary Disappearances, as laid down in Commission resolution 20 (XXXVI), of 29 February 1980, and requests the Secretary-General to continue to provide the Working Group with all necessary assistance, in particular the staff and resources it requires to perform its functions in an effective and expeditious manner, and if necessary to make the necessary arrangements to ensure the continuity of the Secretariat's work.

5. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories - Assistance to the Central African Republic 10/

The Economic and Social Council approves the decision taken by the Commission on Human Rights in its resolution 15 (XXXVII) of 9 March 1981 to request the Secretary-General, in response to the interest displayed by the Government of the Central African Republic, to provide advisory services and other forms of appropriate assistance to help that Government to continue to guarantee the exercise of human rights and fundamental freedoms in that country.

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7/ See chap. XXVIII, sect. A, resolution 5 (XXXVII), and chap. IV.

8/ See chap. XXVIII, sect. A, resolution 9 (XXXVII), and chap. III.

9/ See chap. XXVIII, sect. A, resolution 10 (XXXVII), and chap. VIII.

10/ See chap. XXVIII, sect. A, resolution 15 (XXXVII), and chap. XI.

6. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in South Africa 11/

The Economic and Social Council notes resolution 8 (XXXVII), of 23 February 1981, of the Commission on Human Rights and approves the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to mandate Mr. Ahmed Khalifa, Special Rapporteur, to continue to update the list and submit through the Sub-Commission the revised report to the Commission.

7. The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law 12/

The Economic and Social Council notes resolution 18 (XXXVII), of 10 March 1981, of the Commission on Human Rights and authorizes the Sub-Commission on Prevention of Discrimination and Protection of Minorities 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", in accordance with the terms of Commission resolution 18 (XXXVII) and requests the Secretary-General to give the Special Rapporteur all the assistance she may require in her work.

8. The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law 13/

The Economic and Social Council notes resolution 19 (XXXVII), of the Commission on Human Rights, of 10 March 1981, and decides that the study prepared by Mrs. Erica-Irene A. Daes entitled "Study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law" (E/CN.4/Sub.2/432/Rev.1 and E/CN.4/Sub.2/432/Add.1-7) should be printed and given the widest possible distribution, including in Arabic.

9. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms - Development of public information activities in the field of human rights 14/

The Economic and Social Council notes resolution 24 (XXXVII), of the Commission on Human Rights, of 10 March 1981, and approves the Commission's request to the Secretary-General to continue to implement the programmes referred to in his report to the Commission on this subject and to keep the Commission informed thereon.

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11/ See chap. XXVIII, sect. A, resolution 8 (XXXVII), and chap. V.

12/ See chap. XXVIII, sect. A, resolution 18 (XXXVII), and chap. XX.

13/ See chap. XXVIII, sect. A, resolution 19 (XXXVII), and chap. XX.

14/ See chap. XXVIII, sect. A, resolution 24 (XXXVII), and chap. IX.

10. Question of a convention on the rights of the child 15/

The Economic and Social Council notes resolution 26 (XXXVII) of the Commission on Human Rights, of 10 March 1981, and decides to authorize a one week session of an open-ended working group prior to the thirty-eighth session of the Commission on Human Rights to facilitate completion of the work on a draft convention on the rights of the child.

11. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 16/

The Economic and Social Council notes resolution 29 (XXXVII) of the Commission on Human Rights, of 11 March 1981, and approves the Commission's decision to appoint for a period of one year a special rapporteur to study the question of human rights and massive exoduses; and requests the Secretary-General to provide the special rapporteur with all necessary assistance, in particular staff and resources, in order to carry out his study.

12. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 17/

The Economic and Social Council approves the decision taken by the Commission on Human Rights in its resolution 30 (XXXVII) of 11 March 1981, to request the Secretary-General, in response to the interest expressed by the Government of Uganda, to provide its consultative advisory services and other forms of appropriate assistance to help the Government of Uganda in taking appropriate measures to continue to guarantee the enjoyment of human rights and fundamental freedoms.

13. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 18/

The Economic and Social Council notes resolution 32 (XXXVII) of the Commission on Human Rights, of 11 March 1981, and approves the decision of the Commission to request its Chairman to appoint, after consultation within the Bureau, a Special Representative of the Commission on El Salvador and requests the Secretary-General to give all necessary assistance to the Special Representative of the Commission.

14. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories - Situation of human rights in Bolivia 19/

The Economic and Social Council notes resolution 34 (XXXVII) of the Commission on Human Rights, of 11 March 1981, and approves the Commission's decision to request

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15/ See chap. XXVIII, sect. A, resolution 36 (XXXVII), and chap. XII.

16/ See chap. XXVIII, sect. A, resolution 29 (XXXVII), and chap. XI.

17/ See chap. XXVIII, sect. A, resolution 30 (XXXVII), and chap. XI.

18/ See chap. XXVIII, sect. A, resolution 32 (XXXVII), and chap. XI.

19/ See chap. XXVIII, sect. A, resolution 34 (XXXVII), and chap. XI.

its Chairman to appoint after consultations within the Bureau, a Special Envoy of the Commission whose mandate will be to make a thorough study of the human rights situation in Bolivia and requests the Secretary-General to give all necessary assistance to the Special Envoy of the Commission.

15. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 20/

The Economic and Social Council notes resolution 36 (XXXVII) of the Commission on Human Rights, of 11 March 1981, and approves the decision of the Commission to establish a working group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographic distribution, to study the scope and contents of the right to development and the most effective means to ensure the realization, in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights; and the Commission's request to the working group to hold three meetings in Geneva, the first in the month of July 1981, the second towards the end of 1981, for a period of two weeks, and the third meeting for one week before the beginning of the thirty-eighth session of the Commission on Human Rights. The Council requests the Secretary-General to provide all necessary assistance to the working group.

16. General decision concerning the establishment of a working group of the Commission on Human Rights to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) and situations which the Commission has decided to keep under review 21/

The Economic and Social Council approves the decision of the Commission on Human Rights in its decision 4 (XXXVII), of 6 March 1981, to set up a working group composed of five of its members to meet for one week prior to its thirty-eighth session to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fourth session under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 and those situations which the Commission has decided to keep under review.

17. Periodic reports on human rights 22/

The Economic and Social Council, noting Commission on Human Rights decision 10 (XXXVII), of 13 March 1981, decides to terminate the periodic reporting system established by Council resolution 1074 C (XXXIX) of 28 July 1965.

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20/ See chap. XXVIII, sect. A, resolution 36 (XXXVII), and chap. VI.

21/ See chap. XXVIII, sect. B, decision 4 (XXXVII), and chap. XI.

22/ See chap. XXVIII, sect. B, decision 10 (XXXVII) and chap. XXIX.

18. Meeting services for the Commission on Human Rights 23/

The Economic and Social Council, noting Commission on Human Rights decision 11 (XXXVII), of 13 March 1981, decides to authorize three hours of additional meeting services per day during the Commission's thirty-eighth session.

19. Report of the Commission on Human Rights 24/

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

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23/ See chap. XXVIII, sect. B, decision 11 (XXXVII) and chap. XXIX.

24/ See chap. XXVII.

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

1. The Commission considered agenda item 4, concurrently with item 9 (see chap. VII) at its 1585th to 1590th, 1592nd, 1595th and 1596th meetings held from 4 to 6 February 1981 and on 9 and 11 February 1981.
2. By its resolution 1 A (XXXVI), of 13 February 1980, the Commission had decided to place this item on the provisional agenda of its thirty-seventh session as a matter of high priority.
3. For its consideration of this question the Commission, in accordance with paragraphs 9, 13 and 14 of resolution 1 A (XXXVI), had before it: a note by the Secretary-General pursuant to the Commission's request for relevant information concerning Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories (E/CN.4/1418 and Add.1); a report of the Secretary-General on the measures taken to bring resolutions 1 A and B (XXXVI) to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity (E/CN.4/1422 and Add.1). The Commission also had before it a note by the Secretary-General (E/CN.4/1423) submitted pursuant to paragraph 14 of resolution 1 A (XXXVI) and the following documents: A/35/13, A/35/35, A/35/438, A/35/473, A/35/533, A/35/563 (S/14234) and A/35/425.
4. At the request of the Permanent Representative of the Syrian Arab Republic to the United Nations Office at Geneva, the following resolutions and reports were made available to the Commission: General Assembly resolutions ES-7/2, ES-7/3, 35/13, 35/122, 35/157 and 35/169; Security Council resolutions 465 (1980), 468 (1980), 471 (1980), 476 (1980), 478 (1980) and 484 (1980); document A/CONF.94/35; Appendix III entitled "Report on the Situation of Workers of the Occupied Arab Territories" of the report of the Director-General of ILO to the International Labour Conference at its sixty-sixth session; and World Health Assembly resolution WHA 33.18 adopted by the Assembly at its thirty-third session and entitled "Health Conditions of the Arab Population in the Occupied Arab Territories."
5. The Commission heard statements by the observers for Egypt (1585th meeting), Israel (1585th, 1587th meetings), Tunisia (1586th meeting), the Libyan Arab Jamahiriya (1588th meeting), the German Democratic Republic (1588th meeting), China (1588th meeting), Hungary (1589th meeting), Czechoslovakia (1589th meeting), Viet Nam (1589th meeting) and Madagascar (1589th meeting); the representative of the League of Arab States (1585th, 1589th meetings) and the representative of the Palestine Liberation Organization (1585th, 1586th meetings).
6. The Commission also heard statements by the following non-governmental organizations in consultative status: Women's International Democratic Federation (category I), the International Federation of Human Rights (category II) and the World Jewish Congress (category II).
7. The report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/35/425), was referred to by most speakers; they considered it an important document that gave an accurate account of the deteriorating condition of the

civilian population in Palestine and other Arab occupied territories. The members of the Special Committee were commended for the objective and impartial manner in which they had carried out their mandate, despite Israel's persistence in refusing to co-operate.

8. The representative of PLO stated that although the Commission annually adopted resolutions regarding the systematic violation of human rights, they and other United Nations resolutions went unheeded by Israel. That systematic violation of human rights was supported, if not actively encouraged, by the United States. Israel was stepping up its colonizing activities at a time when the world at large was witnessing decolonization. He stated that immigrating Jews took the place of the indigenous population, who suffered expulsion, accompanied by harassment, violence and destruction of homes. The Camp David accords and the Washington Treaty were part of an effort to bring about the final liquidation of the people of Palestine. However, the PLO, the sole representative of the Palestinian people, was determined to restore the right recognized by the Charter of the United Nations and protected by the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949. He asserted that the international community, having recognized the rights of the Palestinians, had a duty to co-operate with the Palestinian people, pursuant to the Charter, the Universal Declaration of Human Rights, and the Declaration on the Granting of Independence to Colonial Countries and Peoples. He concluded by saying that the Palestinian people would continue the struggle to obtain their legitimate rights.

9. Several speakers hailed the presence at this session of Mr. Farouk Kaddoumi, Head of the Political Department of the PLO.

10. One speaker called for the expulsion of Israel from the United Nations because of its failure to comply with the conditions imposed at the time of its admission to the Organization. The same delegation called for the imposition of mandatory sanctions, under Chapter VII of the Charter of the United Nations against Israel. Many delegations condemned Israel's persistent refusal to abide by General Assembly and Security Council resolutions, especially those calling for a complete Israeli withdrawal from the occupied territories, including Jerusalem.

11. Many delegations expressed grave concern at the systematic and constant violations of human rights in the occupied Arab territories, including Palestine, which resulted in the continuous deterioration of the situation in the area. They denounced the assistance, both military and financial, that Israel receives from certain countries. The policy of oppression and subjugation of the population was exemplified by the expulsion and maiming of Arab political leaders and restriction of the activities of other persons, interference with the existing education system, and a continuing and unprecedented drive to establish settlements in the occupied territories at the expense of the local population. Those delegations also denounced the large-scale confiscation of Arab lands and the diversion of Arab water resources and endorsed the conclusion of the Special Committee that the fundamental violation of human rights lay in the very fact of occupation.

12. It was pointed out by various speakers for the Israeli Government to annex Jerusalem and declare it its "eternal capital" was an affront to the international community as well as a flagrant violation of international law which prohibits the occupying Power from taking measures aimed at changing the demographic structure

and political status of the occupied territories. It was also firmly stated that such changes interfered directly with life under occupation as a result of the implementation of measures such as evacuation, eviction, expulsion and the denial of the right to return of those who had been forced to leave their homes.

13. The continued wave of violence, which resulted in numerous incidents and arbitrary arrests, could only be halted if the Palestinians were given an opportunity to express themselves freely about their future, leading to realization of their inherent right of self-determination.

14. Many delegations condemned the conclusion of partial agreements and separate treaties such as the Camp David agreements and the Washington Treaty which were considered as acts of treason against the Arab nations and the Palestinians, avoided the core of the issue and resulted rather in a military alliance beneficial to Israel. In the view of one speaker, the conclusion of a peace treaty did not violate the principles of the Charter of the United Nations. He recalled past and current efforts of his country in the defence of the national rights of the Palestinian people. He rejected the allegations made against his country. He further reaffirmed that the peace policy pursued by his country sought to reach a comprehensive settlement that would ensure the fulfilment of the inalienable rights of the Palestinian people, an objective to which his country was firmly attached. Some other delegations considered the Camp David agreements and Washington Treaty as positive developments.

15. The overwhelming majority of speakers condemned Israel's persistent refusal to apply the provisions of the fourth Geneva Convention, of 12 August 1949, and some speakers deplored that the International Red Cross (ICRC) encountered difficulties in carrying out its humanitarian task. One speaker stated that the ICRC was not allowed to attend military trials at proceedings in which the court decided on the admissibility of a confession, if the accused claimed that the confession had been extracted under duress. It was stated that this procedure was itself a violation of the principle of equitable justice, since it was for the prosecution to prove the truth of accusation if the accused claimed that the confession had been obtained under pressure.

16. In the view of one delegation the solution to the Palestinian problem was to be found in the promotion of the brotherhood of mankind, and it credited Israel with being one of the few nations that had developed institutions or could exhibit to the public a highly developed record of human practices.

17. One delegation proposed that the Commission should be authorized to act if serious violations of human rights occurred between sessions of the Commission, while another delegation asked whether the Commission could, within the confines of its mandate, effectively resolve the Palestinian problem, since the Commission generally acted on the consequences, rather than on basic causes of problems.

18. Several speakers drew a parallel between zionism and apartheid and said that those selective and racist régimes should be outlawed by the international community.

19. One delegation stated that there was a basic difference between Judaism and zionism, for the first was a religion while the second was a political movement.

20. One non-governmental organization stated that it had sent a delegation to investigate allegations concerning the treatment of detainees in Israeli prisons; according to the report of that delegation, medical conditions were satisfactory and no evidence was found to support allegations of ill-treatment in prisons.

21. A representative suggested, in order to eliminate any confusion caused by the statement made by the observer for the above-mentioned non-governmental organization and the findings of the Special Committee, that the Director of the Division of Human Rights should invite the non-governmental organization in question to testify before the Special Committee and to hear the testimonies of witnesses of Israeli prison practices.

22. One observer maintained that the status of the occupied territories was of a sui generis nature and that the fourth Geneva Convention was not applicable to the areas, although Israel applied, he said, the humanitarian provisions of the Convention on a de facto basis. He stated that the Israeli administration of the territories was conducted within the limits imposed on the authority of a military occupant by international law. He added that leading legal commentators recognized the occupant's right to establish rigid control over the entire economy and foreign trade, to forbid all political activity and to impose censorship. In his view, the occupant was allowed to impose an emergency régime if necessary and to allow the population to enjoy only in activities indispensable for its existence. He questioned the Special Committee's view that the promulgation of military orders was illegal because it changed substantially the legal system. Instead he maintained that the promulgation of military orders and the establishment of settlements were justified for security reasons. He stated that the Israeli administration was beneficial to the general well-being of the population of the occupied territories.

23. The representative of PLO made a statement at the 1586th meeting. He stated that Israeli policy in the occupied territories was based on the conviction that Israel had a historic right to the land of Palestine as proved by its behaviour in the occupied territories. The resistance of the civilian population to the occupation proved the real nature of Israeli policy, aimed at ensuring that the territories were devoid of Palestinians. That was proven by the emigration of young people from the occupied territories in search of work and the "YARIV plan" to expel 700,000 to 800,000 Palestinians to achieve "demographic balance". The existence of Universities should not be taken as proof of well-being in the occupied territories; one should rather see how often those establishments were closed down by the military authorities by way of reprisals. Israel arrogated to itself property which was of "MIRI" origin on the erroneous pretext that such land was public. The Government of Israel was taking over such land to turn it over to Israeli settlement groups. His Organization wanted to establish a democratic State open for citizenship to all Palestinians, including Jewish settlers in Palestine; it wanted to dismantle institutions which left no room for Palestinians in their homelands or which were established for the sole purpose of judaizing the population and the land. The Government of Israel could not justify its policies on the ground of security considerations when it itself was the aggressor and was using such considerations to achieve political and economic control of the territories.

24. At the 1592nd meeting, the representative of India introduced draft resolutions (E/CN.4/L.1549, draft resolutions A and B) co-sponsored by Algeria, Cuba, Cyprus, Iraq, Jordan, Kuwait, \*/ Libyan Arab Jamahiriya, \*/ Madagascar, \*/ Morocco, Pakistan, Qatar, \*/ the Syrian Arab Republic, Viet Nam, \*/ Yemen and Yugoslavia. Argentina, Bulgaria, Democratic Yemen, \*/ Iran, \*/ Mongolia, Nigeria, Senegal and Tunisia \*/ joined the sponsors of the draft resolutions.

25. The Mexican delegation orally proposed two amendments to the draft resolutions. The amendments, which were accepted, were: (a) that the words "which, inter alia ... development and equality" should be deleted from the eighth preambular paragraph of draft resolution A; and (b) that in the fourth preambular paragraph of draft resolution B, the words "poses a grave threat to world peace and security" should be replaced by the words "creates a situation fraught with danger".

26. Draft resolutions A and B contained in document E/CN.4/L.1549 were put to the vote at the 1595th meeting, on 11 February 1981.

27. At the request of the representative of the Syrian Arab Republic all votes were taken by roll-call. At the request of the representative of Denmark a separate vote by roll-call was taken on the eighth preambular paragraph, as amended, of draft resolution A. The paragraph, as amended, was adopted by 28 votes to 10, with 4 abstentions. The voting was as follows:

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

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

Abstaining: Costa Rica, Fiji, Peru, Uruguay.

28. Draft resolution A, as amended, was adopted by a roll-call vote of 31 votes to 3, with 8 abstentions. The voting was as follows:

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

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

Against: Australia, Canada, United States of America.

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

29. Draft resolution B, as orally amended, was adopted by a roll-call vote of 41 votes to 1. The voting was as follows:

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

Against: United States of America.

30. At the 1595th meeting, statements in explanation of vote before the vote were made by the representatives of Canada, the Federal Republic of Germany, the United States of America, Zaire and Zambia.

31. At the 1596th meeting, explanations of vote after the vote were made by the representatives of Australia, Brazil, Fiji, France, Greece, the Netherlands, Panama, Peru, the Soviet Union and the United Kingdom. A statement was made by the representative of the Palestine Liberation Organization.

32. For the text of the resolutions, see chapter XXVIII, section A, resolutions 1 A and B.

### III. QUESTION OF HUMAN RIGHTS IN CHILE

33. The Commission considered agenda item 5 at its 1615th and 1616th meetings held on 25 February 1981 and its 1617th meeting held on 26 February 1981.

34. By its resolution 21 (XXXVI) of 29 February 1980, the Commission had decided to consider at its thirty-seventh session as a matter of high priority the question of human rights in Chile. The Commission had extended the mandate of the Special Rapporteur on the situation of human rights in Chile, Mr. Abdoulaye Diéye, for another year and requested him to report on further developments in the situation of human rights in Chile to the General Assembly at its thirty-fifth session and to the Commission on Human Rights at its thirty-seventh session. By the same resolution, the Commission requested the Special Rapporteur to deal in his report with the problem of disappeared persons in Chile.

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

36. At its thirty-fifth session the General Assembly had before it the report of the Special Rapporteur (A/35/522) and a letter dated 10 November 1980 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/35/10) setting out the position of the Government of Chile with regard to the report of the Special Rapporteur.

37. By its resolution 35/188 of 15 December 1980, the General Assembly requested the Commission on Human Rights to study thoroughly the report of the Special Rapporteur at its thirty-seventh session, invited the Commission to extend the mandate of the Special Rapporteur for another year and requested the Commission to report on the human rights situation in Chile, through the Economic and Social Council, to the General Assembly at its thirty-sixth session.

38. By its resolution 35/190 of 15 December 1980, the General Assembly requested the Commission to study, at its thirty-seventh session, the possibility of extending the mandate of the United Nations Trust Fund for Chile to receive voluntary contributions and further study criteria for their distribution, through established channels of assistance. The General Assembly also requested the Commission to report on its studies to the Economic and Social Council at its first regular session in 1981, and requested the Council to submit to the General Assembly at its thirty-sixth session recommendations concerning the extension of the mandate of the United Nations Trust Fund for Chile to become a United Nations Trust Fund for Victims of Gross Violations of Human Rights.

39. The Commission had before it the following documents:

The report of the Special Rapporteur to the General Assembly at its thirty-fifth session (A/35/522);

The additional report of the Special Rapporteur which brings up to date the report to the General Assembly (E/CN.4/1428);

The report of the Chairman of the Board of Trustees of the United Nations Trust Fund for Chile in accordance with the Commission's request in its resolution 11 (XXXV) (E/CN.4/1449);

A letter dated 10 November 1980 from the Permanent Representative of Chile to the United Nations addressed to the Secretary-General (A/C.3/35/10);

The note verbale dated 13 February 1981 from the Permanent Mission of Chile to the United Nations Office at Geneva addressed to the Secretary-General (E/CN.4/1465);

A written statement submitted by the International Commission of Jurists, a non-governmental organization with consultative status (category II) (E/CN.4/NGO/293);

A written statement submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category I) (E/CN.4/NGO/294);

A written statement by the Women's International Democratic Federation, a non-governmental organization in consultative status (category I) (E/CN.4/NGO/298);

A written statement by the World Peace Council, a non-governmental organization on the Roster (E/CN.4/NGO/304);

A written statement by the International Indian Treaty Council, non-governmental organization in consultative status (category II) (E/CN.4/NGO/311);

A written statement by the International Youth and Student Movement for the United Nations, a non-governmental organization in consultative status (category I) and the International Union of Students, a non-governmental organization on the Roster (E/CN.4/NGO/315).

40. The Commission heard statements by the observers for the German Democratic Republic and Hungary at the 1615th meeting.

41. The representatives of the following non-governmental organizations in consultative status made statements at the 1615th meeting: the International Indian Treaty Council (category II); the Women's International League for Peace and Freedom (category II); and the International Confederation of Free Trade Unions (category I).

42. At the 1615th meeting the Director of the Division on Human Rights introduced the item. He drew the attention of the Commission to the General Assembly resolution 35/188 concerning the situation of human rights in Chile, and referred to the report of the Special Rapporteur and to a note verbale from the Permanent Mission of Chile to the United Nations Office at Geneva (E/CN.4/1465). He also drew the attention of the Commission to the General Assembly resolution 35/190, concerning the United Nations Trust Fund for Chile and the possibility of extending the Fund's mandate.

43. At the same meeting, the Special Rapporteur, Mr. Abdoulaye Diéye, introduced his report contained in document E/CN.4/1428 and said that it should be read in conjunction with the report he had submitted to the General Assembly (A/35/522).

44. The Special Rapporteur regretted that the Chilean authorities had not co-operated in his work but had merely submitted the groundless complaint that the ad hoc procedure was discriminatory because Chile was not the only country with human rights problems. He explained that the method of public inquiry objective,

detached from any political consideration was completely different from the method related to situations dealt with pursuant to Economic and Social Council resolution 1503 (XLVIII), of 27 May 1970, and suggested that this procedure could form a precedent for similar activities of the Commission.

45. The Special Rapporteur reminded the Commission of the improvements requested of the Chilean Government in its resolution 21 (XXXVI) and deplored that the situation in Chile differed little from that reported to the Commission at its thirty-sixth session. He indicated that the new Chilean Constitution, concerning which a plebiscite had been held in September 1980, contained provisions that clearly failed to conform to the International Covenant on Civil and Political Rights. The entire procedure for the adoption of the new Constitution had fallen short of standards acceptable to the international community and it was highly doubtful whether the results truly reflected the Chilean people's will.

46. The Special Rapporteur also noted that if cases of torture had quantitatively decreased, the methods had remained the same and had sometimes become more refined. Persecution, ill-treatment and abuses carried out by officials had increased and further complaints concerning the violation of the right to life had been registered since he had submitted his report to the General Assembly. Investigations into the fate of disappeared persons had been blocked by the administrative and military authorities who refused to provide information. The Chilean Government had also failed to honour its commitment to the Ad Hoc Working Group to allow the many persons who had left Chile to return. Furthermore, the Chilean authorities had been equally reluctant to honour their undertaking concerning political detainees, who had recently been scattered in prisons all over the country and housed together with common criminals. The Special Rapporteur asked the Commission to do its utmost to change the Chilean Government's attitude and ensure its co-operation in fulfilling its commitments.

47. Most of the speakers during the discussion congratulated the Special Rapporteur on the manner in which he had discharged his difficult task and praised his report for its impartiality and objectivity. Some of them considered that the procedure followed constituted an excellent precedent for similar activities in the future.

48. Many speakers referred to the refusal of the Chilean Government to co-operate with the Special Rapporteur and to the contempt that it continued to demonstrate for the decisions of United Nations bodies. The view was expressed that the mandate of the Special Rapporteur should be extended.

49. Other speakers proposed that the Commission should adopt a new approach which would prepare the way for the Commission to consider, at its thirty-eighth session, the question of the termination of the mandate of the Special Rapporteur. The special procedure was, in their view, no longer justified and the Commission's approach was unilateral and selective. One representative expressed the opinion that the mandate of the Special Rapporteur ought not to be extended because it was not equitable to apply a special procedure to a situation which was not exceptional, particularly in view of the human rights situation in other countries.

50. Many speakers said that the Chilean Government showed no signs of willingness to change the state of affairs prevailing in the country and remained unresponsive to the appeals of the international community. They added that the international community must not let itself become accustomed to the situation of human rights prevailing in Chile and drew the attention of the Commission to the new Constitution, recently adopted by plebiscite, which lacked credibility, inasmuch as

it had been held while a national state of emergency was in force and the most essential democratic rights of the people were subjected to restriction. The new Constitution had set up, as basic rules, provisions that were contrary to the principles, rights and guarantees enunciated in the international instruments on human rights.

51. Most of the members of the Commission voiced their concern about the continuous violation of human rights in Chile and mentioned in particular such acts of repression as arbitrary arrests, torture, long periods of detention in secret places and in the hands of the security agencies, as well as denial of the rights of assembly and association and other political rights. Some representatives expressed concern at the situation of a group of persons who might be subject to the death penalty.

52. Some representatives drew attention to the persecution of the Church and its members and trade unions and their leaders, to the dismissal of academicians from their posts at the universities and to the refusal of the Government to allow many Chileans to return to their own country.

53. Many speakers expressed concern at the fate of hundreds of persons who had disappeared after being arrested between 1973 and 1977, and whose whereabouts remained unknown, while the Chilean authorities stubbornly refused to provide any information on the disappearances.

54. Some of the speakers referred to the situation of the country's ethnic minorities and indigenous groups, whose identity and integrity were threatened by poverty, illness and high mortality and by the Government's new land policy.

55. One of the speakers praised the role played by the United Nations Trust Fund for Chile in assisting Chileans residing abroad and in Chile, and deplored the fact that the Fund's financial resources had been limited.

56. At the 1615th meeting, the representative of Mexico introduced a draft resolution (E/CN.4/L.1566) co-sponsored by Algeria, Cuba and Yugoslavia.

57. At the 1617th meeting, the representative of the Federal Republic of Germany introduced the amendments to draft resolution E/CN.4/L.1566 contained in document E/CN.4/L.1571. He withdrew the proposal, contained in paragraph 3 of document E/CN.4/L.1571, to delete the eighth preambular paragraph of the draft resolution. The amendments were not accepted by the sponsors of the draft resolution.

58. At the same meeting, a statement (E/CN.4/L.1570) of the administrative and financial implications of draft resolution E/CN.4/L.1566 was brought to the attention of the Commission.

59. Draft resolution E/CN.4/L.1566 and the amendments proposed in document E/CN.4/L.1571 were put to the vote at the same meeting.

60. At the request of the representative of the United Kingdom, separate votes were taken on each of the amendments proposed in document E/CN.4/L.1571.

61. At the request of the representative of Mexico, the votes on the amendments and on the draft resolution were taken by roll-call.

62. The Commission took the following decisions on the amendments proposed in document E/CN.4/L.1571:

(a) It rejected the amendments to the fourth preambular paragraph by 17 votes to 13, with 12 abstentions. The voting was as follows:

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

Against: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, Iraq, Mexico, Mongolia, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Abstaining: Argentina, Brazil, Burundi, Costa Rica, India, Jordan, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines.

(b) It rejected the amendment to the fifth preambular paragraph of draft resolution E/CN.4/L.1566 by 16 votes to 15, with 12 abstentions. The voting was as follows:

In favour: Australia, Canada, Costa Rica, Denmark, Fiji, France, Germany, Federal Republic of, Greece, Netherlands, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Zambia.

Against: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, Iraq, Mexico, Mongolia, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia.

Abstaining: Argentina, Brazil, Burundi, Cyprus, India, Jordan, Morocco, Nigeria, Pakistan, Peru, Philippines, Zaire.

(c) It rejected the amendment to paragraph 2 of draft resolution E/CN.4/L.1566 by 18 votes to 13, with 12 abstentions. The voting was as follows:

In favour: Australia, Canada, Cyprus, Denmark, Fiji, France, Germany, Federal Republic of, Greece, Netherlands, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Against: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, Iraq, Jordan, Mexico, Mongolia, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Abstaining: Argentina, Brazil, Burundi, Costa Rica, India, Morocco, Nigeria, Pakistan, Peru, Philippines, United States of America, Zaire.

(d) It rejected the amendment to paragraph 3 of draft resolution E/CN.4/L.1566 by 18 votes to 15, with 10 abstentions. The voting was as follows:

In favour: Australia, Canada, Costa Rica, Cyprus, Denmark, Fiji, France, Germany, Federal Republic of, Greece, Morocco, Netherlands, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Against: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, Iraq, Jordan, Mexico, Mongolia, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Abstaining: Argentina, Brazil, Burundi, India, Nigeria, Pakistan, Peru, Philippines, United States of America, Zaire.

(e) It rejected the amendment to paragraph 11 of draft resolution E/CN.4/L.1566 by 19 votes to 12, with 12 abstentions. The voting was as follows:

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

Against: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Fiji, Ghana, India, Iraq, Mexico, Mongolia, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Abstaining: Argentina, Brazil, Burundi, Costa Rica, Jordan, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Zaire.

63. The Commission then voted on draft resolution E/CN.4/L.1566. At the request of the representative of Uruguay, a separate vote was taken on paragraph 9. The paragraph was adopted by 30 votes to 3, with 10 abstentions. The voting was as follows:

In favour: Algeria, Australia, Benin, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cuba, Cyprus, Denmark, Ethiopia, Fiji, Ghana, Greece, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Netherlands, Poland, Portugal, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Zambia.

Against: Brazil, United States of America, Uruguay.

Abstaining: Argentina, Costa Rica, France, Germany, Federal Republic of, Nigeria, Pakistan, Panama, Peru, Philippines, Zaire.

64. The Commission then voted on draft resolution E/CN.4/L.1566 as a whole. The draft resolution was adopted by 22 votes to 4, with 17 abstentions. The voting was as follows:

In favour: Algeria, Benin, Bulgaria, Byelorussian Soviet Socialist Republic, Cuba, Denmark, Ethiopia, Ghana, Greece, India, Iraq, Mexico, Mongolia, Netherlands, Poland, Portugal, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

Against: Argentina, Brazil, United States of America, Uruguay.

Abstaining: Australia, Burundi, Canada, Costa Rica, Cyprus, Fiji, France, Germany, Federal Republic of, Jordan, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, United Kingdom of Great Britain and Northern Ireland, Zaire.

65. For the text of the resolution, see chapter XXVIII, Section A, resolution 9 (XXXVII).

66. At the 1617th meeting, a statement in explanation of vote before the vote was made by the representative of the United Kingdom. At the same meeting, statements in explanation of vote after the vote were made by the representatives of Australia, Canada, Costa Rica, Fiji, France, Greece, the Netherlands, Panama, Portugal and Zambia.

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

67. The Commission considered agenda item 6 together with items 7, 17 and 21 (see chaps. V, XV and XVIII) at its 1596th to 1602nd meetings, held between 11 and 16 February 1981 and at its 1611th meeting, held on 23 February 1981.
68. The Commission heard statements by the observers for the following countries: China (1599th meeting), German Democratic Republic and Madagascar (1600th meeting), and Czechoslovakia, Egypt, Hungary, Israel, Somalia, Viet Nam and Yemen (1602nd meeting). It also heard statements by the representative of UNESCO (1599th meeting) and by the representative of OAU (1597th meeting), the representative of the League of Arab States (1600th meeting), and the representatives of the South-West Africa People's Organization (SWAPO) and the African National Congress (ANC) (1598th meeting).
69. At its 1583rd meeting, the Commission heard a statement by Mr. Akporode B. Clark, Chairman of the Special Committee against Apartheid.
70. The Commission also heard statements by the representatives of the following three non-governmental organizations in consultative status: Women's International Democratic Federation (1597th meeting) and International Confederation of Free Trade Unions (category I), and Baha'i International Community (category II) (1599th meeting).
71. By its resolution 12 (XXXV) of 6 March 1979, the Commission had decided that the Ad Hoc Working Group of Experts on Violations of Human Rights in southern Africa should continue to study the policies and practices which violate human rights in South Africa, Namibia and Zimbabwe, and that it should carry out a comprehensive study on the action taken to implement the recommendations made by the Ad Hoc Working Group of Experts since its establishment, with a view to improved assessment of the further efforts needed in the struggle against the system of apartheid and against colonialism and racial discrimination in southern Africa. The Economic and Social Council, by its resolution 1979/39 of 10 May 1979, had requested the Ad Hoc Working Group of Experts to continue to study allegations regarding infringements of trade union rights in South Africa, and to report thereon to the Commission and to the Economic and Social Council at such times as it might consider appropriate. Accordingly, the Commission had before it the report of the Ad Hoc Working Group of Experts (E/CN.4/1429) and a study (E/CN.4/1430) of action taken to implement the Working Group's recommendations.
72. Subsequently, by its resolution 9 (XXXVI) of 26 February 1980, the Commission requested the Ad Hoc Working Group of Experts to continue to study the policies and practices which violated human rights in South Africa, in Namibia and, as appropriate, in Zimbabwe, and immediately to bring to the attention of the Chairman of the Commission on Human Rights particularly serious violations of human rights of which it learned during that study, so that he might take whatever action he deemed appropriate. In that connection, the Commission's attention was drawn to document E/CN.4/1410, containing the text of a cable dated 25 August 1980 addressed by the Chairman of the Commission to the Minister of Foreign Affairs of the Republic of South Africa concerning urgent communications transmitted by the Ad Hoc Working Group of Experts, on serious

violations of human rights in South Africa and Namibia. The Commission also had before it document E/CN.4/1411, containing the reply on that subject transmitted on 30 August 1980 by the Minister of Foreign Affairs and Information of the Republic of South Africa.

73. Furthermore, by its resolution 12 (XXXVI) of 26 February 1980, the Commission requested the Ad Hoc Working Group of Experts, in co-operation with the Special Committee against Apartheid and in accordance with paragraph 20 of the annex to resolution 34/24 adopted by the General Assembly on 15 November 1979, to undertake a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention. In that connection, the Commission had before it the report contained in document E/CN.4/1426.

74. At the Commission's 1596th meeting, Mr. Branimir Janković, Vice-Chairman of the Ad Hoc Working Group of Experts, introduced on behalf of Mr. Kéba M'Baye, Chairman of the Group, the three reports contained in documents E/CN.4/1426, E/CN.4/1429 and E/CN.4/1430. He began his statement by informing the Commission of the seriousness of the situation prevailing in South Africa and Namibia. In its latest two years of inquiry, the Group had once again been unable to discover in southern Africa any signs that pointed to a favourable development of the situation or that could be interpreted as a relaxation of the policy of apartheid in South Africa and Namibia. On the contrary, a series of related facts had led the Group to conclude that the Pretoria authorities were determined to perpetuate their criminal policy of apartheid in those territories. He drew the Commission's attention in particular to the number of deaths of detainees and to the ill-treatment of women and children. He appealed to the international community to take the steps necessary to combat apartheid effectively and to suppress it by establishing an international penal tribunal, as provided for in the International Convention on the Suppression and Punishment of the Crime of Apartheid.

75. In his statement to the Commission, Mr. Clark, Chairman of the Special Committee against Apartheid, congratulated the Ad Hoc Working Group of Experts on its detailed reports, and welcomed the active co-operation established between the Special Committee against Apartheid and the Ad Hoc Working Group of Experts. After stressing the need to isolate South Africa and to prevent it from organizing itself with a view to further consolidating its régime of apartheid, he informed the Commission of the support given by a meeting of western European parliamentarians to General Assembly resolution 35/206 of 16 December 1980, calling for an embargo on the supply of oil to South Africa. With regard to the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, he expressed the hope that more countries would accede to the Convention and ensure strict compliance with it.

76. Most speakers commended the reports submitted by the Group, which in their view was continuing to make a valuable contribution to United Nations efforts to combat the constant violations of human rights in South Africa and Namibia. They described the content of the reports as providing still further examples of the repressive and inhuman methods used by the Pretoria régime against the black population of South Africa and Namibia. A large number of delegations unreservedly supported the recommendations made by the Ad Hoc Working Group of Experts in the reports submitted to the Commission.

77. The representative of UNESCO also drew the Commission's attention to a number of studies prepared by UNESCO on the racist practices of the South African Government in the fields of education, science and culture - studies which dealt with the underlying factors and causes of the fallacious and pernicious ideology of apartheid.

78. Many speakers called for the strengthening of the struggle against apartheid and for the imposition of restraints on the South African régime in order to loosen the stranglehold of oppression and punishment. They asked that the aid given to African national liberation movements operating in southern Africa should be increased for the purpose of fighting apartheid.

79. Several representatives appealed for universal accession to the International Convention on the Suppression and Punishment of the Crime of Apartheid. Expressing their concern that only 59 States were Parties to that Convention, which represented a specific means of combating apartheid, they called on the Commission to urge all States which had not yet done so to accede to that important international instrument. They also expressed their regret that no Western country had signed or ratified that instrument.

80. Several representatives vigorously condemned economic, political, military and other forms of collaboration with the South African régime. They stated that, if certain Western countries were to discontinue their commercial activities in South Africa, that country would not be able to turn a deaf ear to the repeated appeals from the international community. They declared their support for economic sanctions to put an end to the policy of apartheid and occupation. In order to abolish apartheid, they advocated action on the spot and the application of sanctions, including an oil embargo, under Chapter VII of the Charter of the United Nations. There was widespread approval of the General Assembly's decision to organize, in co-operation with OAU, an International Conference on Sanctions Against South Africa. Other delegations, however, took the view that more could be achieved by dialogue and negotiation than by threats and punitive action. Two delegations referred to the EEC code of conduct as a significant example of the policy of believing that economic ties were not incompatible with incitement to change by peaceful means.

81. Several delegations expressed their concern at South Africa's technological capacity to produce nuclear weapons. Concern was also expressed regarding the co-operation in that respect between South Africa, certain Western countries and Israel.

82. Several representatives favoured the elaboration of legal rules and the establishment of a procedure for the creation of an international penal tribunal to try crimes of apartheid. There was widespread support for the recommendation by the Ad Hoc Working Group of Experts for inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of serious violations of human rights. Other members expressed their reservations with regard to the creation of an international penal tribunal to try crimes of apartheid.

83. Several speakers expressed their indignation at the situation of women and more particularly of children in South Africa, and their firm support for General Assembly resolution 35/206 N, of 16 December 1980, in which the Commission was requested to investigate crimes against women and children in South Africa.

84. Several delegations drew the Commission's attention to the acts of aggression committed by South African security forces against Angola, Zambia and Mozambique. They requested that those violations of the territorial integrity of the States neighbouring South Africa should be vigorously condemned.

85. With regard to the situation in Namibia, most speakers denounced the escalation of repressive measures against members and supporters of SWAPO. They also condemned the blocking by South Africa - for example, in the case of the Meeting on Namibia held at Geneva from 7 to 14 January 1981 - of all United Nations attempts to accelerate Namibia's accession to independence by negotiation and popular consultation. South Africa's hardening of its position was described as constituting a serious threat to regional stability and world peace.

86. Both the observer for SWAPO and the observer for ANC denounced the collaboration between certain Western countries and South Africa. They said that it was precisely the complicity of certain Western Powers, which had played a decisive role in the industrialization of South Africa, that was facilitating oppression in southern Africa. Accordingly, they called on the international community, in accordance with Chapter VII of the Charter of the United Nations to impose mandatory sanctions, including an oil embargo, against the Pretoria régime.

87. At the 1611th meeting, held on 23 February 1981, the representative of Morocco introduced a draft resolution (E/CN.4/L.1553) co-sponsored by Algeria, Burundi, Egypt, \*/ Ethiopia, Ghana, India, Iraq, the Libyan Arab Jamahiriya, \*/ Nigeria, Pakistan, the Philippines, Senegal, the Syrian Arab Republic, Uganda, Yugoslavia, Zaire and Zambia. At the same meeting, he introduced oral revisions to the second and fourth preambular paragraphs and to operative paragraphs 4 and 6 of the draft resolution. At the same meeting also, the representative of Brazil introduced oral amendments to operative paragraphs 10 and 26. All the amendments were accepted by the sponsors.

88. The Commission's attention was drawn to a statement of the administrative and financial implications of draft resolution E/CN.4/L.1553. 1/

89. At the 1611th meeting, held on 23 February 1981, draft resolution E/CN.4/L.1553, as orally revised and amended, was adopted by 33 votes to 3, with 5 abstentions.

90. At the same meeting the representative of Nigeria introduced a draft resolution (E/CN.4/L.1555), co-sponsored by Algeria, Burundi, Cuba, Cyprus, Egypt, \*/ Ethiopia, Ghana, India, Iraq, the Libyan Arab Jamahiriya, \*/ Madagascar, \*/ Morocco, Pakistan, Senegal, Somalia, \*/ the Syrian Arab Republic, Uganda, Yugoslavia and Zambia. He also introduced a new preambular paragraph and proposed that operative paragraph 9 be deleted.

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

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

91. At the same meeting, the representative of the United States of America requested a roll-call vote on draft resolution E/CN.4/L.1555. The draft resolution, as orally amended, was adopted by 35 votes to none, with 6 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, Ghana, Greece, India, Iraq, Jordan, Morocco, Mongolia, Netherlands, Nigeria, Pakistan, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zaire, Zambia.

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

92. At the 1611th and 1612th meetings, the representatives of Australia, Brazil, Canada, Denmark, France, Greece, Mexico, Netherlands, the Philippines, Portugal, Uganda, the Union of Soviet Socialist Republics, the United Kingdom, and the United States of America made statements in explanation of vote on the resolutions adopted on item 6.

93. For the text of the resolutions, see chapter XXVIII, Section A, resolutions 4 (XXXVII) and 5 (XXXVII).

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

94. The Commission considered agenda item 7 together with items 6, 17 and 21 (see chaps. IV, XV and XVIII), at its 1596th to 1600th meetings, held from 11 to 13 February, at its 1601st and 1602nd meetings on 16 February, and at its 1611th meeting on 23 February 1981.

95. The Commission had before it the report of the Special Rapporteur, Mr. Ahmed M. Khalifa (E/CN.4/Sub.2/425 and Corr.1-3 and Add.1-7). The report, which had been submitted to the Commission at its thirty-sixth session, contained a general provisional list of banks, transnational corporations and other organizations giving assistance to the racist and colonial régimes of southern Africa.

96. In connection with the items under consideration, the Commission heard statements by the observers for China (1599th meeting), the German Democratic Republic and Madagascar (1600th meeting), Czechoslovakia, Hungary, Somalia, Viet Nam, Egypt, Yemen Arab Republic and Israel (1602nd meeting), the representatives of the Organization of African Unity (1597th meeting), the South West Africa People's Organization (SWAPO) and the African National Congress (1598th meeting), the United Nations Educational, Scientific and Cultural Organization (1599th meeting), and the League of Arab States (1600th meeting).

97. Statements were also made by the representatives of the Women's International Democratic Federation (1597th meeting), and the International Confederation of Free Trade Unions (1599th meeting), non-governmental organizations in category I consultative status, and by the Baha'i International Community (1599th meeting), a non-governmental organization in category II consultative status.

98. Many representatives again expressed the grave concern of their Governments at the continuing assistance given to the racist régime in South Africa. Because of the economic, military and political support given to it by certain Western countries, transnational corporations and Israel, the South African régime, they stressed, was able to continue its heinous policy of apartheid and to defy world public opinion and all the efforts of the United Nations to eliminate the system of apartheid. Such assistance had enabled the growth of South African military strength and a build-up in nuclear capability which, they emphasized, represented a threat to international peace and security. Some speakers felt that this assistance also enabled South Africa to carry out acts of aggression against its neighbouring States. Many speakers felt strongly that the Commission should call for comprehensive mandatory economic sanctions against South Africa, as provided for in Chapter VII of the Charter of the United Nations and for the effective implementation of Security Council resolution 418 (1977) which called for an arms embargo on the South African régime. Some speakers welcomed the international conference on sanctions against South Africa to be held in Paris in May 1981.

99. In the view of some speakers, however, not all contacts with South Africa were necessarily negative. Those speakers also observed that sanctions against the South African régime could be detrimental to the black people of South Africa and Namibia and would not guarantee a change in the racist policy of the Government of the country. They further stated that the report of the Special Rapporteur was

incomplete since it did not refer to a number of countries which surreptitiously maintain economic relations with the South African régime and whose trade statistics were set out in reputable publications freely available to the Special Rapporteur.

100. At the 1611th meeting, on 23 February 1981, the representative of Ethiopia introduced draft resolution E/CN.4/L.1558, co-sponsored by Algeria, Burundi, Cuba, Ghana, India, Libyan Arab Jamahiriya, \*/ Morocco, Nigeria, Senegal, Somalia, \*/ Syrian Arab Republic, Uganda, Yemen, \*/ and Yugoslavia. She also introduced minor revisions to the title of the draft resolution, to the sixth, seventh and ninth preambular paragraphs and to operative paragraphs 1 and 7.

101. A statement of the administrative and financial implications of the draft resolution was brought to the attention of the Commission. 1/

102. At the 1611th meeting, the draft resolution, as revised, was adopted by 30 votes to 4, with 6 abstentions.

103. Statements in explanation of vote, after the vote, were made by the representatives of Australia, Canada, the Netherlands, and the United Kingdom at the 1611th meeting, and by the representatives of Denmark, the Federal Republic of Germany, Portugal and the United States at the 1612th meeting. The representative of Mexico said that had he been present at the time of the vote he would have voted in favour of the draft resolution.

104. For the text of the resolution, see chapter XXVIII, Section A, resolution 8 (XXXVII).

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

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

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

- A. PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT;
- B. THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

105. The Commission considered agenda item 8, together with item 22, (see chap. XIX), at its 1612th to 1614th meetings and 1635th meeting on 23 and 24 February 1981 and on 10 March 1981 respectively.

106. The Commission had before it the following documents: a study (E/CN.4/1421) on the regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of this right, prepared by the Secretary-General, in pursuance of Commission on Human Rights resolutions 4 (XXXV) of 2 May 1979 and 7 (XXXVI), of 21 February 1980, and Economic and Social Council decision 1979/29 of 10 May 1979; a summary of replies of United Nations economic organs (E/CN.4/1425) prepared by the Secretary-General pursuant to paragraph 8 of resolution 4 (XXXV); the report of the Seminar on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms (ST/HR/SER.A/8) particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights; the report of the Secretary-General (E/CN.4/1458) prepared in accordance with paragraph 6 of General Assembly resolution 35/174 which requested the Secretary-General to give priority, through the programme of advisory services in the field of human rights, to the holding in 1981 of a seminar on relations that exist between human rights, peace and development; a written statement submitted by the Women's International Democratic Federation, a non-governmental organization in consultative status (category I) (E/CN.4/NGO/296); a written statement submitted by the Christian Democratic World Union, a non-governmental organization in consultative status (category II) (E/CN.4/NGO/303); a note verbale dated 23 February 1981 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the Division of Human Rights (E/CN.4/1459).

107. The observer for UNESCO made a statement at the 1613th meeting; the Commission also heard a statement by the observer for the World Confederation of Labour, a non-governmental organization in consultative status (category I).

108. In introducing the item, the Deputy Director of the Division of Human Rights noted that the implementation of economic, social and cultural rights posed serious challenges to the Commission and to the human rights programme. Referring to General Assembly resolutions 32/130 of 16 December 1977, 34/46 of 23 November 1979 and 35/174 of 15 December 1980, he stated that the Commission had made an impressive contribution to attempts to deal with the question by drawing attention to the close relationship between human rights and development and by injecting a human rights

component into the discussions on development in other organs of the United Nations system. He observed that the time was ripe for the elaboration of a methodology for the implementation of economic, social and cultural rights at the practical level. He emphasized that the Commission needed to complement its consideration of broader structural questions by paying due attention to concrete issues pertaining to the implementation of these rights, which could provide guidance to Governments as well as to national and international organs. He suggested some policy options to the Commission, including: the promotion of exchange of experiences among countries on the implementation of particular economic, social and cultural rights; the consideration of ways and means of integrating human rights in the development process; further focus on special problems encountered by members of vulnerable groups such as indigenous peoples in the realization of their economic, social and cultural rights; further consideration of the impact of policies pursued by international financial agencies and the possibility to elaborate guidelines for the establishment of national administrations for the implementation of economic, social and cultural rights.

109. Several speakers expressed their appreciation for the first part of the study on the regional and national dimensions of the right to development as a human right contained in document E/CN.4/1421. It was said that it constituted a significant contribution to the efforts of the world community to come to grips with the question. Taking into account the difficulty that the Secretariat experienced in recruiting staff and experts, some representatives expressed the wish that the study should be completed in the near future and that the Secretary-General should stress the ways in which the right to development might be given greater significance. It was suggested in that connection that priority should be given in the study to the various elements enumerated in Commission resolution 7 (XXXVI).

110. A number of representatives were of the view that the material furnished to the Commission comprehensively covered various aspects of the right to development. It was asserted that there could be no true development without respect for human rights, and that the obligation now fell on States to take concrete measures to implement the right to development. Other representatives considered that it was necessary to study further the meaning of the right to development as there was no clearly agreed understanding to the scope and contents of the concept.

111. Some representatives felt that the establishment of a working group comprising both economists and human rights experts would facilitate the work of the Commission. The tasks of that group would be inter alia to investigate ways and means to integrate human rights into the development process and to implement the realization of economic, social and cultural rights.

112. Many representatives said that the necessary conditions for the drafting of a United Nations declaration on the right to development as a human right already existed. The right to development should be clearly defined and its position in the range of values guiding the United Nations should be established. It was felt that there was a need to determine the universal, regional, national and individual dimensions of the right to development, the creditors and beneficiaries of the right and the ways and means for implementing it.

113. In that connection, the opinion was expressed that, while such a declaration would be useful, developing countries were much more in need of concrete action aimed at realization of the right to development. Concrete action meant a positive response by the industrialized world to attempts to achieve early implementation of the objectives established for the new international economic order and the third International Development Strategy.

114. Many representatives endorsed the view that the full realization of the right to development depended upon such important prerequisites as international peace and security, cessation of the arms race, elimination of colonialism, racism and racial discrimination and the restructuring of international economic relations on the basis of equality and justice. It was observed that disarmament in particular would release many resources for development activities. Mention was made of a proposal that permanent members of the Security Council and other militarily strong States should reduce their military budgets by 10 per cent and that the funds so saved should be given to developing countries. The interrelationship between human rights, peace and development, and the close link which existed between development and disarmament were stressed.

115. Several representatives supported the request in General Assembly resolution 35/174 that priority should be given to the holding in 1981 of a United Nations seminar on the relations existing between human rights, peace and development. In this respect, some representatives showed great interest in the report of the Secretary-General (E/CN.4/1458) which contained the programme of the seminar.

116. Speakers also stressed the close inter-connection between civil and political rights on the one hand and economic, social and cultural rights on the other. Frequent reference was made to the concepts set forth in General Assembly resolution 32/130, particularly that in paragraph 1 (a) which affirmed that "all human rights and fundamental freedoms are indivisible and interdependent". The right to development was a complex concept. Economic, social, civil and cultural values were intertwined in it. It was therefore essential to adopt an integrated approach, with emphasis above all on the human factors involved. Other representatives expressed the view that the unsatisfactory economic development of a number of States was a result of their prolonged colonial dependence. It was also stated that grave and persistent violations of human rights could never be excused on the grounds of either external circumstances or the low level of national development.

117. For most speakers, the right to development embodied all rights including rights essential to human dignity, such as the rights to work, to education, to participation in decision-making and to access to national culture and heritage. The right to development also embodied the right to dispose of national resources, freely to choose one's own path of development, to self-determination, to equitable and just international co-operation in which all countries would strive for the creation of optimal conditions for development. The right to development was said to be an inalienable human right which should contribute to peace and prosperity in the world.

118. Many speakers referred to the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration and Programme of Action on the Establishment of a New International Economic Order, the Charter of the Economic Rights and Duties of States, and to General Assembly resolutions 32/130 and 34/46 as constituting the foundations of the right to development. The importance of the concept of solidarity both for States and individuals was emphasized. It was said in that connection that some developed countries sought to avoid contributing adequately to the international development effort. It was also observed that solidarity was not a one-way concept and that the negotiations for a new international economic order should reflect a global approach in which different constraints would be taken into account.

119. A number of representatives observed that the right to development should be viewed in the context of efforts under way at the national and international levels to create equitable and just political, economic, social and cultural conditions to ensure the promotion and encouragement of human rights. It was said that special attention should be given to the structural causes of violations of human rights, for it was the duty of the Commission to consider ways and means of integrating human rights into the development process. The promotion of one set of human rights or of one type of development was no excuse for ignoring another.

120. Many representatives referred to the seminar on the effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms, particularly the right to enjoy adequate standards of living as proclaimed in article 25 of the Universal Declaration of Human Rights, and supported the conclusions and recommendations contained in the report on the seminar (ST/HR/SER.A/8). The view was expressed that the report represented an important contribution to the formulation of the concept of the right to development and a valuable source of information for future work on the realization of the right to development. Mention was made, in particular, of the seminar's conclusions regarding international trade and related obstacles in the way of the full exercise of human rights and the lack of any mechanism for the promotion of technology transfer and to the recommendation regarding the full participation of developing countries in the decision-making processes of the World Bank and IMF.

121. Most speakers emphasized the importance of establishing a new international economic order to facilitate the realization of all human rights. It was recognized that many developing countries were impeded in their efforts to enjoy their sovereign rights of development by the unjust international economic order. According to some speakers, requirements for the establishment of a new international economic order included equitable international terms of trade, the effective enjoyment of all facets of the right to self-determination, control and regulation of the activities of transnational corporations, recognition of the rights of States fully to participate in the international order, and freer transfer of technology. Other speakers emphasized the importance of energy, food and population issues. The view was expressed that the just and equitable distribution of national wealth and income, the removal of inequality, the elimination of hunger and malnutrition and the provision of adequate housing required the restructuring of societies at both the national and international levels.

122. Some representatives observed that practical measures to ensure the realization in all countries of economic, social and cultural rights could not be devised outside the framework of a new international economic order. The elimination of the widening gap between developed and developing countries was the only way to redress existing inequalities and bring about an environment conducive to the full realization of human rights in all countries. It was stated that concrete action for such purposes would include the removal of protectionist barriers to the exports of developing countries; just and equitable prices for raw materials, commodities and manufactured goods exported by developing countries; preferential treatment for developing countries in all fields of economic co-operation; transfer of financial resources and adequate technology to developing countries; control of the activities of transnational corporations; full and effective participation of developing countries in the decision-making organs of the international monetary system; cessation of the arms race and full respect for the right of people to self-determination. In this connection, reference was made to the dependence of the economies of most developing countries on the efforts to establish a common fund. It was urged that adequate resources should be made available in the fund.

123. Many speakers observed that despite efforts to live up to the General Assembly declaration on the establishment of a new international economic order (General Assembly resolution 3201(S-VI) of 1 May 1974), there had been little change in the present unjust international economic order and inequitable international division of labour. Some representatives expressed their deep concern about the slow progress in the negotiations on the implementation of the Declaration and Programme of Action for the Establishment of a New International Economic Order (General Assembly resolution 3202(S-VI) of 1 May 1974) and the adverse effect of that delay on realization of the right to development.

124. At the 1635th meeting, on 10 March 1981, the representative of Algeria introduced a draft resolution (E/CN.4/L.1586/Rev.1) co-sponsored by Benin, Burundi, Costa Rica, Cuba, Ghana, India, Iraq, Jordan, Nigeria, Panama, Peru, the Philippines, Senegal, Syrian Arab Republic, Uganda and Yugoslavia. He also introduced oral revisions to the text. Zaire and Zambia joined the sponsors.

125. At the 1639th meeting, on 11 March 1981, Argentina and Pakistan joined the sponsors of the draft resolution.

126. A statement (E/CN.4/L.1618) submitted by the Secretary-General on the administrative and financial implications of the draft resolution was circulated during the meeting.

127. At the same meeting, the representative of Cuba requested a roll-call vote on draft resolution E/CN.4/L.1586/Rev.1. The draft resolution as orally revised was adopted by 40 votes to 1, with 2 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, France, Ghana, Greece, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Uruguay, Yugoslavia, Zaire, Zambia.

Against: United States of America.

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

128. For the text of the resolution, see chapter XXVIII, section A, resolution 36 (XXXVII).

129. At the same meeting, statements in explanation of vote were made by the representatives of Australia, Canada, Denmark, Federal Republic of Germany, Greece, Netherlands, United Kingdom, United States of America and Union of Soviet Socialist Republics.

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

130. The Commission considered agenda item 9 jointly with item 4 (see chap. II) at its 1585th to 1590th, 1592nd, 1595th and 1596th meetings, held from 4 to 6 and on 9 and 11 February 1981. Item 9 was further considered at the Commission's 1607th to 1610th meetings, held on 19 and 20 February 1981 and at the 1629th and 1630th meetings held on 6 March 1981.

131. The Assistant Director of the Division of Human Rights introduced the item at the 1585th and 1607th meetings. In his introductory statements he recalled that, pursuant to Commission resolution 3 (XXXI), of 11 February 1975, the item was placed on the Commission's agenda every year with priority. By its resolution 5 (XXXVI) of 15 February 1980, the Commission had decided to maintain the question's priority status at the thirty-seventh session. He also recalled that at its thirty-sixth session the Commission had adopted four resolutions on the item (resolutions 2 (XXXVI), 3 (XXXVI), 4 (XXXVI) and 5 (XXXVI)). The attention of the Commission was also drawn to resolution 26 (XXXIII) of the Sub-Commission and to General Assembly resolutions 35/35 A and B, of 14 November 1980.

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

A note by the Secretary-General on the right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation (E/CN.4/1432);

A letter dated 5 January 1981 from the Deputy Permanent Representative of Democratic Kampuchea addressed to the Director of the Division of Human Rights (E/CN.4/1451);

A letter dated 4 December 1980 from the Deputy Permanent Representative of Democratic Kampuchea addressed to the Director of the Division of Human Rights (E/CN.4/1452);

A letter dated 30 January 1981 from the Chargé d'Affaires ad interim of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Director of the Division of Human Rights (E/CN.4/1454);

A letter of 2 February 1981 from the Chargé d'Affaires ad interim of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Director of the Division of Human Rights (E/CN.4/1455);

A note verbale dated 10 February 1981 addressed to the Division of Human Rights by the Permanent Mission of Algeria to the United Nations Office at Geneva (E/CN.4/1462);

General Assembly resolutions 35/35 A and B of 14 November 1980 entitled "Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights".

133. The Commission heard statements by the observers for Afghanistan (1608th and 1610th meetings), China (1585th, 1588th, 1609th and 1610th meetings), Czechoslovakia (1589th and 1609th meetings), Democratic Kampuchea (1590th, 1608th and 1610th meetings), Egypt (1585th, 1586th, 1609th and 1610th meetings), the German Democratic Republic (1609th meeting), Hungary (1589th meeting), Iran (1610th meeting), Israel (1585th, 1586th, 1587th, 1590th and 1610th meetings), the Libyan Arab Jamahiriya (1588th and 1610th meetings), Madagascar (1589th, 1609th and 1610th meetings), Somalia (1609th meeting), Thailand (1609th meeting), Tunisia (1586th meeting) and Viet Nam (1585th, 1589th and 1610th meetings). The representative of the Palestine Liberation Organization made statements at the 1585th and 1586th meetings. The representative of the League of Arab States made statements at the 1585th, 1589th and 1610th meetings.

134. The Commission also heard statements by the following non-governmental organizations in consultative status: the International Federation of Human Rights (category II) (1589th meeting), and the Women's International Democratic Federation (category I) (1587th meeting).

135. During the debate it was generally recognized that the right of peoples to self-determination was one of the basic principles of contemporary international relations and that its constant violation in various parts of the world was a proper concern of the Commission. It was said that, although colonialism had been eradicated from most of the world, there remained many peoples to whom freedom was explicitly or implicitly denied. Therefore, the Commission had been justified in deciding, in resolution 5 (XXXVI), of 15 February 1980, to give priority consideration at its thirty-seventh session to the question of the right of peoples to self-determination. It was emphasized that so long as foreign occupation, colonialism and neo-colonialism, apartheid and racial discrimination prevailed in parts of Africa, the Middle East, Asia and other regions, the Commission had a duty to condemn those phenomena and take more effective action to assist the peoples still suffering from the violations of their fundamental rights.

136. Many speakers reiterated that the right to self-determination was the most important prerequisite for the enjoyment of other basic human rights, and the cornerstone of genuine political independence.

137. Most of the speakers condemned the continued denial by Israel to the Palestinian people of its right to self-determination. It was repeatedly stressed that a just and lasting peace could not be achieved in the Middle East without a just solution of the Palestinian problem that would ensure the complete withdrawal of Israel from the occupied territories, the right of the Palestinian people to national independence and sovereignty, including the right to establish its own State and to return to their homes. It was emphasized that any efforts to solve the Palestinian problem made outside the framework of the United Nations and without the participation of the PLO, the sole representative of the Palestinian people, were doomed to failure.

138. Several representatives condemned the Camp David agreements because they harmed rather than helped the Palestinian people's cause since, in their view, the agreements were aimed at establishing a false peace and at justifying the occupation of Arab lands by Israel, thus denying the Palestinian people their inalienable rights, including the right to self-determination and the establishment of an independent State.

139. Several speakers referred to the Israeli Knesset's decision to proclaim Jerusalem as Israel's eternal capital. It was said that the total disregard by Israel of international law as well as resolutions and decisions of the United Nations, particularly Security Council resolutions, had been made even more apparent by that illegal annexation of the Holy City of Jerusalem. The Israeli law passed in that connection should be considered null and void as annexation violates the Charter of the United Nations, the principles of international law and the fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949.

140. Several speakers emphasized that Israel, in defiance of the principle of inadmissibility of the acquisition of territories by force, was continuing to confiscate lands and taking measures to expel the original inhabitants from their land, alter the physical, demographic, social, religious and cultural structure of the occupied territories and change the legal status of those lands, in the hope of creating an illegal de facto situation. Israeli practices and policies were meant to establish a "greater Israel" by depriving the Palestinians of their homeland. In that connection, references were often made to the Secretary-General's report on living conditions of the Palestinian people in the occupied territories (A/35/533 and Corr.1) and to the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/35/425).

141. Several speakers stressed that the international community had a duty to co-operate with the Palestinian people and to spare no efforts in enabling the Palestinian people to recover its rights to self-determination and national sovereignty. In addition to diplomatic and moral support, the international community should provide it with material, financial and military assistance.

142. In the view of one representative, the charges levelled against Israel in the Commission were old and had long since been objectively examined and discarded. In his opinion, the State of Israel was a fact, as were the Egyptian-Israeli peace treaty and the Camp David accords. In his opinion also they were realities which served as a basis for future progress and future hopes. In that connection it was also said that the accusations made against Israel amounted to a glorification of international terrorism. Another representative referred to what he considered the co-operation between nazism and zionism during the Second World War. One delegation referred to the racist nature and policies of zionism in Israel and compared zionism with apartheid.

143. According to another view, a clear distinction had to be maintained between terrorism and the legitimate struggle for national self-determination and liberation. Any attempts to equate those concepts should be rejected.

144. Several representatives expressed their concern at the continuing presence of Soviet military troops in Afghanistan. In their view, it must be a matter of concern for the Commission that the situation in Afghanistan had deteriorated and was posing a growing threat to international peace and security. It was said that the invasion of this independent non-aligned country was a violation of its sovereignty and territorial integrity, of the Charter of the United Nations, of article I of both the International Covenants on Human Rights and of the principles of peaceful co-existence. References were made in that connection to General Assembly resolutions ES-6/2 of 14 January 1980 and 35/35 B of 14 November 1980, Commission resolution 3 (XXXVI) of 14 February 1980 and

Sub-Commission resolution 26 (XXXIII) of 12 September 1980 which had called for the immediate and unconditional withdrawal of foreign forces from Afghanistan and the restoration of the right to self-determination of the Afghan people, as well as to the decisions of the Islamic Conference of Foreign Ministers held at Islamabad in January and May 1980 and the Declaration of the Ministerial Conference of Non-aligned countries held at New Delhi from 9 to 13 February 1981. Some speakers expressed regret that the repeated appeals by the international community for the withdrawal of Soviet troops from Afghanistan remained unheeded. Several representatives reiterated their support of General Assembly resolution 35/37 of 20 November 1980 which had called for a political settlement of the Afghan question and for the appointment of a special representative of the Secretary-General for this purpose. Concern was also expressed about the problem of refugees from Afghanistan which, in the view of several speakers, was grave and continuing, and it was stressed that the refugees had the right to return to their homes. Different views were expressed about the character, causes and possible solutions to this problem.

145. Some representatives, on the other hand, stated that the discussion of the Afghanistan situation in United Nations bodies, and in the Commission, was inconsistent with the principles governing international relations, as embodied in the Charter of the United Nations, particularly those concerning the sovereign equality of States and non-interference in the internal affairs of a Member State. It was pointed out that the realization of the right of each people, including the Afghan people, to self-determination included such elements as the right to fight for its independence, to choose its own course of socio-economic development and to decide freely whom to ask for help in safeguarding its achievements and in securing national independence. It was said that the USSR had been furnishing assistance to Afghanistan in response to that country's frequent requests and in full accordance with the provisions of a Soviet-Afghan treaty and the Charter of the United Nations. That assistance was intended to help the people of Afghanistan to resist armed incursions from abroad. Therefore, a genuine political solution of the Afghan situation must be based first and foremost on the liquidation of its causes.

146. With regard to the situation in Kampuchea, some speakers stated that the right to self-determination of the Kampuchean people was being violated by the Vietnamese military occupation of Kampuchean territory. The view was expressed that the present régime in the country had been imposed by Vietnamese military forces. It was also stated that to safeguard peace and security in South East Asia, Viet Nam should withdraw all its forces from Kampuchea and leave the people of that country to decide freely on its destiny, in accordance with General Assembly resolutions 34/22 of 14 November 1979 and 35/6 of 22 October 1980 and resolution 29 (XXXVI) of 11 March 1980 of the Commission. One representative expressed a view that there was ascendance of a new colonialism and stressed the importance for the international community of full respect for the principle of non-interference.

147. According to several speakers the people of Kampuchea, which was now engaged in the task of national reconstruction under the leadership of the Revolutionary People's Council of Kampuchea, had exercised its right to self-determination in January 1979, when it had overthrown the bloody régime of Pol Pot. In their view, attempts to impose on the Commission the artificial question of the situation in that country were aimed at covering up the crimes

committed by the imperialist and hegemonist circles and their allies against the Kampuchean people in order to divert that people from its course of peaceful and democratic development.

148. Many representatives welcomed the recent granting of independence to Zimbabwe. It was indicated that that event was a notable victory for the African peoples and an important step towards the final goal of attaining freedom for the entire African continent and putting an end to the racist apartheid system in South Africa. In that context, some representatives were of the view that the contribution of the Commonwealth to the search for a peaceful settlement in Zimbabwe should serve as an example to the rest of the international community.

149. It was stated that South Africa's continued usurpation of Namibian territory and its repression of the indigenous population there showed that colonialist practices in the region continued unabated. The view was expressed that the Namibian people's heroic struggle would have succeeded long ago but for the support and military and economic assistance being given to the racists by some Powers and international monopolies. Many speakers considered that the meeting on Namibia held under United Nations auspices in Geneva in January 1981 had failed to achieve any worthwhile results because of the intransigence of South Africa, whose régime stubbornly persisted in delaying self-determination and continuing to occupy Namibia in defiance of the relevant General Assembly and Security Council resolutions. They felt strongly that there was no alternative to the strict imposition of economic and other sanctions against South Africa by all Governments. Many representatives reiterated their support for the struggle being waged by the Namibian people for self-determination under the leadership of SWAPO, their sole legitimate representative.

150. Some representatives also drew the attention of the Commission to the fact that many small territories in the Pacific, Indian and the Atlantic oceans were still under colonial oppression. It was stated that the colonial Powers, in defiance of the Declaration on the Granting of Independence to Colonial Countries and Peoples and of the Charter of the United Nations, maintained their hold on such territories, chiefly for military purposes, thus flouting the right of the peoples concerned to self-determination and independence. References were made in that connection to Micronesia, Diego García, Guam and other territories.

151. Some speakers deplored the fact that the people of Western Sahara had been deprived of their right to self-determination. In that context they referred to the pertinent resolutions of OAU, the Non-Aligned Countries' Conference, the United Nations General Assembly and the Commission on Human Rights at its thirty-sixth session. Some representatives considered that the problem was one of decolonization and expressed their satisfaction that the OAU had spelt out the principles of a just and lasting settlement of the question.

152. However, other representatives expressed the view that the Commission was not competent to examine the issue which, in their view, did not constitute a problem of decolonization. The view was also expressed by one representative that the OAU was the most appropriate forum for the consideration of the matter.

153. In connection with consideration of the item, references were also made to a number of countries and territories.

154. Five draft resolutions on item 9 were submitted to the Commission.

155. At the 1592nd meeting, the representative of Cuba introduced a draft resolution (E/CN.4/L.1550) co-sponsored by Algeria, Cyprus, Iraq, Jordan, Kuwait, \*/ Libyan Arab Jamahiriya, \*/ Madagascar, \*/ Mongolia, Morocco, Pakistan, Qatar, \*/ the Syrian Arab Republic, Yemen \*/ and Yugoslavia, subsequently joined by Bulgaria, Iran, Nigeria and Tunisia. \*/

156. The Commission considered the draft resolution at its 1595th meeting. The representative of Costa Rica requested a separate vote on operative paragraphs 1 and 2 together, and on operative paragraphs 3, 4, 5, 6 and 7 separately.

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

(a) It adopted paragraphs 1 and 2 by 32 votes to 1, with 9 abstentions. The voting was as follows:

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

Against: United States of America.

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

(b) It adopted paragraph 3 by 41 votes to 1. The voting was as follows:

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

Against: United States of America.

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

(c) It adopted paragraph 4 by 24 votes to 11, with 7 abstentions. The voting was as follows:

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

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

Abstaining: Argentina, Brazil, Fiji, France, Greece, Peru, Philippines.

(d) It adopted paragraph 5 by 23 votes to 11, with 8 abstentions. The voting was as follows:

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

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

Abstaining: Brazil, Fiji, France, Greece, Mexico, Panama, Peru, Philippines.

(e) It adopted paragraph 6 by 23 votes to 11, with 8 abstentions. The voting was as follows:

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

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

Abstaining: Brazil, Fiji, France, Greece, Mexico, Panama, Peru, Philippines.

(f) It adopted paragraph 7 by 21 votes to 11, with 10 abstentions. The voting was as follows:

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

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

Abstaining: Argentina, Brazil, Fiji, France, Greece, Mexico, Panama, Peru, Philippines, Senegal.

(g) It adopted draft resolution E/CN.4/L.1550 as a whole by 25 votes to 9, with 8 abstentions. The voting was as follows:

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

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

Abstaining: Brazil, Costa Rica, Fiji, France, Greece, Mexico, Panama, Philippines.

158. Statements in explanation of vote were made by the representatives of Australia, Brazil, Fiji, France, Greece, Netherlands, Peru, Portugal, Soviet Union, United Kingdom and Uruguay.

159. For the text of the resolution, see chapter XXVIII, section A, resolution 2 (XXXVII).

160. At the 1607th meeting, the representative of the Philippines introduced a draft resolution (E/CN.4/L.1559) co-sponsored by Australia, Canada, Costa Rica, Federal Republic of Germany, Fiji, France, Japan, \*/ Malaysia, \*/ Pakistan, Singapore, \*/ Thailand \*/ and United Kingdom, subsequently joined by Netherlands, Somalia, \*/ Sudan, \*/ and Zaire.

161. At the 1630th meeting, the representatives of Bulgaria, Byelorussian SSR, Cuba, USSR, Zambia, Uganda, Poland and Mongolia made statements in explanation of vote before the vote. The representative of Australia requested a roll-call vote on the draft resolution as a whole.

162. At the same meeting, the Commission adopted the draft resolution by 26 votes to 9, with 6 abstentions. The voting was as follows:

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

In favour: Argentina, Australia, Brazil, Burundi, Canada, Costa Rica, Denmark, Fiji, France, Germany, Federal Republic of, Ghana, Greece, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Peru, Philippines, Portugal, Senegal, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia and Zaire.

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

Abstaining: Algeria, Iraq, Jordan, Panama, Uganda and Zambia.

163. For the text of the resolution, see chapter XXVIII, section A, resolution 11 (XXXVII).

164. At the 1629th meeting, the representative of Uganda introduced a draft resolution (E/CN.4/L.1565) co-sponsored by Algeria, Cuba, Cyprus, Libyan Arab Jamahiriya, \*/ Madagascar, \*/ Mexico, Panama and Zambia, subsequently joined by Benin, Democratic Yemen, \*/ Ghana and Iran.\*/

165. At the same meeting, the sponsors accepted an oral proposal by the representative of Australia to replace the word "Condemns" by the word "Deplores" in operative paragraph 2.

166. At the 1630th meeting, the representative of Senegal requested a separate vote by roll-call on the sub-title of the draft resolution and on operative paragraph 2. The representative of Pakistan requested a separate vote on operative paragraph 1. Statements in explanation of vote before the vote were made by the representatives of Senegal, France and Canada.

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

(a) It adopted the sub-title of the draft resolution by a roll-call vote of 19 votes to 12, with 11 abstentions. The voting was as follows:

In favour: Algeria, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Ghana, India, Mexico, Mongolia, Nigeria, Panama, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia and Zambia.

Against: Canada, France, Iraq, Jordan, Morocco, Peru, Philippines, Portugal, Senegal, United States of America, Uruguay and Zaire.

Abstaining: Argentina, Australia, Brazil, Burundi, Denmark, Fiji, Germany, Federal Republic of, Greece, Netherlands, Pakistan and United Kingdom of Great Britain and Northern Ireland.

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

(b) It adopted paragraph 1 by 31 votes to 4, with 7 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Australia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, Ghana, Greece, India, Jordan, Mexico, Mongolia, Netherlands, Nigeria, Pakistan, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia and Zambia.

Against: Morocco, Senegal, Uruguay and Zaire.

Abstaining: Burundi, 1/ France, Germany, Federal Republic of, Iraq, Philippines, Portugal and United States of America.

(c) It adopted paragraph 2 by 23 votes to 12, with 7 abstentions. The voting was as follows:

In favour: Algeria, Australia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, India, Mexico, Mongolia, Nigeria, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia and Zambia.

Against: Canada, France, Iraq, Jordan, Morocco, Pakistan, Philippines, Portugal, Senegal, United States of America, Uruguay and Zaire.

Abstaining: Argentina, Burundi, Denmark, Germany, Federal Republic of, Greece, Netherlands and United Kingdom of Great Britain and Northern Ireland.

(d) It adopted draft resolution E/CN.4/L.1565 as a whole by 26 votes to 5, with 11 abstentions. The voting was as follows:

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

Against: Iraq, Morocco, Senegal, United States of America and Zaire.

Abstaining: Canada, Denmark, France, Germany, Federal Republic of, Jordan, Netherlands, Pakistan, Philippines, Portugal, United Kingdom of Great Britain and Northern Ireland and Uruguay.

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1/ The representative of Burundi subsequently stated that he had intended to vote otherwise.

168. For the text of the resolution, see chapter XXVIII, section A, resolution 12 (XXXVII).

169. At the 1629th meeting, the representative of Pakistan introduced a draft resolution (E/CN.4/L.1568) co-sponsored by Costa Rica, Egypt, \*/ Kuwait, \*/ Malaysia, \*/ Oman, \*/ Philippines, Qatar, \*/ Saudi Arabia, \*/ Singapore, \*/ Somalia, \*/ Sudan, \*/ Thailand, \*/ Tunisia, \*/ United Arab Emirates, \*/ Venezuela \*/ and Zaire, subsequently joined by Fiji, Morocco and Turkey. \*/

170. At the 1630th meeting, the representatives of the USSR, Bulgaria, France, Poland, Mongolia and the Federal Republic of Germany made statements in explanation of vote before the vote.

171. At the same meeting, the Commission adopted the draft resolution by 31 votes to 8, with 3 abstentions. The voting was as follows:

In favour: Argentina, Australia, Brazil, Burundi, Canada, Costa Rica, Denmark, Fiji, France, Germany, Federal Republic of, Ghana, Greece, Iraq, Jordan, Mexico, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Portugal, Senegal, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zaire and Zambia.

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

Abstaining: Algeria, Cyprus and India.

172. For the text of the resolution, see chapter XXVIII, section A, resolution 13 (XXXVII).

173. At the 1629th meeting, the representative of Cuba introduced a draft resolution (E/CN.4/L.1569) co-sponsored by Algeria, Iraq, Syrian Arab Republic, Uganda, Yugoslavia and Zambia, subsequently joined by Burundi.

174. At the 1630th meeting, the representative of Greece requested a separate vote on operative paragraphs 2 and 9 of the draft resolution. The representative of the Byelorussian SSR made a statement in explanation of vote before the vote.

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

(a) It adopted paragraph 2 by 29 votes to 12, with 1 abstention. The voting was as follows:

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

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Cyprus, Ethiopia, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire and Zambia.

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

Abstaining: Costa Rica.

(b) It adopted paragraph 9 by 30 votes to 11, with 1 abstention. The voting was as follows:

In favour: Algeria, Argentina, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Cyprus, Ethiopia, Fiji, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire and Zambia.

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

Abstaining: Philippines.

(c) It adopted the draft resolution as a whole by 31 votes to 8, with 3 abstentions. The voting was as follows:

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

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

Abstaining: Greece, Portugal and Uruguay.

176. For the text of the resolution, see chapter XXVIII, section A, resolution 14 (XXXVII).

177. Statements in explanation of vote after the vote were made by the representatives of Argentina, Australia, Burundi, Brazil, Cuba, Federal Republic of Germany, Fiji, Greece, Mexico, Morocco, the Netherlands, Pakistan, Portugal, and the United States of America.

VIII. QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

A. TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

B. QUESTION OF MISSING AND DISAPPEARED PERSONS

178. The Commission considered agenda item 10 at its 1603rd to 1606th meetings, held on 17 and 18 February 1981, at its 1617th meeting on 26 February 1981 and at its 1636th meeting, on 10 March 1981.

179. The Director of the Division of Human Rights made a statement introducing the item at the 1603rd meeting.

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

180. The Commission considered agenda item 10 (a) at its 1636th meeting on 10 March 1981.

181. At its thirty-seventh session the Commission had before it a number of relevant documents, including: the "Draft International Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment" submitted by Sweden (E/CN.4/1285); the revised Draft Convention submitted by Sweden (E/CN.4/WG.1/WP.1) of 22 February 1979; the "Draft Convention for the Prevention and Suppression of Torture" submitted by the International Association of Penal Law (E/CN.4/NGO/213); the reports of the 1979 (E/CN.4/L.1470) and 1980 (E/CN.4/1367) Working Groups as contained in the reports of the Commission on Human Rights on its thirty-fifth and thirty-sixth sessions (see E/1979/36, paras. 178-180, and E/1980/13, paras. 201-209); and, the observations received from Governments on the question of the Draft Convention (E/CN.4/1314 and Add.1-4). The Group also had before it a draft preamble and proposed final provisions submitted by Sweden (E/CN.4/1427) and a draft optional protocol submitted by Costa Rica (E/CN.4/1409).

182. On the recommendation of the Commission in its resolution 34 (XXXVI), of 12 March 1980, the Economic and Social Council, by its resolution 1980/32, of 2 May 1980, had authorized a meeting of an open-ended working group for a period of one week prior to the thirty-seventh session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment. The General Assembly, in resolution 35/178 of 15 December 1980, requested the Commission at its thirty-seventh session to complete this task as a matter of urgency, with a view to submitting a draft convention, including provision for its effective implementation, to the General Assembly at its thirty-sixth session.

183. The open-ended Working Group met before the session of the Commission from 26 to 30 January 1981. As decided by the Commission, the Group continued its work during the session of the Commission, in public meetings as well as in informal consultations.

184. At the 1636th meeting on 10 March 1981, the Chairman/Rapporteur of the Working Group, Mr. Anestis Papastofanou (Greece), introduced the report of the Group (E/CN.4/L.1576).

185. The report of the Group as it appears in document E/CN.4/L.1576 reads as follows:

#### "Introduction

1. On the recommendation of the Commission in its resolution 34 (XXXVI), the Economic and Social Council, by its resolution 1980/32 of 2 May 1980 authorized the meeting of an open-ended Working Group for a period of one week prior to the thirty-seventh session of the Commission to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment, with a view to the submission of the draft, together with provisions for the effective implementation of the future convention, to the thirty-sixth session of the General Assembly.

#### Elections

2. The first meeting of the pre-sessional Working Group, on 26 January 1981, Mr. A. Papastefanou (Greece) was elected by acclamation as Chairman-Rapporteur. Mr. Papastefanou continued as Chairman-Rapporteur of the Working Group established by the Commission on Human Rights at its thirty-seventh session to continue the work of the Working Group during the session.

#### Participation

3. The pre-sessional as well as the sessional Working Groups were open to all members of the Commission on Human Rights, the composition of which, for 1981, was as follows: Algeria, Argentina, Australia, Benin, Brazil, Bulgaria, Burundi, Byelorussian SSR, Canada, Costa Rica, Cuba, Cyprus, Denmark, Ethiopia, Fiji, France, Germany, Federal Republic of, Ghana, Greece, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Netherlands, Nigeria, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yugoslavia, Zaire and Zambia.

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

5. Amnesty International, the Arab Lawyers Union, and the International Commission of Jurists sent observers to the Working Group.

#### Documents

6. The Working Group had before it a number of relevant documents, including: the 'Draft International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' of Sweden (E/CN.4/1285), the revised Draft Convention submitted by Sweden (E/CN.4/WG.1/WP.1 [of 22 February 1979]), the 'Draft Convention for the Prevention and Suppression of Torture' submitted by the International Association of Penal Law (E/CN.4/NGO/213), the reports of the 1979 and 1980 Working Groups as contained in the reports of the thirty-fifth and thirty-sixth sessions of the Commission on Human Rights (E/CN.4/1347, paragraphs 178-180; E/1980/13, paragraphs 201-209; E/CN.4/1367) and the report of the Secretary-General in accordance with Commission

resolution 18 (XXXIV), summarizing the observations received from governments on the question of the Draft Convention (E/CN.4/1314 and Add.1-4). The Group also had before it a draft preamble and proposed final provisions submitted by Sweden (E/CN.4/1427) and a draft optional protocol submitted by Costa Rica (E/CN.4/1409).

### Consideration of substantive articles

#### Article 1

7. Article 1 of the draft as adopted by the Working Group in 1980 (E/CN.4/1367, annex) read as follows:

#### 'Article 1

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

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

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

8. It will be recalled that paragraphs 1 and 3 were adopted by the Working Group prior to and during the thirty-fifth session of the Commission on Human Rights. At its meetings held from 26 to 30 January 1981, the Working Group resumed consideration of article 1, paragraph 2.

9. Some delegations were in favour of the deletion of the square brackets since they thought it useful to draw attention at the outset to the fact that, as torture under the Convention is to be made a penal offence, it was necessary to have as precise a definition of torture as possible. The bracketed phrase would make clear that torture is at the highest end of the scale of cruel, inhuman or degrading treatment or punishment. Other delegations took the view that the wording of paragraph 2 could be interpreted as bringing an element of imprecision to the definition of torture given in paragraph 1, and they therefore proposed the deletion of paragraph 2 of article 1.

10. As it was not possible to reach a consensus, it was decided to keep paragraph 2 between square brackets and to consider it later.

11. It was decided to replace the term 'national legislation', in paragraph 3, by 'national law', so as to bring that paragraph into line with paragraph 2 of article 16.

12. Following consideration by the 1981 Working Group, article 1 reads as follows:

'Article 1

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

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

3. This article is without prejudice to any international instrument or national law which does or may contain provisions of wider application.'

Article 2

13. Article 2 as previously adopted by the Working Group read as follows (E/CN.4/1367, annex):

'Article 2

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

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

3. An order from a superior officer or a public authority may not be invoked as a justification of torture; [however, this may be considered a ground for mitigation of punishment, if justice so requires].'

After discussion, the Working Group decided to delete the phrase between square brackets in paragraph 3 of article 2.

14. Article 2, as amended following consideration by the Group, read as follows:

'Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.'

Article 3

15. Article 3 as adopted by the Group last year read as follows (E/CN.4/1367, annex):

'Article 3

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

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

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

The Working Group considered article 3, paragraph 2. Some delegations stressed the importance they attached to retention of the illustrative list of consistent and gross variations of human rights set forth in this paragraph, and proposed that the square brackets should be deleted. Other speakers considered that, if the brackets were to be deleted, the list should be deleted or perhaps amplified by a reference to other types of violation. Some members favoured the deletion of paragraph 2 in its entirety, as they deemed it superfluous. In addition, one delegation said that the existence of most of the conditions in the list did not, either logically, legally or otherwise, constitute grounds to believe that a person would be in danger of being subjected to torture.

16. The discussion was concerned in particular with the retention of the expressions 'colonialism' and 'neo-colonialism'. It was decided to delete the square brackets around these words, on the understanding that the paragraph as a whole remained between brackets.

17. One delegation proposed the addition of a foot-note reading:

'The Working Group agreed that a State party which refuses extradition in the circumstances described in paragraph 1 shall, if its national legislation so permits, institute criminal proceedings against the person whose extradition it refuses.'

Several representatives raised the question of the legal effect of such a foot-note in a document such as the Convention. It was suggested that it could more appropriately be included in the Working Group's report. In view of the difference of opinion, the author of the proposal requested that consideration of the matter be deferred to allow him to engage in consultations.

18. To bring the various language versions into line, the Group decided to replace the words 'preuves substantielles', in paragraph 1 of the French text, by the words 'motifs sérieux de croire', and the words 'de telles preuves', in paragraph 2, by 'de tels motifs'. In the English text of paragraph 2, the words 'there is such evidence' were replaced by the words 'there are such grounds' in order to bring the text into line with paragraph 1.

19. Article 3, as revised, reads as follows:

'Article 3

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

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

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

Article 5

20. The part of article 5 which the Working Group adopted in 1980 read as follows:

'Article 5

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

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

At its meeting this year, the Working Group considered subparagraphs (b) and (c), which read as follows:

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

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

21. The Working Group decided by consensus to delete the square brackets enclosing the word 'national' in subparagraph (b).

22. With regard to subparagraph (c), the Group decided by consensus, after considerable discussion during which several delegations stated that they had strong reservations about this wording, to remove the square brackets enclosing that subparagraph and to add the words 'if that State considers it appropriate' at the end of the paragraph, thus adopting the wording of the Convention against the Taking of Hostages.

23. New article 5, paragraph 1 (a), (b) and (c), therefore reads as follows:

'Article 5

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

- (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
- (b) When the alleged offender is a national of that State;
- (c) When the victim is a national of that State if that State considers it appropriate.'

24. Article 5, paragraph 2, of the revised draft, which was not adopted, read as follows:

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

25. As in 1980, some members suggested the deletion of this paragraph, either because they were opposed to the principle of universal criminal jurisdiction or because of the difficulties to which the provision could give rise when establishing the facts. Several delegations indicated particularly that they had difficulties, in view of their legal systems, in accepting a clause of universal jurisdiction which was not subject to some conditions. One representative proposed that, if the paragraph were to be retained, the phrase

'after having received a request for extradition' should be added after the words 'and it does not extradite him'. Some speakers considered that the paragraph should be retained. They referred to the fact that a corresponding paragraph already appeared in many other comparable conventions such as the Convention for the Suppression of Unlawful Seizure of Aircraft, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the Convention against Taking of Hostages, and they emphasized that universal jurisdiction was desirable in order not to provide torturers with any places of refuge. Since no agreement could be reached, it was decided to retain the paragraph in brackets.

26. Article 5, paragraph 3, read as follows:

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

The Working Group adopted paragraph 3, as set forth above, by consensus.

27. Article 5, as it emerged from the work of the Group in 1981, therefore reads as follows:

'Article 5

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

- (a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
- (b) When the alleged offender is a national of that State;
- (c) When the victim is a national of that State if that State considers it appropriate.

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

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

28. During informal consultations the following text was proposed:

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

2 (a) Without prejudice to the foregoing paragraphs, an alleged offender should normally be tried by the State in whose territory the offence is committed.'

The Working Group, during its public meeting, felt that, since the informal proposal could not be discussed owing to lack of time, it should be examined in greater detail next year.

#### Article 6

29. Article 6, as adopted by the Working Group last year, read as follows:

##### 'Article 6

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

2. Such State shall immediately make a preliminary inquiry into the fact.

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

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

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

The Group examined paragraph 4. No decision was taken as certain members considered that articles 5 and 7 should be adopted first. It was decided that paragraph 5 of article 6 should be transferred to article 7 when the remainder of article 7 had been adopted. The Working Group decided to retain article 6 as drafted and to revert to it later.

#### Article 7

30. Article 7 of the revised Swedish draft read as follows:

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

When it considered article 7, the Working Group had before it the amendment submitted by the Netherlands (E/CN.4/(1981)/WG.2/WP.2), which read as follows:

'Article 7

1. The State Party in the territory of which a person alleged to have committed any offence referred to in Article 4 is found, shall in the cases contemplated in article 5, paragraph 1, if it does not extradite him, be obliged, without exception whatsoever, to submit the case to its competent authorities for the purpose of prosecution.

2. The State Party in the territory of which a person alleged to have committed any offence referred to in article 4 is found, shall, in the cases contemplated in article 5, paragraph 2, be obliged to submit the case to its competent authorities for the purpose of prosecution upon complaint by any interested party made in accordance with procedures set under the law of that State Party.

3. Any person regarding whom proceedings are being brought in connection with any offence set forth in article 4 shall be guaranteed fair treatment at all stages of the proceedings.'

31. In support of the Netherlands amendment, some delegations said that, in their view, it brought out more clearly than did the Swedish text an essential link with article 5, while the terms of paragraph 2 allowed for more flexibility so far as the modalities for applying the article were concerned. In their view, the main advantage of the Netherlands amendment was its qualification of the operation of universal jurisdiction by referring to complaint procedures. They also considered that paragraph 3 of the Netherlands amendment contained a timely reminder of a fundamental principle relating to the rights of the accused in criminal proceedings.

32. According to other speakers, the Netherlands amendment lacked the requisite clarity so far as some of its wording - in particular, the words 'upon complaint by any interested party' - was concerned, and could give rise to loose interpretation and open up loopholes. In the view of these members, article 7 of the Swedish draft provided a better working basis.

[1/]

33. The Group decided to adopt paragraph 3, amended in fine, of the Netherlands amendment as the last paragraph of article 7:

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1/ See para. 186 infra.

'3. Any person regarding whom proceedings are being brought in connection with any offence set forth in Article 4 shall enjoy all the guarantees of a fair and equitable trial.'

34. Brazil and Sweden submitted a second revised version of draft article 7 (E/CN.4/(1981)/WG.2/WP.5). This version read as follows:

'1. A State Party which has established its jurisdiction over an offence according to Article 5 shall, when the alleged offender is present in a territory under its jurisdiction, submit the case to its competent authorities for the purpose of prosecution, if it does not extradite him.

2. Those authorities shall take their decision in the same manner as in the case of any offence of a serious nature under the law of that State.

3. Any person regarding whom proceedings are being brought in connection with any offence set forth in article 4 shall be given all guarantees of fair proceedings.

4. The provisions of paragraph 1 are without prejudice to the right that any State Party having jurisdiction according to Article 5 may have to prosecute a person who is not present in a territory under its jurisdiction.'

35. Following a discussion which revealed, in particular, that there were reservations in regard to paragraph 4, the sponsors withdrew their proposal.

36. The Working Group adjourned consideration of article 7.

37. During informal consultations the following text was proposed:

'Article 7

The State Party with jurisdiction over the territory in which a person alleged to have committed any offence referred to in article 4 is found shall, if it does not extradite him, be obliged, in cases contemplated in article 5, to submit the case to its competent authorities, which shall take their decision concerning penal prosecution in the same manner as in the case of any offence of a serious nature under the law of that State.'

The Working Group, during its public meeting, felt that, since the informal proposal could not be discussed owing to lack of time, it should be examined in greater detail next year.

Article 8

38. Article 8, as worded as a result of the work carried out in 1980, read as follows:

## 'Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it [may] [shall] consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with Article 5, paragraph 1.'

The discussion on article 8 was mainly concerned with the alternatives 'may' and 'shall' in paragraph 2. The Working Group also had before it a proposal for the replacement of paragraph 2 of article 8 introduced by Argentina (E/CN.4/(1981)/WG.2/WP.4), which read as follows:

'2. The present Convention shall establish the necessary legal basis for extradition in respect of such offences vis-à-vis any State Party which makes extradition subordinate to the existence of a treaty if the said State Party receives a request for extradition from another State Party with which it does not have a treaty. The extradition shall be subject to any other conditions which may be required under the law of the State to which the request is addressed.'

39. No consensus could be reached in favour of either the word 'may' or the word 'shall' or of adoption of the amendment. The proposal was withdrawn. The text of article 8 was retained as drafted.

## Article 14

40. Article 14 as adopted in 1980 read as follows:

### 'Article 14

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

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

41. The discussion on article 14 was mainly concerned with the word 'rehabilitation', between square brackets. The Group decided to qualify that word by adopting the expression 'for as full a rehabilitation as possible'.

42. The Group also decided to place the words 'dans son système juridique', in the French text, after the word 'garantit', and to add the words 'committed in any territory under its jurisdiction' after the word 'torture'.

43. The Working Group adopted article 14, as thus revised, by consensus; it now reads as follows:

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

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

44. One delegation asked that reference be made in the report to the reservation concerning article 14 which it had entered the previous year.

#### Article 16

45. Article 16 as adopted by the Working Group the previous year read as follows:

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

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

46. The Working Group first considered the references in paragraph 1 to articles 3, 14 and 15. After discussion, the Group decided to delete the reference to articles 3 and 15 and to retain the reference to article 14, between square brackets.

47. It was suggested that a provision similar to the last sentence of paragraph 1 of article 1 should be inserted in article 16, in order to exclude from the scope of article 16 suffering arising only from lawful sanctions, as

had been done in the definition of torture in article 1 of the draft Convention. That suggestion was opposed by several members. They pointed out that the purpose of article 16 was to prohibit the existence of cruel, inhuman or degrading treatment and punishment, not to legitimize it by having such treatment incorporated into law. The reply elicited by that interpretation of the suggestion was that the last sentence in paragraph 1 of article 1 did not admit the legalization of torture. Attention was also drawn to the distinction between the legal connotations of the concepts of 'punishment' and 'lawful sanctions'.

48. With regard to paragraph 2, the Working Group adopted proposals calling for replacement of the words 'of this Convention' by the words 'of this article' and the addition at the end of the paragraph of the words 'or which relate to extradition or expulsion'.

49. Article 16 as adopted by the Working Group in 1981 therefore reads as follows:

'Article 16

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

2. The provisions of this article are without prejudice to the provisions of any other international instrument or national law which prohibit cruel, inhuman or degrading treatment or punishment or which relate to extradition or expulsion.'

Provisions relating to implementation

50. The Working Group had before it the Swedish proposals contained in document E/CN.4/1285 (articles 16 to 21) and the proposed amendments submitted by the Netherlands in document E/CN.4/(1981)/WG.2/WP.3. The draft of the International Association of Penal Law (E/CN.4/NGO/213) also contained provisions on implementation (article XIII). The Swedish proposal, like that of the International Association of Penal Law, entrusted the task of international supervision to the Human Rights Committee established pursuant to article 28 of the International Covenant on Civil and Political Rights. The Netherlands amendment to the Swedish proposal provided for the establishment of a committee which would be composed of the members of the Human Rights Committee established under the Covenant. Lastly, there was a draft optional protocol to the Convention (E/CN.4/1409), providing for a system under which visits would be made to the territory of States Parties, submitted by Costa Rica for consideration after the Convention has been adopted.

51. The Working Group took note of a telegram from the Legal Counsel of the United Nations, reproduced in document E/CN.4/(1981)/WG.2/WP.6, explaining the legal difficulties that he believed would be encountered if the Human Rights

Committee established under the Covenant were designated as an international supervisory body within the framework of the Convention. Several delegations shared the opinion of the Legal Counsel of the United Nations and pointed out that the States Parties to the Covenants would not necessarily be the same as the States Parties to the Convention against torture. In such a situation it was difficult to use a structure provided for the implementation of one convention to implement another.

52. A general discussion took place on measures of implementation. Some speakers took the view that, basically, implementation should be assured by each State Party within the context of its legal system, and they expressed doubts regarding the advisability of establishing international bodies with extensive jurisdiction. It was suggested that the provisions concerning international supervision should be made optional. Other delegations pointed out that self-enforcement has been shown to be a failure because, despite internal laws and international instruments prohibiting torture, torture was still widely practised. They therefore believed that implementation procedures were an indispensable part of the treaty. Another suggestion was that the proposals on implementation should be referred to governments for their opinion.

53. Several delegations, believing that it would be desirable to consider the adoption of appropriate provisions on international implementation, made preliminary observations concerning the texts submitted. Certain members, who expressed their interest in principle in the Swedish draft, considered that the difficulties referred to by the Legal Counsel of the United Nations were not insurmountable, and that the idea of using the services of the Human Rights Committee merited examination. Other speakers considered it preferable to entrust the task of implementation to a separate international body. In the view of some representatives, such a task could be carried out by the Commission on Human Rights or by the Sub-Commission. One speaker suggested that, if the agenda of those two bodies was too heavy, the possibility could be considered of entrusting the implementation of the Convention to a second Sub-Commission, the establishment of which had already been provided for in a draft submitted previously to the Economic and Social Council.

54. Sweden submitted an alternative suggestion for the establishment of a committee to supervise the Convention. This suggestion, contained in document E/CN.4/(1981)/WG.2/WP.7, reads as follows:

1. The Committee shall be composed of ..... members serving in their personal capacity.
2. Members shall be nationals of States Parties and shall so far as possible be chosen among members of the Human Rights Committee.
3. Members shall be elected for a period of four years by States Parties among candidates nominated by States Parties.'

Some delegations expressed their support for the Swedish suggestion. Some vigorously opposed it. Others considered that it should be the subject of more detailed examination.

55. At its final meeting on 6 March 1981, the Working Group adopted its report by consensus.

## Annex

### Article 1

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

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

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

### Article 2

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

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

3. An order from a superior officer or a public authority may not be invoked as a justification of torture. d/

### Article 3

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

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

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

Article 4 a/

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

Article 5

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

Article 6

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

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

In the Spanish text

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

In the French text

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

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

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

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

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

Article 7 b/

The State Party in territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall, if it does not extradite him, be obliged, in cases contemplated in article 5, to submit the case to its competent authorities who shall take their decision concerning penal prosecution in the same manner as in the case of any offence of a serious nature under the law of that State.

Article 8 b/

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

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

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

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

Article 9 a/

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10 c/

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

Article 11 c/

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

Article 12 a/

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

Article 13 a/

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

Article 14 d/

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

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

Article 15 a/

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

Article 16 d/

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

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

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a/ Adopted in 1980.

b/ Not yet adopted.

c/ Adopted in 1979.

d/ Adopted in 1981.

186. The representative of the United Kingdom asked that his reservations concerning articles 5 and 9 of the Draft Convention be mentioned in the report. The representative of the United States proposed the deletion of paragraph 33 of the report, stating that it was a duplication of paragraph 29. There was no objection to this proposal.

187. At the 1636th meeting, the representative of Denmark introduced draft resolution E/CN.4/L.1590 on behalf of Cuba, Denmark, Greece, Norway, \*/ Senegal and Sweden. \*/ The Director of the Division of Human Rights made a statement concerning the financial implications (E/CN.4/L.1604).

188. The Commission adopted by consensus draft resolution E/CN.4/L.1590 at its 1636th meeting on 10 March 1981.

189. For the text of the resolution, see chapter XXVIII, Section A, resolution 25 (XXXVII).

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

190. The Commission on Human Rights at its thirty-sixth session adopted on 29 February 1980 resolution 20 (XXXVI) in which it decided inter alia to consider the question of missing and disappeared persons at its thirty-seventh session under a subitem entitled "Question of Missing and Disappeared Persons". Also in its resolution 20 (XXXVI) the Commission decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, for the examination of matters relevant to enforced or involuntary disappearances of persons. It requested the Working Group to submit to the Commission at its thirty-seventh session a report on its activities, together with its conclusions and recommendations. In the same resolution, the Sub-Commission on Prevention of Discrimination and Protection of Minorities was requested by the Commission to continue studying the most effective measures for eliminating enforced or involuntary disappearances of persons, with a view to making general recommendations to the Commission at its thirty-seventh session. The Commission's decision in resolution 20 (XXXVI) to establish a Working Group was approved by the Economic and Social Council in its decision 1980/128 of 2 May 1980.

191. The Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-third session adopted on 11 September 1980 its resolution 18 (XXXIII) in which it expressed its deep concern over the fact that people were still disappearing in a number of countries, and urged the Commission on Human Rights to extend the mandate of its Working Group on Enforced or Involuntary Disappearances. The Sub-Commission emphasized that the extreme gravity of the situation necessitated emergency action by the Working Group of the Commission and by other organs in the United Nations system as well as by the Secretary-General and decided to study

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\*/ In conformity with rule 69, paragraph 3, of the rules of procedure of the functional Commissions of the Economic and Social Council.

further, at its thirty-fourth session, the question of missing persons and of enforced or involuntary disappearances of persons, as a matter of high priority, especially as regards a number of matters specifically mentioned in paragraph 4 of the resolution. Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations were requested in that resolution to transmit to the Commission on Human Rights at its thirty-seventh session and to the Sub-Commission at its thirty-fourth session information, views or comments on those matters.

192. The General Assembly by its resolution 35/193 of 15 December 1980 welcomed the establishment by the Commission of the Working Group on Enforced or Involuntary Disappearances and requested the Commission to continue to study the question of involuntary or enforced disappearances of persons as a matter of priority and to take any steps it may deem necessary to the pursuit of its work on this question when it considers the report to be submitted to it by the Working Group at its thirty-seventh session.

193. In connection with its consideration of subitem 10 (b) of its agenda the Commission had before it at its thirty-seventh session the following documents: the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1435 and Add.1); information, views and comments submitted by Governments, Specialized Agencies, regional intergovernmental organizations and non-governmental organizations pursuant to resolution 18 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1434 and Add.1-2); written statements submitted by the following non-governmental organizations in consultative status with the Economic and Social Council: the International Federation of Human Rights (E/CN.4/NGO/313) and the International League for Human Rights (E/CN.4/NGO/316); the annual report of the Inter-American Commission on Human Rights to the General Assembly of the Organization of American States submitted in accordance with Economic and Social Council resolution 1159 (XLI) (E/CN.4/1453 and Corr.1).

194. The Commission heard statements by the observers for Iran (1604th meeting), Nicaragua (1604th meeting), Norway (1606th meeting), and Venezuela (1606th meeting).

195. The representatives of the following non-governmental organizations in consultative status with the Economic and Social Council made statements: Amnesty International (Category II) (1604th meeting); Baha'i International Community (Category II) (1604th meeting); International Confederation of Free Trade Unions (Category I) (1604th meeting); International Union of Students (Roster) (1606th meeting) and Pax Romana (Category II) (1604th meeting).

196. The Director of the Division of Human Rights in his introductory statement (1603rd meeting) referred inter alia to General Assembly resolution 33/173 of 20 December 1978 in which the Assembly had expressed its deep concern about reports from various parts of the world relating to enforced or involuntary disappearances of persons, often while such persons are subject to detention or imprisonment, and had requested the Commission to consider the question with a view to making appropriate recommendations. He also referred to the request by the Economic and Social Council in its resolution 1979/38 of 10 May 1979 that the Commission on Human Rights consider the question of disappeared persons as a matter of priority at its thirty-sixth session.

197. The Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances introduced the Group's report (E/CN.4/1435 and Add.1) at the 1603rd meeting. In dealing with the question of enforced or involuntary disappearances the Group had been motivated by humanitarian considerations and this had been recognized by Governments which had provided the Group with detailed material. He thanked those Governments which had co-operated with the Group and expressed the hope that their co-operation would receive due recognition in the Commission. He called the Commission's attention to these countries which had set up internal machinery to investigate reports of disappearances and inform families of the situation regarding their relatives. The Chairman-Rapporteur expressed the Group's view that the available material fully justified the feeling of deep concern expressed by various United Nations bodies. The period of six months since the Working Group's establishment had been totally insufficient to enable it to determine the truth or otherwise of the reports received and the task of the Working Group was not finished. He referred to the advantages of the Working Group in that it could study in detail the mass of information available and could react within days to newly reported cases; in some of these latter cases some success had been noted. The hope was also expressed that the existence of the Working Group would have a preventive effect. The Chairman-Rapporteur referred to the profound feeling among relatives of the disappeared that it was their right to know what had happened to their family members, in his view human dignity required that some machinery continue to exist until answers to the relatives' questions could be found.

198. In the course of the debate most speakers expressed their deep concern at the reported pattern of enforced or involuntary disappearances occurring in various degrees in various parts of the world and affecting a large number of persons. Enforced or involuntary disappearances were to be condemned as violating the most basic human rights of the victims themselves and their families; several speakers referred to the anguish and sorrow of the relatives of missing persons. One representative condemned the persistent practice of enforced or involuntary disappearances particularly when that practice resulted from massive and flagrant violations of human rights perpetrated by Governments. Another representative noted that enforced or involuntary disappearances had taken place in his country during the nazi régime; such practices could not be justified by considerations of national security. In this sense several representatives stated that neither terrorism nor situations of emergency or internal strife warranted the practice of enforced disappearances of political opponents and that States should, even in such circumstances, maintain at all times the rule of law and the fundamental principles of human rights.

199. Most speakers expressed appreciation for the report of the Working Group which they found to be well-balanced and factual. The humanitarian approach adopted by the Group with the view to informing relatives of the whereabouts of their missing family members was welcomed by these speakers as was the practice of the Group's Chairman of contacting Governments in connection with urgent reports of disappearances. The co-operation of Governments was seen as important to the success of the Group's work and several speakers expressed appreciation to the Governments which had co-operated with the Group.

200. Most speakers stated that the Group had not been able to complete its complex and difficult task and that its mandate should be renewed. One representative stated that the prime responsibility for ending enforced or involuntary disappearances lay with the Governments of States where they were occurring and that

since other mechanisms existed within the Commission for investigating disappearances new and expensive procedures which had shown no real results were not needed.

201. Some representatives expressed reservations with regard to the methods of work adopted by the Working Group, the sources of the Group's information and the publicity given to the activities of the Group and its report. One representative stated that the Working Group had exceeded its mandate in sending urgent telegrams to States in regard to individual cases and in requesting States to invite members of the Group to visit the country to establish direct contacts; the Group also erred in giving greater credence to non-governmental organizations than to Governments. One representative reviewed in detail the resolutions leading up to the establishment of the Group and the resolutions establishing the procedure of the United Nations for dealing with communications of alleged violations of human rights, in particular Economic and Social Council resolution 1503 (XLVIII) and resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He concluded that it was necessary for the Group to examine individual cases in accordance with the procedure laid down in resolution 1503 (XLVIII) and related resolutions, to use reliable information from responsible sources and to process it with due discretion. Another representative stated that the Working Group would have been more effective had it adopted methods of work more in keeping with the machinery established by Economic and Social Council resolution 1503 (XLVIII).

202. Some speakers objected to the inclusion in annexes to the Group's report of statements from representatives of associations containing critical remarks. Other representatives called for a careful screening of information submitted to the Group and suggested that less publicity be given to the work of the Group and to information received concerning particular countries. Certain representatives stated that the Working Group should have given more attention to general problems associated with enforced or involuntary disappearances and solutions to those problems.

203. The view was expressed by a number of speakers that the resolutions leading up to and establishing the Working Group had a humanitarian character and that the Working Group thus did not fall under the provisions of Economic and Social Council resolution 1503 (XLVIII) which was designed to deal with consistent patterns of gross and reliably attested violations of human rights. The Working Group had been established for a specific purpose with specific instructions and it had been given the authority to decide upon its own terms of reference and it was not subordinated to other procedures. Examples were given of other bodies established by the General Assembly and the Commission on Human Rights which also operated independently of the procedure set up under Economic and Social Council resolution 1503 (XLVIII). With regard to the sources of the Group's information, one speaker pointed out that paragraph 3 of Commission resolution 20 (XXXVI) provided that the Working Group could seek and receive information from a wide range of sources and that the Economic and Social Council and the General Assembly had approved the Commission's resolution without modifying that paragraph. Speakers also pointed out that the resolution establishing the Group did not require confidentiality and that the humanitarian nature of the Group's task required that it be able to inform relatives of the whereabouts of their missing family members. It was also pointed out that publicity would be useful in ending the practice of enforced or involuntary disappearances.

204. During the debate statements were made concerning enforced or involuntary disappearances in given countries. Representatives and observers made statements concerning the matters within the Working Group's report which related to their countries. The details of these statements are reflected in the summary records of the relevant meetings. One representative stated that the information concerning his country submitted to the Working Group had been intended to create a distorted picture of his country and was part of a systematic campaign orchestrated by terrorist groups from abroad; the United Nations should not allow itself to become a vehicle for such a campaign. He stated that his country had suffered a dramatic increase in terrorism and that terrorism was the true cause of disappearances. He affirmed that, while allowing that some of the cases of disappearances were the result of individual excesses in enforcing law and order, most of the reported cases corresponded to terrorists who either had been killed in armed confrontations, had been executed by their own organizations, had deserted their organizations and gone into hiding in order to avoid reprisals, had gone abroad under false documents, or had gone underground. He denied the existence in his country of reported secret detention centres; such reports were based on forged evidence. He also stated that the full information on which the Working Group's report had been based had not been transmitted to his Government and he referred to his Government's position that it was not prepared to accept a complaints procedure different from that laid down in Economic and Social Council resolution 1503 (XLVIII) and related resolutions.

205. Another representative stated that the information concerning his country contained in the report of the Working Group was false and politically motivated and sought to discredit his country. The reported disappearances concerned a privileged group of former officials and descendants of the former monarch who had violated the human rights of the people. The present régime had come to power through a revolution and sought to bring about equality, justice and freedom for all. The rule of law had always prevailed under the present régime. The representative of another country mentioned in the report informed the Commission that a reply from his Government would be forthcoming in connection with the cases transmitted to it by the Working Group. He noted that most of the cases had reportedly occurred in some parts of his country where there was a state of emergency. He referred to a group engaged in hostilities against Government forces and said that some of the missing persons might have been killed in the field. He further referred to the steps taken by his Government to normalize the situation in his country, including the release of political prisoners and the lifting of martial law, and added that as conditions normalized it was hoped that there would be more possibilities to ascertain the whereabouts of missing persons. Another representative stated that the Working Group's reports did not fully reflect his Government's willingness to assist the Group; the Government was prepared to permit members of the Group to visit his country and was ready to provide more detailed information on cases under study. He also referred to information before the Commission on internal machinery within his country for investigating disappearances.

206. The observer for one country denied that the present Government was responsible for the disappearances reported by the Working Group. The principal cause of these disappearances had been the policy of the dictatorial régime which had existed in the country for 45 years and which had suppressed the human rights of the people. During the period immediately following the revolution which brought the present Government to power, the new authorities had had no control over the situation in various parts of the country; at that time there was no police force nor judiciary. Outbreaks of popular violence had resulted in people being killed or summarily executed without the knowledge of the authorities. Whenever possible the authorities

had prevented the citizens from taking justice into their own hands and had thus saved the lives of some persons who had been torturers during the past régime or who were war criminals. With regard to the cases mentioned in the Group's report, he pointed out that almost half of them had occurred before the coming into power of the present Government and that a large number related to people who were members of the security forces or the former dictatorial régime. Many members of the former security forces had fled to neighbouring countries. He further stated that the Group's source of information was unreliable.

207. At the end of the discussion during the 1606th meeting the Chairman-Rapporteur responded to questions and observations made during the debate concerning the report of the Working Group and stated that should the Commission decide to renew the mandate of the Working Group, the observations voiced during the course of the discussion would be carefully examined by the Group with a view to its future work. The Director of the Division of Human Rights also made a statement concerning the principles which guided the Secretariat in servicing human rights bodies such as that on enforced or involuntary disappearances.

208. At the 1604th meeting the representative of France introduced draft resolution E/CN.4/L.1552, of which Venezuela subsequently became a sponsor. At the 1617th meeting he orally revised the revised draft resolution sponsored by his country (E/CN.4/L.1552/Rev.1). The representatives of Ethiopia and the Philippines proposed oral amendments which were accepted by the sponsor of the revised draft resolution.

209. Prior to voting on the revised draft resolution, as orally amended, the Chairman drew the Commission's attention to the statement of administrative and financial implications of the draft resolution contained in document E/CN.4/L.1552 which had been circulated to the Commission in document E/CN.4/L.1563. One representative, with regard to that part of the administrative and financial implications concerning the supplementary staff which might be needed to service the Working Group, stated that the Working Group should be serviced by permanent rather than supplementary staff members. Another representative agreed that the servicing of the Working Group should be performed by members of the permanent staff. In this regard the Director of the Division of Human Rights stated that the Division did not have sufficient permanent staff to carry out all the tasks entrusted to it by the Commission and thus had to make use of supplementary staff. The work of supplementary staff was supervised by permanent staff members of the Division. The Commission decided to note, without approving, the administrative and financial implications contained in document E/CN.4/L.1563 and the views expressed by delegations.

210. At the 1617th meeting draft resolution E/CN.4/L.1552/Rev.1, as orally revised and amended, was adopted without a vote.

211. For the text of the resolution, see chapter XXVIII, Section A, resolution 10 (XXXVII).

212. Statements were made after the adoption of the resolution by the representatives of Argentina, Cyprus, the Union of Soviet Socialist Republics and the United States of America.

213. One representative stated that the Group should act on the basis of consensus, that it should act only with the agreement of the Governments concerned and that it should deal with situations which amounted to massive, flagrant and systematic violations of human rights. He also stated that the secretariat should ensure the most economical use of resources in connection with the activities of the Group. Another delegation expressed the hope that the Group would act on the basis of reliable information from responsible sources which it would treat with discretion. The receipt of communications and their transmittal to Governments should be in accordance with the standards and practice of the United Nations, in particular resolution 1 (XXIV) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. He also pointed out that the procedures adopted by the Group should not affect the procedures set up in Economic and Social Council resolution 1503 (XLVIII) and related resolutions. Another representative stressed the humanitarian nature of the Group's work and said that the resolution which the Commission had adopted avoided setting up complicated procedures which would obscure or even nullify consideration of actual disappearances and that, under that resolution, the Working Group could continue its work without any unnecessary procedural handicap, thereby responding to the aspirations and expectations of the international community. Another representative stated that he had joined the consensus because his Government believed in the rule of law and was profoundly concerned at violations of fundamental legal rights. He pointed out other violations of human rights which should receive similar attention.

214. At the 1642nd meeting, on 13 March 1981, the Chairman announced the appointment of Mr. Jonas K. D. Foli (Ghana) and Mr. Agha Hilaly (Pakistan) to fill two vacancies on the Working Group on Enforced or Involuntary Disappearances. The Working Group is thus composed of the following members:

- Viscount Colville of Culross, QC (United Kingdom)
- Mr. Jonas K.D. Foli (Ghana)
- Mr. Agha Hilaly (Pakistan)
- Mr. Ivan Toševski (Yugoslavia)
- Mr. Luis A. Varela Quiros (Costa Rica).

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

215. The Commission discussed item 11 at its 1636th meeting on 10 March 1981.

216. The Commission had before it the following documentation: report by the Secretary-General prepared pursuant to Economic and Social Council resolution 1979/36 of 10 May 1979, on the activities and programmes of specialized agencies and other organs and bodies within and related to the United Nations system (E/CN.4/1433); report by the Secretary-General on the question of the intersessional activities of the Commission and its bureau (E/CN.4/1443 and Corr.1 and Add.1-2) submitted under Commission resolution 28 (XXXVI) of 11 March 1980; report by the Secretary-General on the development of public information activities in the field of human rights (E/CN.4/1436), submitted in accordance with Council resolution 1980/30 of 2 May 1980.

217. The Commission also had before it documentation pertaining to the item which had been before the Commission at previous sessions, including the reports of the Working Groups established with regard to the item at the Commission's thirty-fourth and thirty-fifth sessions (E/CN.4/L.1413 and E/CN.4/L.1482).

218. The Commission also had before it the report of its Working Group on the item which had met during the session (E/CN.4/L.1577).

219. A statement was made by the representative for the International League for Human Rights.

220. At the 1636th meeting of the Commission, the report of its Working Group was introduced by the Group's Chairman/Rapporteur, Mr. T.C.A. Rangachari (India). The report of the Group as it appears in document E/CN.4/L.1577 reads as follows:

"...

1. By its resolution 28 (XXXVI), the Commission on Human Rights decided to establish at the very beginning of its thirty-seventh session an open-ended sessional working group to continue the over-all analysis of further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, and also to consider the question of the co-ordination of specific human rights activities within the United Nations system as well as to elaborate appropriate recommendations with respect to the over-all analysis for consideration by the Commission at its thirty-seventh session.

2. The Working Group met on 12, 13 and 27 February and on 4 March 1981. At its first meeting, Mr. T.C.A. Rangachari (India) was elected Chairman/Rapporteur by acclamation. The Working Group also met in informal sessions on 20 and 23 February 1981.

3. The Working Group had before it the following documentation:

(a) A report by the Secretary-General prepared pursuant to Economic and Social Council resolution 1979/36, on the activities and programmes of specialized agencies and other organs and bodies within and related to the United Nations system (E/CN.4/1433);

(b) A report by the Secretary-General on the question of the intersessional activities of the Commission and its bureau (E/CN.4/1443 and Corr.1, and Add.1-2) submitted under Commission resolution 28 (XXXVI);

(c) A report by the Secretary-General on the development of public information activities in the field of human rights (E/CN.4/1436), submitted in accordance with Council resolution 1980/30.

4. The Working Group also had before it documentation pertaining to this item which had been before the Commission at previous sessions, including the reports of the Working Groups established with regard to the present item at the thirty-fourth and thirty-fifth sessions of the Commission on Human Rights (E/CN.4/L.1413 and E/CN.4/L.1482).

5. The following working papers were submitted to the Group: Working Papers E/CN.4(1981)/WG.3/WP.1, proposed by Bulgaria, Mongolia and Poland; E/CN.4(1981)/WG.3/WP.2, proposed by Australia; E/CN.4(1981)/WG.3/WP.3, proposed by the Netherlands; E/CN.4(1981)/WG.3/WP.4, proposed by Cuba; and E/CN.4(1981)/WG.3/WP.5, proposed by Australia and several delegations. These working papers are annexed to the present report.

6. At its meetings on 12 and 13 February 1981 the Working Group engaged in an exchange of ideas on the subject-matters to be discussed. Working Papers 1-4 were introduced by their respective sponsors. At its third meeting on 27 February 1981, Working Paper No. 5 was introduced.

7. During the general discussion it was widely agreed that the Commission had done useful work on this item in the past and that it should continue its work at the present session on a basis of consensus. The Working Papers presented and the views expressed were said to fall into two main areas: the orientation and future work of the Commission and proposals for strengthening, or improving the functioning of institutions in the field of human rights.

8. It was said that the Commission should seek to relate its work in the field of human rights to the needs and aspirations of the world's peoples so as to enable them to enjoy all fundamental rights in dignity and freedom. Reference was made in particular to the need for implementing the concepts contained in resolution 32/130, within the existing structures of the United Nations bodies concerned, as well as to the need for integrating human rights concerns into the development process. Mention was also made of the need to develop some form of intersessional activity of the Commission so as to enable it to respond in time to reports alleging situations of gross and flagrant violations of human rights of an urgent nature.

9. References were made to the role of the United Nations as a centre for harmonizing the actions of nations, in accordance with the purposes and principles of the Charter, and the view was expressed that the full potential

of the Commission on Human Rights should be realized as the principal organ of the Economic and Social Council concerned with human rights under the Charter and its terms of reference to assist the Economic and Social Council in the co-ordination of all activities in the field of human rights in the United Nations system.

10. Members of the Working Group decided to focus the discussion during this session on the following three areas: the question of an intersessional role for the bureau of the Commission on Human Rights and the possible need for convening emergency sessions of the Commission; the future work and programme of the Commission on Human Rights; the resource needs of the Secretariat. References were made to other questions including the question of the establishment of a High Commissioner for Human Rights as well as to other matters contained in the various working papers.

11. On the question of an intersessional role for the bureau, the view was expressed that there is need for such a role since the Commission on Human Rights meets only once a year and has no arrangements for dealing with urgent matters arising between sessions. In this connection, various suggestions were made as to how an intersessional role could be conceived. It was said that such a role should be clearly defined, as should the nature and scope of decisions to be taken. It was suggested that the bureau could meet quarterly for two to three days or for a week per session. It could be asked to consider reports concerning urgent situations of gross and flagrant violations of human rights and to follow the progress of implementation of resolutions and decisions of the Commission, the Economic and Social Council or the General Assembly. In discussing this question, it was said that a role for the bureau had to be seen against the background of the role of the Commission itself as a functional commission of the Economic and Social Council. It was said that the rules of procedure of the functional commissions of the Council did not provide for an intersessional role for the bureau. It was also said that the bureau cannot take upon itself representation of the political will of the Commission. Its recommendations were always subject to approval by the Commission. It was pointed out that it was ultimately for the Economic and Social Council to decide whether or not to have an intersessional role of and to define a possible role for the bureau. Account should also be taken of the established rules and practices of other United Nations bodies.

12. The view was also expressed that consideration should be given to holding the meetings of the Commission in April/May, which would allow more equal spacing of time between the sessions of the Commission and the General Assembly.

13. During the discussion of the question of the future work and programme of the Commission, the view was expressed that the Commission should seek to make its activities relevant to the concerns of the international community and to organize its priorities by taking these concerns into account. The Commission should therefore play its part in the consideration of the right to development and the integration of human rights within the process of development. The view was expressed that the Commission, as the principal organ of the Economic and Social Council concerned with human rights, should seek to ensure that the human factor and the human rights dimensions be taken fully into account by other organs of the United Nations.

14. The view was also expressed that the Commission should seek to implement the approaches and the concepts contained in resolution 32/130 and related

resolutions of the General Assembly, adopted subsequently. References were made to the proposals contained in Working Paper No. 1 and comments were made on various points within this Working Paper.

15. References were also made to the need for co-ordination and to avoid duplication. It was said that the Commission should limit the amount of studies or standard-setting exercises which it engaged in at any one time.

16. On the question of the resources of the Division of Human Rights, the Director of the Division, in response to a request by members of the Working Group, gave an indication of the needs of the Division in the following areas: the staffing and other material costs involved in the preparation of numerous studies and the servicing of many standard-setting and fact-finding procedures; the financing of the follow-up to confidential decisions; the financing of the advisory services programme; the need for a reference facility in the Division of Human Rights; the great increase in the number of meetings to be serviced and the staffing needs to service the forthcoming World Conference to Combat Racism and Racial Discrimination.

17. The view was expressed that financial questions and the resources of the Secretariat fell within the competence of the financial organs of the United Nations such as the ACABQ.

18. At its meeting on 4 March 1981, the Working Group took stock of its previous discussions. The general view was that the various matters raised required further consideration and more reflection. It was also felt that more time should be allowed before taking any decisions on these matters. It was therefore decided to inform the Commission of this position and to indicate to the Commission the Working Group's view that the consideration of these and related matters should be continued at the thirty-eighth session of the Commission as a matter of high priority.

19. At its meeting on 6 March 1981 the Working Group decided to recommend the following draft resolution for adoption by the Commission.

The Commission on Human Rights,

In response to the request addressed to it by the General Assembly in its resolution 34/36 and reiterated in resolution 35/174,

Taking into account the concepts contained in General Assembly resolution 32/130,

Bearing in mind the measures taken by the Economic and Social Council in its resolution 1979/36,

Cognizant of the contribution which it can make to the ongoing work of the United Nations system as a result of its continuing analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Noting with satisfaction the constructive exchange of views in the sessional Working Group on this item at its thirty-seventh session,

1. Notes that the report of the open-ended working group established during its thirty-seventh session contains a number of ideas which merit further study by the Commission;

2. Decides to continue, at its thirty-eighth session, its ongoing work on the over-all analysis with the view to further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

3. Decides to establish at its thirty-eighth session an open-ended working group to continue the analysis referred to in paragraph 2 above and to make appropriate recommendations thereon to the Commission;

4. Requests the Secretary-General to place before the working group referred to in paragraph 3 above the report of the working group established with regard to the present item at its thirty-seventh session, together with any other information relevant to this item;

5. Requests the Secretary-General to bring the present resolution and the relevant chapter of its report on its thirty-seventh session to the attention of the General Assembly through the Economic and Social Council.

20. The present report was approved by the Working Group at its meeting on 6 March 1981.

#### ANNEXES

Working Paper - Bulgaria, Mongolia, Poland  
(E/CN.4(1981)/WG.3/WP.1)

Draft resolution

The Commission on Human Rights,

Desirous to further international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion,

Bearing in mind that the obligation of all States to observe the purposes and principles of the Charter of the United Nations is fundamental for achieving international co-operation in promoting universal respect for human rights,

Reaffirming that such co-operation should be based on a profound understanding of the variety of problems existing in different societies and on the full respect for their political, economic, social and cultural realities,

Acknowledging the progress achieved by the international community in the promotion and protection of human rights and fundamental freedoms, particularly in the standard-setting work within the United Nations system,

Recalling resolution 32/130 of the General Assembly which has proclaimed a number of important concepts in the field of human rights to be taken into account in the approach to the future work within the United Nations system with respect to human rights questions,

Recalling also General Assembly resolutions 33/104, 33/105, 34/46, 35/174,

Keeping in mind resolution 1979/36 of the Economic and Social Council and Commission resolution 22 (XXXV) which have provided for a number of important measures of an organizational, administrative and legal character aimed at improving the effective enjoyment of human rights and fundamental freedoms,

Considering that at the present stage of its ongoing work on an over-all analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms it is of primary importance to concentrate efforts on taking concrete steps for the realization of the provisions and concepts laid down in General Assembly resolution 32/130 through the existing structures of the United Nations system,

1. Decides to include in its programme of work as the themes of highest priority the following:

(a) Elaboration of recommendations on ensuring real indivisibility and interdependence of both civil and political, and economic, social and cultural rights as well as on promoting sound and effective policies of economic and social development, bearing in mind that full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible,

(b) Making analyses of the effects of the existing unjust international economic order on the economic and social development of developing countries as well as of the obstacle that this represents to the implementation of human rights, and preparing relevant recommendations;

(c) Taking appropriate steps designed to contribute to the speedy establishment of the new international economic order based on equality and justice as an essential element for the effective promotion of human rights and fundamental freedoms, with particular emphasis on the relations between human rights, peace and development;

(d) Furthering international co-operation in promoting and encouraging respect for human rights and fundamental freedoms in accordance with the aims and principles of the Charter of the United Nations by strengthening the authority of the treaty basis in promoting and improving human rights and particularly by encouraging Member States to undertake specific legal obligations through ratification of or accession to international instruments in this field;

(e) Search for solutions to the mass and flagrant violations of human rights effected by situations resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity

as well as from the refusal to recognize the fundamental rights of peoples to self-determination and of every nation to the exercise of full sovereignty over its wealth and natural resources;

(f) Facilitating the exchange of experience and contribution of both developed and developing countries in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion;

2. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take into account the provisions of paragraph 1 above in the preparation of its programme of work, and to submit to the Commission a report thereon, including appropriate recommendations on studies which it might undertake;

3. Decides to continue at its thirty-eighth session the ongoing work of the over-all analysis of further promotion and encouragement of human rights and fundamental freedoms and of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

4. Requests the Secretary-General to bring the present resolution to the attention of the General Assembly at its thirty-sixth session.

Suggestion by the delegation of Australia (E/CN.4(1981)/WG.3/WP.2)

In the view of the Australian delegation, the work of the Working Group would be facilitated if there were to be an initial exchange of views on both philosophical and concrete questions which would enable the Chairman and other delegations to identify the main concerns of all members of the Group. It might then be possible for the Chairman to put a paper before the Group showing the main issues on which detailed discussion and negotiation should proceed and on which delegations could be invited to submit written proposals.

Suggestion by the delegation of the Netherlands (E/CN.4(1981)/WG.3/WP.3)

The Netherlands delegation submits for the consideration of the Working Group an indicative list of the questions which, it feels, should be addressed during this session.

1. Intersessional role of the Bureau

Procedures such as:

Frequency and length of meetings;  
Alternates.

Functions:

Direct contacts;  
Collection of information;  
Expressions of concern;  
Monitoring follow-up of Commission resolutions.

2. Sessions of the Commission:

Special - ECOSOC resolution 1156 (XLI).

Emergency - Procedures for convening:

Secretary-General;  
Bureau;  
Human Rights Commission.

3. Good offices [27 (XXXVI)]

4. Direct contacts

5. Fact finding (General Assembly resolution 35/176)

6. Resources of Secretariat

7. Long-term Programme of Commission:

Standard-setting;  
Co-ordination;  
Research and studies.

8. Integration of human rights concern into the work of other bodies in the United Nations system

9. Regional arrangements

10. Sub-Commission

11. Advisory services

12. Trust funds

13. Creation of new subsidiary organs of the Commission

14. High Commissioner for Human Rights (General Assembly resolution 35/175)

Working Paper - Cuba (E/CN.4(1981)/WG.3/WP.4)

The tasks to be undertaken in the United Nations as a matter of priority should include:

The incorporation in the terms of reference of the Commission on Human Rights, in accordance with the provisions of resolution 32/130, of the concepts set forth in subparagraphs 1 (e) and 1 (f) of that resolution.

In order to further the implementation of the decision adopted by the Economic and Social Council in resolution 1979/36:

The Commission should extend and improve its assistance to the Economic and Social Council in the co-ordination of activities concerning human rights in the United Nations system.

Working paper - Australia and several delegations  
(E/CN.4(1981)/WG.3/WP.5)

The Commission on Human Rights,

In pursuance of the request addressed to it by the General Assembly in its resolution 34/46 of 23 November 1979 to continue at its thirty-sixth session its ongoing work on the over-all analysis with a view to further promoting and improving human rights and fundamental freedoms, including the question of the Commission's programme and working methods, and on the over-all analysis of the alternative approaches and ways and means for improving the effective enjoyment of human rights and fundamental freedoms, in accordance with the provisions and concepts of resolution 32/130, as well as of resolution 35/174 in which the General Assembly's request was reiterated,

Anxious to further international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Bearing in mind that the obligation of all States to observe the purposes and principles of the Charter of the United Nations is fundamental for achieving international co-operation in promoting universal respect for human rights,

Reaffirming that such co-operation should be based on a profound understanding of the variety of problems existing in different societies and on the full respect for their political, economic, social and cultural realities,

Acknowledging the progress achieved by the international community in the promotion and protection of human rights and fundamental freedoms, particularly in the standard-setting work within the United Nations system,

Taking account of the measures already taken by the Economic and Social Council in its resolution 1979/36,

Recalling also the pertinent resolutions of the General Assembly, in particular resolutions 33/104, 33/105, 34/46, 34/47, 34/175 and 35/175,

Noting that many other organs of the United Nations system are engaged in activities relevant to its human rights concerns,

Cognizant of the contribution which it can make to this work as a result of continuing analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

1. Decides to continue to accord priority in its future work to the following themes:

(a) The need to ensure the indivisibility and interdependence of all human rights and fundamental freedoms by giving equal attention and urgent consideration to the implementation, promotion and protection of both civil and political, and economic, social and cultural rights;

(b) The need to ensure that work being done in other bodies in the United Nations system on the establishment of the new international economic order takes full account of the human rights concerns of peoples and persons;

(c) The search for solutions to the mass and flagrant violations of human rights of peoples and persons affected by situations such as those resulting from apartheid, from all forms of racial discrimination, from colonialism, from foreign domination and occupation, from aggression and threats against national sovereignty, national unity and territorial integrity, as well as from the refusal to recognize the fundamental rights of peoples to self-determination and of every nation to the exercise of full sovereignty over its wealth and natural resources;

(d) The furtherance of international co-operation in the promotion and encouragement of respect for human rights and fundamental freedoms in accordance with the purposes and principles of the Charter of the United Nations by continuing its work on standard-setting through the drafting of new international instruments in the field of human rights and encouraging Member States to recognize the value of the concept of universality of adherence to international treaties and conventions on human rights;

(e) The need to ensure that the secretariat is always equipped with the material and other resources necessary to the discharge of its obligations in the human rights field;

(f) The encouragement of the work of regional arrangements for the promotion and protection of human rights, including, where appropriate, encouragement for the formation of regional arrangements in regions where such arrangements do not yet exist;

(g) The need to ensure that the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the secretariat on research and study projects is carried out efficiently and is taken into account in the formulation of concrete proposals for future action;

(h) The performance of the functions entrusted to it by resolution 1979/36 in which the Economic and Social Council decided that the Commission on Human Rights should in future assist the Council in the co-ordination of activities concerning human rights in the United Nations system;

(i) The continuation of its work on the further promotion and encouragement of human rights and fundamental freedoms, including the question of the Commission's programme and working methods, and on the analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

2. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take account of the provisions of paragraph 1 above in the preparation of its programme of work;

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

'The Economic and Social Council,

Noting with approval resolution ... (XXXVII) of the Commission on Human Rights,

Desiring to improve the capacity of the Commission to make effective recommendations for the promotion and protection of human rights,

Taking into account the views submitted as a consequence of Commission resolution 28 (XXXVII) on the possibility of the creation of an intersessional role for the Commission's Bureau and on the possible need for convening emergency sessions of the Commission,

I

1. Decides that the Commission on Human Rights should authorize its Bureau to hold meetings in between the regular sessions of the Commission for the following purposes:

(a) To review the implementation by the Secretary-General of resolutions adopted by the Commission on Human Rights as well as resolutions concerning human rights adopted by the Council or the General Assembly;

(b) To collect information on reports of mass and flagrant violations of human rights with a view to determining whether:

- (i) The information reveals a situation so grave as to warrant a recommendation to the Council that an emergency session of the Commission be convened; or
- (ii) The information justifies the establishment of direct contacts between the Bureau (acting through the Chairman or another member) and the Government or organization concerned to establish the veracity or otherwise of the information received; or
- (iii) The information reveals a situation so serious as to warrant the Bureau placing the question on the agenda of the next regular session of the Commission; or
- (iv) The information requires expeditious action by some other means, such as a notification of concern to the appropriate Government or international organization;

2. Further decides that the Commission's Bureau, in the discharge of the tasks entrusted to it in paragraph 1 above, should be guided by the need to exercise its responsibilities with discretion and to comply fully with the provisions of the rules of procedure of the functional commissions of the Economic and Social Council;

3. Decides that intersessional meetings of the Commission's Bureau shall be convened quarterly by the Secretary-General and that:

(a) The Secretary-General should present, at each meeting, a summary report showing progress in his implementation of the resolutions in paragraph 1 (a) above, together with any other relevant material;

(b) Such meetings should not last for more than five working days;

(c) The Bureau may prepare a report on each of its intersessional meetings for immediate transmission to the Economic and Social Council; a concise report describing the Bureau's intersessional activities should be presented to each regular session of the Commission on Human Rights.

## II

1. Decides that the Commission on Human Rights should give high priority to the completion of the standard-setting tasks now on its agenda and that, after the completion of the current tasks, the Commission should ensure that it is not seized of more than two such projects at any one time.

## III

1. Decides that the Commission on Human Rights should continue to give attention to the further promotion and encouragement of human rights and fundamental freedoms, including the question of its programme and methods of work, as well as alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms under a standing item on its agenda entitled 'Question of the future work of the United Nations system for the improvement of the effective enjoyment of human rights and fundamental freedoms';

2. Requests the Secretary-General to inform all member organizations of the United Nations system, including all bodies functioning within the United Nations itself, of the contents of this resolution and Commission resolution ... (XXXVII) and invite their views for transmission to the Commission at its thirty-eighth session;

3. Requests the Secretary-General to draw these resolutions to the attention of the General Assembly in pursuance of General Assembly resolution 34/46."

221. In paragraph 19 of its report (E/CN.4/L.1577), the working group recommended a draft resolution to the Commission for adoption. The Commission adopted the draft resolution at its 1636th meeting without a vote.

222. For the text of the resolution see chapter XXVIII, section A, resolution 23 (XXXVII).

223. At the 1636th meeting, the representative of Australia introduced a draft resolution (E/CN.4/L.1591) co-sponsored by Costa Rica, India, Nigeria, Philippines, Yugoslavia and Zambia.

224. At the same meeting, the Commission adopted the draft resolution without a vote.

225. For the text of the resolution see chapter XXVIII, section A, resolution 24 (XXXVII).

226. At the 1636th meeting, the representative of Costa Rica submitted the draft decision contained in document E/CN.4/L.1606.

227. At the same meeting, the Commission adopted the decision by 25 votes to none, with 16 abstentions.

228. For the text of the decision see chapter XXVIII, section B, decision 6 (XXXVII).

X. REVIEW OF THE DRAFT MEDIUM-TERM  
PLAN FOR THE PERIOD 1984-1989

229. The Commission discussed item 12 of its agenda at its 1640th meeting on 12 March 1981.

230. The Commission had before it a note by the Secretary-General entitled "Review of the draft medium-term plan for the period 1984 to 1989" (E/CN.4/1424).

231. The item was introduced by the Deputy-Director of the Division of Human Rights, who outlined the background to the preparation of the plan and the factors which had influenced its preparation. He stated that after the plan was approved by the General Assembly, the Commission as well as other human rights organs should strive to remain within its scope, barring unforeseen questions or matters of an urgent humanitarian nature. He urged the Commission to follow a more planned and co-ordinated approach to standard-setting and studies. He also invited the Commission to indicate its priorities clearly, pointing out that increasingly, the financial organs expected new activities to be financed through re-allocation of priorities and through discontinuation of obsolete activities or activities of marginal usefulness. He informed the Commission that if the Commission did not indicate its priorities clearly, particularly when requesting new activities, then the Secretariat would have to determine the priorities itself, which might involve, on occasions, decisions to delay or postpone activities requested by the Commission.

232. During the discussion, appreciation was expressed over the fact that the Commission had been given an opportunity to comment on the draft plan. The view was expressed that the draft was useful and satisfactory. However, it was also said that some more details could be provided, particularly with respect to sub-programmes 1 to 3 which, it was felt, could be expanded. At the 1640th meeting some textual comments and other suggestions were made for consideration by the Secretariat.

233. Comments were also made on the role of the United Nations in preparing studies on human rights matters as well as on the need for more planning by human rights organs in carrying out standard-setting activities. The need for a more detailed reference to informal co-ordination in the human rights field was also referred to, both as regards United Nations organs as well as the Secretariat.

234. The views were expressed that efforts should continue to increase the efficiency of the Secretariat and also to provide it with the staff and resources necessary to enable it to carry out its responsibilities. A representative made comments regarding the lack of any equitable geographic distribution in the staffing of the Secretariat. It was suggested that the part of the draft medium-term plan concerning the staffing of the Division of Human Rights should provide information on the number of staff in the various sections and units of the Division.

235. Commenting on some of the observations, the Director of the Division said that it was difficult to plan for a rather distant future stretching to the end of the present decade, particularly in view of the variety of opinions and positions of

Member States to be taken into account in drawing up a balanced, coherent and effective plan. He also expressed concern that the resources of the Division of Human Rights would be considerably strained in carrying out the numerous tasks assigned to it.

236. The Commission, at its 1640th meeting, decided to take note of the draft medium-term plan and to invite the Secretariat to bear in mind, when finalizing the plan, the observations made in the Commission. For the text of the decision, see chapter (XXVIII), section B, decision 9 (XXXVII).

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

237. The Commission considered item 13 and its subitems at its 1618th to 1629th closed meetings from 26 February to 6 March 1981 and at its 1630th to 1635th and 1637th to 1639th public meetings from 6 to 11 March 1981. The item as a whole was considered at the 1630th to 1635th and 1637th to 1639th public meetings, subitem 13(a) was considered at the 1631st public meeting and subitem (b) was considered at the 1618th to 1629th closed meetings.

Consideration of item 13 as a whole

238. In connection with its consideration of item 13 as a whole the Commission had before it the following documents:

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session (E/CN.4/1413 and Corr.1);

Annual report of the Inter-American Commission on Human Rights to the General Assembly of the Organization of American States submitted to the Commission in accordance with Economic and Social Council resolution 1159 (XLI) (E/CN.4/1453 and Corr.1);

Report of the Secretary-General submitted under paragraph 5 of resolution 30 (XXXVI) of the Commission on Human Rights concerning human rights and massive exoduses (E/CN.4/1440);

Analysis of information received concerning the situation of human rights in Bolivia prepared by Mrs. Halima Embarek Warzazi member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in accordance with Sub-Commission resolution 23 (XXXIII) (E/CN.4/1441);

Letter dated 5 November 1980 from the Permanent Representative of Bolivia to the United Nations addressed to the Secretary-General (A/C.3/35/9);

Report of the human rights situation in Equatorial Guinea by Professor Fernando Volio Jiménez, expert, appointed in accordance with resolution 33 (XXXVI) of the Commission on Human Rights (E/CN.4/1439 and Add.1);

Report of the Secretary-General concerning the situation of human rights in Guatemala submitted pursuant to Commission resolution 32 (XXXVI) (E/CN.4/1438);

Note verbale dated 4 March 1981 from the Permanent Mission of the Hashemite Kingdom of Jordan addressed to the Chairman of the Commission on Human Rights (E/CN.4/1469);

Notes verbales submitted by the Permanent Mission of the Syrian Arab Republic (E/CN.4/1468, E/CN.4/1470 and E/CN.4/1472 and Add.1 dated 2, 6 and 9 March 1981 respectively);

Note verbale submitted by the Permanent Mission of Israel (E/CN.4/1473 dated 10 March 1981);

Letter dated 24 February 1981 from the Head of the Delegation of the United States of America addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session (E/CN.4/1467);

Draft decision on the question of Sakharov sponsored by Costa Rica, Federal Republic of Germany, Netherlands, Panama, Portugal, United Kingdom of Great Britain and Northern Ireland in accordance with Commission decision 11 (XXXVI) (E/CN.4/L.1534);

Written statement (E/CN.4/NGO/294 and Add.1) concerning the human rights of Parliamentarians submitted by the Inter-Parliamentary Union, a non-governmental organization in consultative status (category 1);

Written statement (E/CN.4/NGO/319) concerning human rights situation of Indian people of the Americas submitted by the International Indian Treaty Council, a non-governmental organization in consultative status (category II);

Written statement (E/CN.4/NGO/320) concerning Guatemala submitted by the Christian Democratic World Union, a non-governmental organization in consultative status (category II);

Memorandum (E/CN.4/NGO/306) concerning Bolivia submitted by the World Peace Council, a non-governmental organization on the roster;

Written statement concerning El Salvador submitted by the following non-governmental organizations in consultative status: International Youth and Student Movement for the United Nations, Women's International Democratic Federation, World Federation of Democratic Youth, World Federation of Trade Unions and World Federation of United Nations Associations (category I); Afro-Asian People's Solidarity Organization, Anti-Slavery Society for the Protection of Human Rights, International Association of Democratic Lawyers, International Commission of Jurists, International Council of Jewish Women, International Federation of Human Rights, International Indian Treaty Council, Women's International League for Peace and Freedom (category II); and International Union of Students (Roster) (E/CN.4/NGO/299);

Written statement concerning El Salvador submitted by the World Peace Council, a non-governmental organization on the roster (E/CN.4/NGO/305);

Written statement (E/CN.4/NGO/314) concerning El Salvador submitted by the Commission of the Churches on International Affairs, a non-governmental organization in consultative status (category II);

Written statement (E/CN.4/NGO/317) concerning El Salvador submitted by the International League for Human Rights, a non-governmental organization in consultative status (category II);

Written statement (E/CN.4/NGO/322) submitted by the International Law Association, a non-governmental organization in consultative status (category II).

Written communication (E/CN.4/NGO/323) concerning El Salvador submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II).

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

Review of material on the situation of human rights in Democratic Kampuchea prepared by Mr. Abdelwahab Bouhdiba and transmitted to the Commission pursuant to resolution 24 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/1437);

Information submitted by the Government of Democratic Kampuchea, (E/CN.4/1412), (E/CN.4/1451), (E/CN.4/1452), (E/CN.4/1460), (E/CN.4/1463), (E/CN.4/1466);

Information submitted by the Socialist Republic of Viet Nam: (A/34/491), (A/C.3/34/1), (E/CN.4/1454), (E/CN.4/1455), (E/CN.4/1457), (E/CN.4/1461).

240. At the Commission's 1631st meeting on 9 March 1981 and before opening the public debate on item 13 as a whole, the Chairman reminded the Commission that it had taken decisions in private session under Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970 concerning: Afghanistan, Argentina, Bolivia, Central African Republic, Chile, El Salvador, Ethiopia, German Democratic Republic, Guatemala, Haiti, Indonesia, Japan, Mozambique, Paraguay, Republic of Korea, Uganda and Uruguay and that in conformity with paragraph 8 of resolution 1503 (XLVIII) members should make no reference in the public debate to those decisions nor to any confidential material relating thereto.

241. During the debate on item 13 as a whole which took place at the Commission's 1631st to 1635th meetings on 9 and 10 March 1981, statements were made by the observers for: Afghanistan, Czechoslovakia, Central African Republic, Equatorial Guinea, Guatemala, Iran, Ireland, Israel, Nicaragua and Norway. At the Commission's 1634th meeting the representative of ILO made a statement.

242. The Commission also heard statements by representatives of the following non-governmental organizations in consultative status with the Economic and Social Council: Afro-Asian People's Solidarity Organization; Amnesty International; Baha'i International Community; Christian Democratic World Union; Commission of the Churches on International Affairs; International Association of Democratic Lawyers; International Confederation of Free Trade Unions; International Commission of Jurists; International Federation of Human Rights; International Indian Treaty Council; International League for Human Rights; International Movement for Fraternal Union among Races and Peoples; International Peace Bureau; International Union of Students; Inter-Parliamentary Union; Movement against Racism and for Friendship between People; Women's International Democratic Federation; Women's International League for Peace and Freedom.

243. In the course of the debate on item 13 as a whole general remarks and suggestions were made concerning the approach the Commission should take to the question of the violation of human rights. Many delegates pointed out that in spite of the fact that human rights and fundamental freedoms were guaranteed by many international instruments, very serious and flagrant violations of these human rights had been reported to the Commission during the past few years.

Although the Commission had a responsibility to help find solutions to these problems, some speakers found that the Commission's efforts had been too late and inadequate; the Commission should take warranted action to save lives and alleviate human suffering or it would fail in its duty as the United Nations specialized body for human rights. Some representatives stated that the Commission should confine its attention to situations of gross, flagrant and systematic violations of human rights, such as racial discrimination and apartheid, and that it should avoid dealing with individual cases as this would constitute intervention in the internal affairs of States. Other speakers were of the opinion that the Commission should deal with large-scale violations of human rights and with individual cases which were representative of a wide practice. Some delegates expressed the view that human rights standards had been clearly laid down in international instruments and that the Commission should apply those standards impartially and objectively to all cases regardless of whether or not a situation of systematic and flagrant violations was found to exist. Some delegations expressed the view that the confidential procedures for examining allegations of violations of human rights should be applied equally to all States. Other speakers felt that with regard to certain situations the confidential procedure was an appropriate and adequate way of dealing with these matters but that the nature of other situations was such that more positive results were to be expected from their public discussion. Representatives also pointed out the importance to the objectives of the Commission of the co-operation of Governments concerned; consultation rather than condemnation was what was needed. Some speakers also stated that in addition to identifying and investigating violations of human rights, the Commission should direct its efforts towards assisting governments in the restoration of respect for human rights. The role of individuals and organizations in the promotion and observance of human rights was stressed by several representatives. Human rights promotion was the responsibility of the whole society and non-governmental organizations, groups and individuals could make significant contributions both to the actual implementation of human rights and to a better understanding of the meaning of human rights. Some delegations mentioned international non-governmental organizations which had made important contributions for identifying and investigating human rights violations, in a way that was detached from any political consideration.

244. Also during the debate on item 13 as a whole, statements were made concerning alleged violations of human rights in specific countries; these statements and replies made by representatives of Governments are summarized in the records of the above-mentioned meetings. Among the violations referred to were the denial of the right to self-determination, including foreign intervention and occupation and to the free disposal of natural resources, apartheid, racial discrimination, mass-exoduses for political or economic reasons, large-scale murder of persons, hostage taking, disappearances of persons, political assassinations, arbitrary arrest and detention, unjustified confinement in mental institutions, torture, and persecution for racial, political, religious, or other reasons. Some representatives expressed concern at reports that individuals and members of organizations active in promoting respect for human rights had been arrested or had suffered other reprisals because of those activities. Statements were made concerning the violation of trade-union rights, the violation of human rights of indigenous and non-white populations and the violation of economic, social and cultural rights involved in situations of extreme poverty, unemployment, malnutrition, lack of health services and illiteracy. Some delegations stressed the close relation and interdependence between economic, social and cultural rights and civil and political rights and referred to the Commission's decision to give violations of them equal attention. It was also stated that the unjust

international economic order resulted in the violation of human rights in different parts of the world. Some delegations pointed out that serious economic and social inequalities had caused popular discontent in certain situations and that expressions of that discontent and attempts by persons to improve the situation had been met with repression and large-scale violations of civil and political rights; peaceful solutions to such situations could only be reached through real reforms which would eliminate the social and economic inequalities. Some representatives expressed concern that certain Governments invoked national security in carrying out acts which violate human rights; violations of human rights could not be justified or excused by such reasons.

#### Resolutions and decisions

##### Question of hostage-taking

245. At the Commission's 1637th meeting, on 11 March 1981, the representative of the United States introduced the draft resolution E/CN.4/L.1588/Rev.1 co-sponsored by Argentina, Australia, Canada, Fiji, France, Federal Republic of Germany, Greece, Jordan, Netherlands, Panama, Peru, Philippines, Portugal, United Kingdom and Zaire, subsequently joined by Denmark and Pakistan. At that same meeting the Commission adopted the draft resolution contained in document E/CN.4/L.1588/Rev.1 without a vote.

246. For the text of the resolution see chapter XXVIII, section A, resolution 27 (XXXVII).

##### Question of human rights and massive exoduses

247. In connection with its consideration of this question the Commission had before it a report by the Secretary-General concerning massive exoduses submitted pursuant to Commission resolution 30 (XXXVI) of 11 March 1980 (E/CN.4/L.1440). The General Assembly in its resolution 35/196 of 15 December 1980 endorsed the request of the Commission in its resolution 30 (XXXVI), and requested the Commission at its thirty-seventh session to examine the report of the Secretary-General and to make recommendations for further action on the basis of that report.

248. At the Commission's 1637th meeting, on 11 March 1981, the representative of Canada introduced the draft resolution contained in document E/CN.4/L.1601 co-sponsored by Australia, Fiji, Federal Republic of Germany, Greece, Japan, \*/ Pakistan, Panama, Philippines, Senegal, Thailand, \*/ Uganda and Zambia. It was announced that Ghana had joined the sponsors. A statement of the administration and financial implications of the draft resolution was brought to the attention of the Commission (E/CN.4/L.1615). At that same meeting the representative of Cuba introduced amendments to the draft resolution in document E/CN.4/L.1601 (E/CN.4/L.1621) co-sponsored by Benin and the Syrian Arab Republic. A discussion on these amendments took place. At the Commission's 1638th meeting, on 11 March 1981, the representative of Canada orally revised the draft resolution E/CN.4/L.1601 and

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

it was announced that the amendments E/CN.4/L.1621 had been withdrawn. At that same meeting the draft resolution E/CN.4/L.1601, as orally amended, was adopted by the Commission without a vote. Statements in explanation of vote were made by the representative of the Byelorussian SSR, Cuba and the Syrian Arab Republic.

249. For the text of the resolution see chapter XXVIII, section A, resolution 29 (XXXVII).

Question of rights and responsibilities in promoting respect for human rights and fundamental freedoms

250. At the Commission's 1637th meeting on 11 March 1981 the representative of Canada introduced the draft resolution E/CN.4/L.1598 sponsored by Canada, Costa Rica, Cyprus, Portugal and Senegal. The Commission also had before it amendments to that draft resolution proposed by the Byelorussian SSR (E/CN.4/L.1612) and Bulgaria (E/CN.4/L.1613). At the Commission's 1638th meeting, on 11 March 1981, the representative of Senegal orally presented to the Commission revisions to the amendments contained in documents E/CN.4/L.1612 and E/CN.4/L.1613 which had been accepted by their respective sponsors. The Commission was informed that the sponsors of the draft resolution (E/CN.4/L.1598) accepted the amendments (E/CN.4/L.1612, E/CN.4/L.1613) as orally revised. At that same meeting the draft resolution as amended was adopted without a vote. The representative of the Byelorussian SSR made a statement explaining his delegation's position.

251. For the text of the resolution see chapter XXVIII, section A, resolution 28 (XXXVII).

United Nations voluntary fund for victims of torture

252. The General Assembly in its resolution 35/190 of 15 December 1980 requested the Commission at its thirty-seventh session to study the possibility of extending the mandate of the United Nations Trust Fund for Chile to receive voluntary contributions and to study the criteria for their distribution through established channels of assistance to persons not covered by the mandate of other existing United Nations Trust Funds and whose human rights have been violated. The Commission was requested to report to the Economic and Social Council at its first regular session of 1981.

253. At the Commission's 1637th meeting, on 11 March 1981, the representative of Denmark introduced the draft resolution contained in document E/CN.4/L.1584 co-sponsored by Finland, \*/ Norway \*/ and Sweden \*/. The representative of the USSR proposed oral amendments. At the Commission's 1639th meeting, also on 11 March 1981, the amendments proposed by the representative of the USSR were put to the vote; amendments 1 through 5 were rejected by 15 votes to 12 with 14 abstentions and amendments 6 and 7 were rejected by 15 votes to 11 with 13 abstentions. The draft resolution E/CN.4/L.1584 was adopted by the Commission by 22 votes to 7 with 14 abstentions. Statements in explanation of vote were made by the representatives of Cuba, Mexico, Nigeria, Poland, the USSR and the United Kingdom.

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\*/ In conformity with rule 69, paragraph 3, of the rules of procedure of the functional commission of the Economic and Social Council.

254. For the text of the resolution see chapter XXVIII, section A, resolution 35 (XXXVII).

#### Equatorial Guinea

255. In connection with its consideration of Equatorial Guinea the Commission had before it at its thirty-seventh session the report of Professor Fernando Volio Jiménez, the expert appointed pursuant to Commission resolution 33 (XXXVI) of 11 March 1980, to assist the Government of Equatorial Guinea in taking the action necessary for the full restoration of human rights (E/CN.4/1439 and Add.1). Professor Volio had previously served pursuant to Commission resolution 15 (XXXV) of 13 March 1979 as Special Rapporteur on the situation of human rights in Equatorial Guinea; in that capacity he had visited Equatorial Guinea in 1979 and had presented a report on the situation of human rights in that country to the Commission at its thirty-sixth session. At the Commission's thirty-seventh session during its 1630th meeting, on 6 March 1981, Professor Volio introduced the report he had drafted after visiting Equatorial Guinea for the second time in November 1980. Professor Volio stated that his present mandate was primarily to consult or advise whereas the purpose of his first visit to Equatorial Guinea had been primarily to investigate. Prior to his second visit the Government of Equatorial Guinea had accepted a three-stage plan for assistance to that country in the full restoration of human rights which had been suggested by the Expert. His present report was based on that plan and contained conclusions and recommendations made as a result of his second visit to that country. The Expert had suggested practical measures such as the setting of a time-table for the adoption of a constitution, the creation of a review commission reporting to the President, the adoption of the Universal Declaration of Human Rights as a national law and the ratification of the International Covenants on Human Rights. In his view these measures would help to place the national reconstruction effort to which the people and Government of Equatorial Guinea have pledged themselves in the context of a democratic style of life and of government, thereby leading to the full restoration of fundamental freedoms. The suggestions made in his report naturally took into account the economic, political and social circumstances prevailing in Equatorial Guinea and the difficulties inseparable from any democratic form of political organization. Professor Volio stated he had made specific suggestions for specialists to assist the Government and that the assistance to Equatorial Guinea for the full restoration of human rights called for by Commission resolution 33 (XXXVI) should be considered as an integral part of the international community's plans for aid to that country. With a view to enabling the Commission to continue its constructive efforts in assisting Equatorial Guinea, the Expert suggested that the Commission periodically review the situation in that country.

256. At the 1634th meeting, on 10 March 1981, the representative for ILO informed the Commission that Equatorial Guinea became a member of his organization on 30 January 1980. ILO had taken part in the inter-agency assistance programme to Equatorial Guinea, as was reflected in General Assembly document A/35/447 and Add.1. ILO had in addition formulated some specific proposals for consultancy services and consultations would be held with the authorities of Equatorial Guinea with a view to identifying further areas for which technical assistance programmes could be developed. In the view of the ILO, the needs of Equatorial Guinea were immense and funds were needed to satisfy them.

257. At the same meeting the observer for Equatorial Guinea expressed his appreciation for the excellent and objective report submitted by the Expert, and stated that the main purpose of his attendance at the Commission session was to observe the reaction of the Commission to that report. He stated that since the fall of the Macias régime in 1979 the people of Equatorial Guinea had fully recovered their human rights and fundamental freedoms, and it was the preoccupation of the present Government to ensure the enjoyment of these rights by means of legislations. The co-operation of the international community was needed for this purpose. He informed the Commission that since the departure of Professor Volio from Equatorial Guinea certain measures had been taken by the Government to further improve the human rights conditions in the country and that steps had been taken to improve religious education. In this connection he stated that it would be difficult to reconstruct in two years things which for a greater part had been destroyed during the last eleven years; time would be needed and reconstruction, which could not be tied to a rigid time-table, would have to take into account the physical, social and cultural conditions of the country. In implementing the ambitious reconstruction projects the lack of qualified personnel in Equatorial Guinea was a significant handicap and he expressed the hope that the United Nations, in particular the Economic and Social Council, would provide his country with moral, technical and financial aid needed to carry the projects out.

258. A number of participants in the general debate expressed appreciation for the report of Professor Volio Jiménez and welcomed the amelioration of the human rights conditions in Equatorial Guinea. The hope was expressed that the Commission's actions would contribute to further improving the enjoyment of human rights in that country.

259. At the Commission's 1638th meeting, on 11 March 1981, the representative of Canada introduced the draft resolution contained in document E/CN.4/L.1603 sponsored by Canada, Costa Rica and Portugal, which Australia joined. The representative of Canada orally revised that resolution. The Chairman indicated that the resolution had no immediate administrative or financial implications, but that these would come up in connection with specific proposals for assistance which were to be worked out. At that same meeting the draft resolution as amended was adopted without a vote.

260. For the text of the resolution, see chapter XXVIII, section A, resolution 31 (XXXVII).

#### Assistance to the Central African Republic

261. At the Commission's 1631st meeting on 9 March 1981 the representative of the Federal Republic of Germany introduced the draft resolution contained in document E/CN.4/L.1587 and co-sponsored by Canada, Central African Republic \*/ Ghana, Morocco, Senegal, Zaire and Zambia. In introducing this draft resolution the representative of the Federal Republic of Germany stated that the Commission had many occasions when it had to criticize Governments but that with regard to the

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\*/ In conformity with rule 65, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Central African Republic the Commission had an opportunity to take a positive approach and help a country to guarantee human rights. The new Government of the Central African Republic had restored human rights in that country and in their draft the sponsors were proposing that the Secretary-General provide advisory services and other forms of appropriate assistance to the Government of the Central African Republic. They also invited all States, specialized agencies and other United Nations organs and also humanitarian and non-governmental organizations to provide co-operation and assistance to the Central African Republic. In connection with the draft resolution the Director of the Division of Human Rights made a statement on the ways in which it could be implemented; there were no immediate administrative and financial implications, but they would be prepared in connection with specific proposals for assistance. At that same meeting the draft resolution contained in document E/CN.4/L.1587 was adopted without a vote.

262. For the text of the resolution see chapter XXVIII, section A, resolution 15 (XXXVII).

#### Assistance to Uganda

263. At the Commission's 1638th meeting on 11 March 1981 the representative of Canada introduced the draft resolution entitled "Assistance to Uganda" E/CN.4/L.1600 co-sponsored by Ghana, Senegal and Zambia. The representative of Uganda made a statement concerning the restoration of human rights in his country and his country's need for assistance. The Chairman indicated that the draft resolution had no immediate administrative and financial implications; they would be prepared in connection with specific proposals for assistance. At that same meeting the Commission adopted without a vote the draft resolution contained in document E/CN.4/L.1600. The representative of Uganda made a statement.

264. For the text of the resolution see chapter XXVIII, section A, resolution 30 (XXXVII).

#### Situation of human rights in El Salvador

265. The General Assembly, by its resolution 35/192 of 15 December 1980, expressed its deep concern at the grave violations of human rights in El Salvador and requested the Commission to examine, at its thirty-seventh session, the situation of human rights in El Salvador. The Commission on Human Rights had before it, in connection with the situation in El Salvador, a number of documents under the symbols: E/CN.4/1467; E/CN.4/NGO/299; E/CN.4/NGO/305; E/CN.4/NGO/314; E/CN.4/NGO/317 and E/CN.4/NGO/323. The Commission also had before it a draft resolution sponsored by Denmark, Ireland \*/ and the Netherlands (E/CN.4/L.1574), a draft resolution sponsored by Algeria, Mexico and Yugoslavia (E/CN.4/L.1582), and document E/CN.4/L.1592 containing amendments proposed by Algeria, Mexico and Yugoslavia to draft resolution E/CN.4/L.1574/Rev.1.

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

266. At the 1638th meeting of the Commission held on 11 March 1981, the representative of the Netherlands introduced a revised draft resolution (E/CN.4/L.1574/Rev.3), co-sponsored by Denmark and Ireland \*/ and worded in such a way as to reconcile the positions of the two draft resolutions. At the same meeting the representative of Mexico proposed an oral amendment which was adopted by 17 votes to 1 with 24 abstentions. A statement on the administrative and financial implications of the draft resolution was brought to the attention of the Commission (E/CN.4/L.1593). The draft resolution contained in document E/CN.4/L.1574/Rev.3 as amended, was adopted by 29 votes to 1 with 11 abstentions. Statements in explanation of vote were made by the representatives of Australia, Canada, Costa Rica, Cuba, Federal Republic of Germany, Fiji, France, Mongolia, Senegal, United Kingdom, United States, Uruguay and USSR.

267. For the text of the resolution see chapter XXVIII, section A, resolution 32 (XXXVII).

#### Situation of human rights in Bolivia

268. The General Assembly in its resolution 35/185, of 15 December 1980, requested the Commission on Human Rights, inter alia, to review the human rights situation in Bolivia at its thirty-seventh session. The Sub-Commission on Prevention of Discrimination and Protection of Minorities in its resolution 23 (XXXIII), of 12 September 1980, recommended that the Commission at its thirty-seventh session study the reported violations of human rights in Bolivia and take urgent measures aimed at their restoration and requested governments, specialized agencies, other intergovernmental organizations and non-governmental organizations in consultative status to submit to the Secretary-General recent and reliable information on violations of human rights in Bolivia for transmittal to the Commission on Human Rights. It also requested Mrs. Halima Embarek Warzazi to make an analysis of the information received and to present this analysis together with such recommendations as she deemed appropriate to the Commission on Human Rights at its thirty-seventh session. The Commission had before it, in connection with its consideration of this question, the analysis prepared by Mrs. Halima Embarek Warzazi in document E/CN.4/1441 and documents under the symbols A/C.3/35/9 and E/CN.4/NGO/306. The view was expressed that in its resolution 23 (XXXIII) the Sub-Commission had exceeded its mandate and that in consequence document E/CN.4/1441, as such, should not be considered.

269. At the Commission's 1638th meeting, on 11 March 1981, the representative of Canada introduced the draft resolution contained in document E/CN.4/L.1585 co-sponsored by Netherlands. At the Commission's 1639th meeting, also on 11 March 1981, the attention of the Commission was drawn to the administrative and financial implications (E/CN.4/L.1589) of draft resolution E/CN.4/L.1585, and that draft resolution was adopted by 29 votes to 3 with 8 abstentions.

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

270. For the text of the resolution see chapter XXVIII, section A, resolution 34 (XXXVII).

#### Situation of human rights in Guatemala

271. The Commission on Human Rights in its resolution 32 (XXXVI) of 11 March 1980 decided to keep the situation of human rights and fundamental freedoms in Guatemala under review at its thirty-seventh session on the basis of information received from all relevant sources and, to that end, the Commission requested the Secretary-General to bring that resolution to the attention of the Government of Guatemala and report on the results of this contact to the Commission at its thirty-seventh session. In connection with its consideration of this question the Commission had before it the report of the Secretary-General E/CN.4/1438 and document E/CN.4/NGO/320.

272. At the Commission's 1638th meeting, on 11 March 1981, the representative of the Netherlands introduced the draft resolution contained in document E/CN.4/L.1608/Rev.1 co-sponsored by Canada, Uganda and Zambia. The representative of Cuba withdrew the amendments to the unrevised version of that draft resolution (E/CN.4/L.1608) circulated in document E/CN.4/L.1617 and co-sponsored by Algeria and Panama. At the Commission's 1639th meeting, on 11 March 1981, the Commission adopted the draft resolution contained in document E/CN.4/L.1608/Rev.1 by 28 votes to 2 with 10 abstentions.

273. For the text of the resolution see chapter XXVIII, section A, resolution 33 (XXXVII).

#### Decision that no decision be taken on certain proposals

274. At the Commission's 1639th meeting, on 11 March 1981, the representative of Yugoslavia on behalf of Algeria, India, Mexico and Yugoslavia moved that the Commission decide to take no decision on the draft resolutions and decision contained in documents E/CN.4/L.1607, E/CN.4/L.1609, E/CN.4/L.1610 and E/CN.4/L.1611. On representative stated that his delegation had planned to vote in favour of taking no decision on documents E/CN.4/L.1607 and E/CN.4/L.1610, which involved the Syrian Arab Republic and Jordan, both of which had agreed to that course of action, but had planned to vote against the proposal to take no decision on document E/CN.4/L.1609, dealing with Andrei Sakharov, or on document E/CN.4/L.1611, a draft resolution submitted by the Byelorussian Soviet Socialist Republic on the violation of human rights in the United States. He had, therefore, asked that the Commission be given the opportunity to vote twice, first on documents E/CN.4/L.1607 and E/CN.4/L.1610, and secondly on documents E/CN.4/L.1609 and E/CN.4/L.1611. A procedural discussion followed and the Commission decided by 21 votes to 17 with 3 abstentions not to vote separately on the proposal. At the request of the representative of Uruguay the vote on the proposal was by roll-call and it was adopted by 24 votes to 16 with 3 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Benin, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Nigeria, Pakistan, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia.

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

Abstaining: Brazil, Cyprus, Philippines.

Statements in explanation of the vote were made by representatives of Australia, Byelorussian Soviet Socialist Republic, Mexico, Peru, Uganda, Union of Soviet Socialist Republics, United Kingdom and Zambia.

275. For the text of the decision see chapter XXVIII section B, decision 7 (XXXVII).

A. Question of human rights in Cyprus

276. In connection with its consideration of agenda item 13(a) "Question of human rights in Cyprus" the Commission had before it the report of the Secretary-General submitted to the Commission pursuant to Commission decision 13 (XXXVI) of 7 March 1980 (E/CN.4/1442). At the Commission's 1631st meeting the Chairman of the Commission proposed, after consultations with the interested parties, that the item 13(a) be postponed to the thirty-eighth session of the Commission, with due priority at that session. The Commission adopted this proposal without a vote, it being understood that action required by previous resolutions of the Commission on this subject continue to remain operative including the request to the Secretary-General to provide a report to the Commission regarding their implementation. The observer for Turkey requested that his reservations with regard to the previous resolutions of the Commission be placed on record.

277. For the text of the decision see chapter XXVIII, section B, decision 5 (XXXVII).

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

278. The Commission considered item 13 (b) at its 1618th to 1629th (closed) meetings. The Commission had before it confidential documents containing material referred to it under Economic and Social Council resolution 1503 (XLVIII) and observations thereon received from Governments, and a confidential report submitted to the Commission by its working group established by Commission decision 8 (XXXVI), as well as reports prepared by the Secretary-General pursuant to Commission resolution 15 (XXXIV) concerning the implementation of the confidential decision adopted by the Commission at its thirty-sixth session under Council resolution 1503 (XLVIII).

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

280. At its 1629th (closed) meeting the Commission adopted a general decision that a working group of five of its members should be established to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) by the thirty-fourth session of the Sub-Commission and those situations of which the Commission is seized. At that same meeting it was decided that the general decision should be made public.

281. For the text of the decision, see chapter XXVIII, section B, decision 4 (XXXVII).

282. At the Commission's 1642nd meeting the Chairman announced that, in accordance with rule 21 of the rules of procedure of the functional commissions of the Economic and Social Council, and after consultations with the regional groups, the following members of the Commission have been nominated to serve in their personal capacity on the working group on situations of violations of human rights:

Mr. Anisse Salah-Bey (Algeria);  
Mr. Andreas Ch. Pouyouros (Cyprus);  
Mr. Nils Boel (Denmark);  
Mr. Octavio Ferrer (Panama); and,  
Mr. Ivan Toševski (Yugoslavia).

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

283. The Commission considered agenda item 14 at its 1635th and 1636th meetings, on 10 March 1981.

284. For consideration of the item the Commission had before it the report of the Working Group (E/CN.4/L.1575), a draft resolution on the question of a convention on the rights of the child sponsored by Poland (E/CN.4/L.1573), and a statement on administrative and financial implications of the draft resolution E/CN.4/L.1580. 1/

285. In resolution 36 (XXXVI) of 12 March 1980, the Commission on Human Rights resolved to continue its work on the draft convention on the rights of the child as a matter of priority. By decision 1980/138 of 2 May 1980, the Economic and Social Council authorized an open-ended Working Group to meet for one week prior to the Commission's thirty-seventh session to facilitate the completion of the work on the draft convention. At its thirty-fifth session, the General Assembly, by resolution 35/131 of 11 December 1980, welcomed Council decision 1980/138 and requested the Commission, at its thirty-seventh session, to continue to give high priority to the question of completing the draft convention.

286. At its 1583rd meeting on 3 February 1981, the Commission on Human Rights by decision 1 (XXXVII) decided that a sessional open-ended Working Group should be established for the consideration of item 14 on its agenda concerning the drafting of a convention on the rights of the child.

287. At the 1635th meeting, the Chairman-Rapporteur of the Working Group, Mr. Adam Lopatka (Poland), introduced the report of the Group (E/CN.4/L.1575) which had been praised by many members of the Working Group.

288. At the same meeting, the representative of Poland introduced the draft resolution on the question of a convention on the rights of the child (E/CN.4/L.1573) and the delegation of Peru informed the Commission that its country also wished to sponsor the draft resolution. The statement concerning the administrative and financial implications of the draft resolution was circulated in document E/CN.4/L.1580.

289. The report of the Group as it appears in document E/CN.4/L.1575 reads as follows:

"[...]

### Introduction

[...]

3. The 1981 pre-sessional Working Group held 10 meetings from 26 January 1981 to 30 January 1981, at which it discussed paragraph 2 of article 2 and articles 3, 4, 5, 6, 7 and 8 of the revised draft convention (E/CN.4/L.1349). The sessional Working Group had discussions on articles 6, 8 and 9 during meetings held on 2 and 3 February 1981. At its meetings on 25, 26 and 27 February 1981, the Working Group adopted its report as contained in the present document.

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

## Elections

4. At the first meeting of the pre-session Working Group, on 26 January 1981, Mr. Adam Lopatka (Poland) was elected by acclamation Chairman-Rapporteur. Mr. Lopatka continued as Chairman-Rapporteur of the Working Group established by the Commission on Human Rights at its thirty-seventh session to continue the work of the pre-session Working Group.

## Participation

5. The meetings of the pre-session and the session Working Groups, which were open to all members of the Commission on Human Rights, were attended by representatives of the following States: Argentina, Australia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Cuba, Denmark, France, the Federal Republic of Germany, India, the Netherlands, Pakistan, the Philippines, Poland, Portugal, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Yugoslavia and Zaire.

6. The following States, non-members of the Commission on Human Rights, were represented at the Working Group by observers: Egypt, Holy See, Ireland, Italy, Norway and Turkey.

7. The International Labour Organisation was represented at the Working Group by an observer.

8. The International Catholic Child Bureau, the International Association of Penal Law, the International Union for Child Welfare and the World Association for the School as an Instrument of Peace sent observers to the Working Group.

## Documents

9. The Working Group had before it a number of relevant documents including the Revised Draft Convention on the Rights of the Child (E/CN.4/1349), the report of the Secretary-General on the views, observations and suggestions on the question submitted by Member States, competent specialized agencies, regional intergovernmental organizations and non-governmental organizations (E/CN.4/1324 and Corr.1 and Add.1-5), the reports of the 1979 and 1980 Working Groups (E/CN.4/L.1468 and E/CN.4/L.1542) and a written statement by the International Labour Office concerning the employment of children (E/CN.4/WG.1/WP.1/1). Non-governmental organizations in consultative status also submitted written statements for consideration by the Commission (E/CN.4/NGO/230, 234, 244, 265, 276, 291 and 295).

10. As in 1980, the basic working document for the discussions in the Working Group was the revised draft convention submitted by Poland (E/CN.4/1349), which incorporated the four preambular paragraphs adopted by the Working Group in 1979. It will be recalled that the five further preambular paragraphs as well as article 1 and paragraph 1 of article 2 of this draft were adopted and annexed to the report of the Working Group of 1980 (E/CN.4/L.1542).

## Consideration of Articles

11. As a result of its debates, the Working Group adopted paragraph 2 of article 2, and articles 3, 4, 5, 7 and 8.

### Article 2

#### Paragraph 2

12. Paragraph 2 of article 2 of the revised Polish draft was as follows:

'The States parties to the present Convention undertake to introduce into their legislation the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, the application of the proper national law would not grant him any nationality whatever.'

13. At the Working Group's session of 1980, the representative of Australia submitted the following amendment to paragraph 2 of article 2:

'The States parties to the present Convention shall ensure that their legislation recognizes the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.'

This proposal was reintroduced at the 1981 session of the Group.

14. Some speakers felt that there were no substantial differences between the text of the revised Polish draft convention and the proposal submitted by Australia. They also felt that both the Australian and Polish delegations were inspired by humanitarian principles in proposing their formulations for the paragraph, recalling that this paragraph was aimed at providing every child with a nationality so as to prevent cases of statelessness among children.

15. The representative of Poland withdrew paragraph 2 of article 2 of the revised Polish draft in favour of the Australian amendment.

16. It had been noted by some speakers that the Australian proposal was largely aimed at bringing the draft convention as close as possible to the general principles of the Convention on the Reduction of Statelessness of 1961.

17. During the ensuing discussion, some speakers drew the attention of the Working Group to the problems that might arise from the fact that many Member States of the United Nations had based their legislation on nationality on principles other than those laid down in the Convention on the Reduction of Statelessness and the proposed paragraph 2. For, in the view of these speakers, there were countries where the jus sanguinis basis of nationality prevailed, as opposed to the jus soli approach in the Polish and Australian texts, and therefore the Working Group should consider the need for a compromise formula in order to prevent possible reservations by States to this provision of the convention on the rights of the child at the time of ratification.

18. The Working Group adopted by consensus paragraph 2 of article 2, as proposed by Australia, on the understanding that at a later stage, if necessary, the Working Group would resume the consideration of those problems pointed out by some members of the Group.

### Article 3

19. Article 3 of the revised Polish draft was as follows:

'1. In all actions concerning children, whether undertaken by their parents, guardians, social or State institutions, and in particular by courts of law and administrative authorities, the best interest of the child shall be the paramount consideration.

'2. The States parties to the present Convention undertake to ensure the child such protection and care as his status requires, taking due account of the various stages of his development in family environment and in social relations, and, to this end, shall take necessary legislative measures.

'3. The States parties to the present Convention shall create special organs called upon to supervise persons and institutions directly responsible for the care of children.'

20. The representative of the United States of America reintroduced a new article 3 which had been submitted by his delegation the year before but had not been considered owing to lack of time. The new article read as follows:

'1. In all official actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.

'2. In all judicial or administrative proceedings affecting a child that has reached the age of reason, an opportunity for the views of the child to be heard as an independent party to the proceedings shall be provided, and those views shall be taken into consideration by the competent authorities.

'3. Each State party to this Convention shall support special organs which shall observe and make appropriate recommendations to persons and institutions directly responsible for the care of children.

'4. The States parties to this Convention undertake, through passage of appropriate legislation, to ensure such protection and care for the child as his status requires.'

21. The delegation of Australia also had submitted in 1980 the following text to replace paragraphs 2 and 3 of article 3:

'2. The States parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and responsibilities of his

parents and the stage of the child's development towards full responsibility and, to this end, shall take all necessary legislative and administrative measures.

'3. The States parties to the present Convention shall ensure competent supervision of persons and institutions directly responsible for the care of children.'

This proposal was reintroduced at the 1981 session of the Working Group.

#### Paragraph 1

22. A number of speakers agreed that the Polish version of this paragraph was wider and better protected the child, but in search for compromise it was agreed to take as a basis for discussion the proposal of the United States delegation.

23. A discussion ensued as to whether, on general humanitarian grounds, the best interests of the child should be the pre-eminent consideration in actions undertaken by his parents, guardians, social or State institutions. The imposition of obligations on parents and guardians by an international convention was questioned, but the inclusion of obligations in this provision was felt by some delegations to provide greater protection for the child. Moreover, the word 'paramount' used in the revised Polish draft to qualify the consideration to be given to the interests of the child was considered too broad by some delegations which felt that the best interest of the child should be 'a primary consideration'.

24. In the course of the discussion a speaker stated that the interests of the child should be a primary consideration in actions concerning children but were not the overriding, paramount consideration in every case, since other parties might have equal or even superior legal interests in some cases (e.g., medical emergencies during childbirth). He also pointed out that his delegation did not attempt to regulate private family decisions but only official actions. The view was also expressed by some representatives that paragraph 1 did not need to have a reference to specific obligations of States parties in respect of the best interests of the child; paragraph 1 enunciated general principles while the specific obligations of States parties would be listed in the following provisions which would also take into consideration actions concerning children and undertaken by their parents or guardians.

25. After further discussion, agreement was reached to delete the word 'official' from the first line of the proposal made by the representative of the United States of America.

26. The Working Group adopted by consensus paragraph 1 as proposed by the delegation of the United States of America, with the deletion of the word 'official'.

#### Paragraph 2

27. One representative suggested that the Working Group consider paragraph 2 as proposed by the delegation of the United States of America, since it made

reference to judicial and administrative proceedings. The representative of the United States explained that paragraph 2, as submitted by his delegation, contained concepts that were missing in the draft convention.

28. Some speakers indicated that the opportunity for the views of the child to be heard, mentioned in the amendment proposed by the delegation of the United States, was also mentioned in article 7 of the revised Polish draft, but others pointed out that the amendment by the United States delegation to paragraph 2 of article 3 made specific reference to all judicial or administrative proceedings affecting a child in this respect and followed logically from paragraph 1 of article 3 as a means by which judicial or administrative authorities could ascertain a child's best interests in a given case.

29. One delegate stated that although the idea contained in the paragraph under consideration was correct, the characterization of 'the age of reason' was very difficult. He also believed that views of children could be expressed in court through their legal guardians. The observer of the International Association of Penal Law suggested that language should be borrowed from article 7 to replace the phrase 'has reached the age of reason'. The Working Group agreed to replace the words 'the age of reason' by the following words of article 7: 'is capable of forming his own views'.

30. The representative of Brazil said that it would be preferable to insert the words 'shall be provided' after the words 'an opportunity'. A further suggestion, made by the representative of the Netherlands, was that in the third line of the paragraph, the phrase 'either directly or indirectly through a representative' should be inserted after the word 'heard'. In addition, proposals were made to delete the word 'independent' from the third line of the paragraph and to add the following phrase at the end of that paragraph: 'in a manner consistent with the procedures followed in the State Party for the application of its legislation'.

31. One representative stated that, because no provision had yet been made for determining the best interests of a child not capable of forming his own views, the Working Group might need to revert to that point at a later stage.

32. The paragraph as revised and adopted by the Working Group read as follows:

'In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.'

### Paragraph 3

33. The Working Group considered the proposal submitted by the delegation of Australia to replace paragraph 2 of article 3 of the revised Polish draft. The representative of Australia pointed out that his proposal took into account a basic aim of the Conference on the Legal Protection of the Rights of the Child held in Warsaw on 16-19 January 1979, namely, the need to secure the rights of the child through support to the family in need.

34. After an exchange of views, it was agreed to insert, in the third line of the text, the phrase 'legal guardians' after the word 'parents'. Further to the Chairman's request that a compromise text be elaborated following consultations, the delegation of the United States submitted a text that read as follows:

'The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.'

35. That text of paragraph 3 was adopted by consensus by the Working Group.

#### Paragraph 4

36. The amendment put forward by the Australian delegation to replace paragraph 3 of article 3 was considered by the Working Group.

37. There was a discussion on the word 'persons'. The representative of Norway suggested that the word 'persons' be replaced by the word 'personnel'. The representative of the United States proposed that the word 'persons' be replaced by the word 'officials' or by the phrase 'officials and personnel of institutions' and explained that the term 'officials' would cover, for example, the board of directors of a hospital or an orphanage; he indicated that if those amendments were accepted by the Working Group, paragraph 3 of article 3 submitted by his delegation would be withdrawn in favour of the Australian amendment.

38. After discussion, the Working Group adopted the proposed amendments. The paragraph, as adopted, reads as follows:

'The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.'

The Working Group later decided that that text should become paragraph 4 of article 3.

#### Article 4

39. Article 4 of the revised Polish draft was as follows:

'1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to all children in their territories, irrespective of these children's race, colour, sex, religion, political and other opinion, social origin, property, birth in lawful wedlock or out of wedlock or any other distinction whatever.

'2. The States Parties to the present Convention shall undertake appropriate measures individually and within the framework of international co-operation, particularly in the areas of economy, health and education for the implementation of the rights recognized in this Convention.'

Paragraph 1

40. A proposal was introduced by the representative of the United States which read as follows:

'Each State Party to the present Convention shall respect and extend all the rights set forth in this Convention to all children lawfully in its territory.'

That proposal was regarded by some delegations as containing a principle with which they could not agree, namely, the limitation of the rights set forth in the draft convention to children who were lawfully in the territory of a State Party. Other delegations agreed that the parents' illegal entry into the territory of a State Party could not be invoked in order to limit the rights of their children.

41. The representative of Argentina further suggested the insertion of the phrase 'or arising under their legal systems' after the word 'convention' in the second line of the text of the revised Polish draft.

42. Another proposal was submitted by the representative of Brazil after consultations to the effect that the last three lines of paragraph 1 of the revised Polish draft should be replaced by the following text:

'... irrespective of these children's or their family's or legal guardian's race, colour, sex, religion, political and other opinion, social origin, property, family status, language, national origin, educational background, or any other distinction whatever.'

43. Proposals were also made to bring the formulation of the paragraph more closely into line with relevant passages of existing United Nations international instruments, particularly the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the UNESCO Convention against Discrimination in Education.

44. Following consultations, the representative of the United States submitted the following text as a possible compromise:

'1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to all children (lawfully) in their territories without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, economic condition, cultural beliefs or practices, property, educational attainment, and birth or other status.

'2. States Parties to the present Convention shall take appropriate measures to ensure that the child is protected against all forms of discrimination on any basis whatsoever, particularly against any form of discrimination or punishment based on the activities or beliefs of the child's parents, legal guardians, or other family members.

'3. Each State Party to this Convention shall take steps, in accordance with its constitutional processes and its available resources, with a view to achieving the full realization of the rights recognized in the present Convention by all appropriate means, including particularly the adoption of legislative or administrative measures.'

45. The representative of the United States indicated that if paragraph 1 of this new text was adopted without mentioning the term 'lawfully' there need not be a provision concerning aliens such as the one embodied in article 5 of the revised Polish draft.

46. Several delegations supported a proposal to revert to the maximum extent possible to the Polish version of the text under consideration, in particular by retaining article 5 on the rights of alien children.

47. After further discussion, the representative of the United States proposed to merge paragraphs 1 and 2 of the text presented by him and agreed to withdraw paragraph 3. He also agreed to withdraw the words 'lawfully' and 'economic condition' on the understanding that article 5 would be deleted. The revised text read as follows:

'The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without discrimination or distinction of any kind, irrespective of the child's or his parent's or legal guardians' race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, and birth or other status, or any other basis, including any form of discrimination or punishment based on the activities or beliefs of the child's parents, legal guardians, or other family members.'

48. The representative of the Byelorussian Soviet Socialist Republic proposed the deletion from the third line of that text of the words 'discrimination or'. The representative of Brazil suggested the addition, in the antepenultimate line, after the words 'and birth or', of the phrase 'any other distinction whatever'. The representative of the United States indicated his preference for the word 'basis' rather than the word 'distinction'.

49. The Chairman proposed that the text as amended, with the deletion of the phrase 'including any form of discrimination or punishment based on the activities or beliefs of the child's parents, legal guardians, or other family members' should be adopted and suggested that a new paragraph be formulated for inclusion in article 4.

50. The Working Group adopted by consensus paragraph 1 of article 4, in its revised version, which read as follows:

'The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parents' or legal guardians' race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.'

51. One representative felt that, notwithstanding the fact that the language adopted in paragraph 1 would apply to all children, if article 5 of the revised Polish draft contained a reference to a certain category of children (alien children), that would undermine the universality of paragraph 1. Other delegates agreed that article 5 would no longer be necessary if paragraph 1 of article 4 were adopted, and proposed its deletion. The representative of Italy expressed her reservation on this course of action.

52. The Working Group decided to delete article 5 of the revised Polish draft.

#### Paragraph 2

53. The delegation of the United States put forward for consideration by the Working Group the following proposal:

'States Parties to the present Convention shall take appropriate measures to ensure that the child is protected against all forms of discrimination on any basis whatsoever, particularly against any form of discrimination or punishment based on the activities or beliefs of the child's parents, legal guardians, or other family members.'

54. After a lengthy debate that proposal was withdrawn in favour of a revised version of paragraph 2 which had been elaborated by the delegation of Norway and that read as follows:

'States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment based on the activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members.'

55. The representative of the Byelorussian Soviet Socialist Republic proposed that the words 'based on' be replaced by the words 'on the basis of'. The representative of Brazil further suggested the insertion of the word 'status' before the word 'activities'. Several delegations expressed support for those amendments.

56. Further to a joint proposal by the delegations of Australia and the United States to the effect that the above-mentioned text, with the proposed amendments, become paragraph 2 of article 4, the Working Group adopted by consensus the revised version of paragraph 2 which read as follows:

'States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members.'

#### Article 5

57. The Working Group discussed the question of how concretely the obligation of States Parties under the future Convention on the Rights of the Child should be laid down in order to ensure the implementation of the rights recognized in the Convention. Norway favoured the following formulation:

'The States Parties to the present Convention shall undertake appropriate measures individually and within the framework of international co-operation, through legislation, in local and national planning, in the economy and in the areas of health, social welfare and education, for the implementation of the rights recognized in this Convention.'

58. In this connection, a proposal submitted in 1980 by the representative of Australia which had not been considered owing to lack of time, was reintroduced. It read as follows:

'The States Parties to the present Convention shall take all appropriate measures, individually or jointly within the framework of international co-operation, for the full and effective implementation of the rights contained in the Convention.'

59. Some delegations felt that the amendment proposed by Norway was more in line with the original text of the revised Polish draft which read: 'The States Parties to the present Convention shall undertake appropriate measures individually and within the framework of international co-operation, particularly in the areas of economy, health and education for the implementation of the rights recognized in this Convention.' In addition, paragraph 3 of article 4 of the text submitted by the representative of the United States (see paragraph 44) was again brought to the attention of the Working Group in view of its more generalized formulation.

60. The Working Group moved to a text elaborated after consultations and proposed by the representative of Brazil which read as follows:

'The States Parties to the present Convention shall undertake all appropriate administrative and legislative measures, in accordance with their available resources, and, where needed, within the framework of international co-operation, for the implementation of the rights recognized in this Convention.'

61. Several delegations expressed support for that proposal, and the Working Group adopted it by consensus as a separate article. The Group decided at a later stage of the proceedings that it should become article 5.

#### Article 6

62. Article 6 of the revised Polish draft read as follows:

'The parents shall have the right to specify the place of the child's residence unless, guided by his best interests, a competent State organ is authorized, in accordance with national law, to decide in this matter.'

63. The Polish delegation submitted the following revised text to replace the original wording of article 6 of the revised draft convention:

'The parents have the right to determine the place of the child's residence. If the place of residence determined by parents endangers the child's well-being and in case of disagreement between the parents

as well as if the child does not remain under the care of parents, his residence will be decided by a competent, State organ, guided by the child's well-being.'

64. The delegation of Australia suggested that article 6 be deleted because a provision concerning the rights accruing to the parents had no place in such a convention.

65. The representative of the United States proposed that the original wording of articles 6 and 10 of the revised draft convention, be replaced by a revised text which read as follows:

'1. States parties shall ensure that a child shall not be involuntarily separated from his parents, except when competent authorities determine, in accordance with procedures and criteria specified by domestic law, that such separation is necessary for the welfare of the child in a particular case, such as one involving maltreatment or abuse of the child by the parents or one where the parents are living separately and a decision must be made as to the child's place of residence. Such determinations shall not be made until all interested parties have been given an opportunity to participate in the proceedings and to make their views known. Such views shall be taken into account by the competent authorities in making their determination.

'2. In cases where both parents lawfully reside in one State party and their child lawfully resides in another State party, the States parties concerned shall deal with applications for family reunification in a positive, humane and expeditious manner. States parties shall charge only moderate fees in connection with such applications and shall not modify in any way the rights and obligations of the applicant(s) or of other members of the family concerned. States parties shall ensure that applications for the purpose of family reunification of parents with their children which are not granted for any reason may be renewed at the appropriate level and will be considered at reasonably short intervals by the authorities of the country of residence or destination, whichever is concerned, and, in such cases, fees will be charged only when applications are granted. Until family reunification in a particular case is accomplished, all State parties involved shall permit frequent and regular family contacts.

'3. The provisions of paragraph 2 shall also apply in cases where a child's only surviving parent lawfully resides in one State party and the child lawfully resides in another State party.

'4. If the parents of a child lawfully reside in different States parties States parties shall ensure that the child's preference as to which parent he wishes to reside with shall be an important consideration in any determination made by competent authorities concerning the child's place of residence.'

66. Although the representative of Norway submitted a text to replace article 6 only, he shared the view of the United States delegation that there was a strong relationship between articles 6 and 10 of the revised Polish draft convention. The text put forward by Norway read as follows:

'A child shall not, against the will of the parents be separated from them, unless a competent public organ is authorized, in accordance with national law, to make such a decision in order to protect the child.'

67. The representative of Australia maintained his suggestion that article 6 be deleted and requested the sponsors of the amendments and of the original version to delete the article. The representative of the United States agreed with the representative of Australia that the article as drafted should be deleted, but insisted that the convention should contain a provision on family reunification and that article 6 was the logical place for this provision because it dealt with the child's place of residence.

68. The representative of the Union of Soviet Socialist Republics supported the wording of article 6 of the revised draft convention, stressing the importance of retaining this provision guaranteeing the child's interest with regard to his place of residence. In addition, he pointed out that the proposal made by the delegation of the United States (see paragraph 64) was aimed at substituting the provision concerning the child's place of residence for a provision on the reunification of families.

69. One speaker pointed out that it was not the rights of the parents that were emphasized, but the best interests of the child. In that connection, the representative of Australia proposed the following amendment to article 10:

'A child of pre-school age shall not be separated from his parents unless extraordinary circumstances determine that such a separation is necessary for the child's welfare.'

70. The representative of Denmark proposed a new text, stating her preference that it should not be incorporated in article 6 but should stand as a separate article. It read as follows:

'Parents or other guardians have the main responsibility for the child. Every State party has, however, the responsibility to satisfy the needs of the child and ensure the child the rights set forth in this Convention.'

71. The representative of Poland, taking account of the views expressed by other delegations, submitted a new revised text of article 6 which read:

'The States parties shall recognize the right of the child to have his residence to be determined by his parents. If the place of residence specified by the parents is likely to be detrimental to the child's well-being or in the case of disagreement between the parents, a competent public organ, guided by the child's well-being, shall determine his place of residence.'

72. The Working Group was unable to continue consideration of article 6 for lack of time.

Article 7

73. Article 7 of the revised Polish draft read as follows:

'The States parties to the present Convention shall enable the child who is capable of forming his own views the right to express his opinion in matters concerning his own person, and in particular, marriage, choice of occupation, medical treatment, education and recreation.'

74. The representative of Australia proposed that the article should read:

'The States parties to the present Convention shall assure to the child the right to express his opinion in matters concerning his own person, and in particular marriage, choice of occupation, medical treatment, education and recreation. In all such matters the wishes of the child shall be given due weight in accordance with his age and maturity.'

75. The delegation of Denmark felt that it was not sufficient to state that the child has the right to express his opinion in matters concerning his own person; therefore, the concept that the child should as soon as possible have an influence in matters concerning his person should be expanded. Accordingly, the representative of Denmark proposed the following amendment:

'Parents or other guardians have the right and duty to decide in matters concerning the person of the child. But the child shall, as soon as possible, have an influence in such matters. As the child gets older, the parents or the guardian should give him more and more responsibility for personal matters with the aim of preparing the child for the life of a grown-up.'

76. The representative of the United States put forward for consideration a revised version of article 7 which read:

'The States parties to the present Convention shall enable the child who is capable of forming his own views the right to express his opinion effectively and non-violently in matters concerning his own person, and in particular, religion, political and social beliefs, matters of conscience, cultural and artistic matters, marriage, choice of occupation, medical treatment, education, travel, place of residence, and recreation.'

77. A discussion was held on the phrases 'The States parties to the present Convention shall enable the child' (first line of the revised Polish draft and of the proposal of the delegation of the United States) and 'The States parties to the present Convention shall assure to the child' (first line of the Australian proposal) as well as the term 'effectively' qualifying the phrase 'to express his opinion'. One speaker pointed out that the State is under no obligation, as a matter of law, towards children: the child should have a degree of freedom comparable to that enjoyed by an individual under the Covenants and comparable instruments of law.

78. Most delegations felt that the matters concerning the child in which the States parties to the Convention would enable him to express his opinion should not be subject to the limits of a list, and therefore the list ought to be deleted.

79. The representative of the United States suggested the insertion of the word 'all' before the word 'matters' if the Working Group decided to eliminate the aforementioned list. The representative of Canada proposed the insertion of the word 'freely' after the word 'opinion'.

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

'The States parties to the present Convention shall assure to the child who is capable of forming his own views the right to express his opinion freely in all matters, the wishes of the child being given due weight in accordance with his age and maturity.'

81. One delegation stated that the text as adopted would need to be examined carefully from a legal point of view to determine whether it might comply with general rules relating to standing in legal and administrative proceedings. The representative also noted that it might be necessary at a later stage for the Working Group to consider the desirability of including provisions concerning the need to discover the best interests of children not yet capable of forming their own views.

#### Article 8

82. Article 8 of the revised Polish draft read as follows:

'1. The duty of bringing up the child shall lie equally with both the parents, who, in any case, should be guided by his best interests and, in keeping with their own beliefs and in compliance with the stipulations of article 7, shall prepare him for an individual life.

'2. The States parties to the present Convention shall render all necessary assistance to parents and guardians in the performance of their educational function, and shall undertake measures to organize and ensure the development of institutions of children's care.

'3. Children of working mothers shall have the right to frequent the institutions of day care of children until they have completed school age.'

#### Paragraph 1

83. The representative of Australia proposed that the last three words of the paragraph be replaced by the phrase 'life as an individual'.

84. The delegation of the United States proposed that paragraph 1 be replaced by the following text:

'State parties shall take all appropriate measures to ensure the recognition of the common responsibility of men and women in the upbringing and development of their children or, in the case of legal guardians, of the children legally entrusted to their care.'

85. The representative of Cuba proposed that the first line and a half of paragraph 1 should be replaced by the following: 'The duty of bringing up the child shall lie with both parents, each of whom shall play an equally important role. The parents should be guided, in any case ...'.

86. Some delegations, in particular the delegation of the Soviet Union, felt that they would prefer the statement in the revised Polish draft to the effect that the duty of bringing up the child should lie equally with both parents not to be amended. It was indicated that this idea of equal responsibility conformed to article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, which stated that States parties in particular shall ensure on a basis of equality of men and women, inter alia, the same rights and responsibilities as parents, in matters relating to their children.

87. Another representative disagreed with this interpretation, maintaining that article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women concerned equality of men and women only as to legal rights and responsibilities of parenthood, not the daily routine parental responsibilities. He asserted that the concept of common responsibility of men and women in the upbringing and development of children expressed in article 5(B) of that Convention was more appropriate in this context than equality, since each family allocates parental responsibilities differently, and it is no concern of the State how this is done, except in child support or other extreme cases.

88. Following consultations, the delegation of the United States proposed the following revised text:

'Parents have the primary responsibility for the upbringing of their children. States parties shall take all appropriate measures to ensure the recognition of the common responsibility of both parents in the upbringing and development of their children or, in the case of legal guardians, of the children legally entrusted to their care.'

89. The representative of Brazil suggested the addition of the phrase 'or, as the case may be, guardians' in the first line of the paragraph after the word 'parents', in order not to leave orphans unprotected. He also proposed the insertion of the words 'and development' after the word 'upbringing' in the second line of the paragraph under discussion, and the introduction, after the first sentence of the paragraph, of the following sentence: 'The best interest of the child will be their basic concern.' Besides, the representative of Brazil proposed the insertion in the second line of the paragraph of the words 'State parties shall make the best efforts' instead of the words 'States parties shall take all appropriate measures'.

90. In addition, the delegation of Italy suggested that the words 'their children' at the end of the first sentence be replaced by the words 'the child'.

91. Accordingly, the first two sentences of paragraph 1, as amended, read: 'Parents or, as the case may be, guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.' One of the representatives explained

that the aim of the first sentence was to protect parents against excessive intervention of the State and also to indicate that parents cannot expect the State always to intervene, because the upbringing and development of their child is their primary responsibility.

92. After prolonged discussion on the questions presented by the introduction of the concept of equality into this paragraph, the representative of the Soviet Union proposed the insertion of the words 'and equal' in the third line of the text between the words 'common' and 'responsibility'.

93. A proposal to delete the following words from the end of the paragraph 'or, in the case of legal guardians, of the children legally entrusted to their care' was also put forward for consideration by the Working Group and received the support of some delegations.

94. The representative of Australia, after consultations, proposed the following formulation for the third sentence of paragraph 1:

'States parties shall use their best efforts to ensure recognition of the principle that both parents have common and similar responsibilities for the upbringing and development of the child.'

95. The Working Group adopted by consensus paragraph 1 as amended:

'Parents or, as the case may be, guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. States parties shall use their best efforts to ensure recognition of the principle that both parents have common and similar responsibilities for the upbringing and development of the child.'

#### Paragraph 2

96. The representative of Australia proposed that paragraph 2 should be re-worded to read:

'The States parties to the present Convention shall render all necessary assistance to parents and guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions for the care of children.'

97. Some delegations found both the Australian and Polish texts for this paragraph acceptable, while others only supported the Australian amendment.

98. A discussion ensued concerning the nature of the assistance to be rendered by States parties to parents and guardians in the performance of their educational function. One delegation raised the question as to how the State could be prevented from granting unwanted assistance to parents and guardians in the performance of their duties as well as from interfering in family life. That delegation agreed, however, that States should provide financial or other material assistance and counselling where appropriate.

99. After some further discussion, the representative of the United States proposed the following text for paragraph 2:

'For the purpose of guaranteeing and promoting the rights set forth in this Convention, the States parties to the present Convention shall render appropriate assistance to parents and guardians in the performance of the child-rearing responsibilities and shall ensure the development of institutions for the care of children.'

100. This new text was supported by the Working Group and was adopted by consensus.

Paragraph 3

101. There was a proposal by the representative of Australia to re-word paragraph 3 as follows:

'Children of working mothers or of parents who both work shall have the right to attend institutions for the day care of children until they reach school age.'

102. The delegation of Poland indicated that it had considered proposing an amendment to the original version of the paragraph that would take account of children of working parents; therefore the Australian proposal was acceptable.

103. The delegation of the United States also introduced a proposal to replace paragraph 3 of the revised Polish draft by the following:

'In accordance with available resources, States parties shall ensure that children of working parents shall have access to public day care facilities for which they are eligible until they have completed their schooling.'

104. In addition, the representative of Norway proposed that the phrase 'working mothers' should be replaced by 'both parents working or with sole provider' and that the word 'completed' in the last line of the paragraph should be replaced by the word 'reached'.

105. The delegation of Poland proposed the following text which had been elaborated after consultations:

'States parties shall ensure that children of working parents shall have the right to attend institutions for child-care for which they are eligible until they have completed their schooling.'

106. The observer from the International Labour Office drew attention to the provisions of ILO Recommendation 123 relative to child care services, which is at present being revised by the International Labour Conference. He also presented a text which read:

'The States parties to the present Convention undertake to adopt all appropriate measures in the light, inter alia, of existing international instruments so as to ensure that services and institutions providing care (and day care) for children primarily meet the needs of children of working parents.'

107. The representative of the United Kingdom of Great Britain and Northern Ireland suggested the inclusion in the article under consideration of the idea that the State should ensure that any child care services and facilities from which children have the right to benefit were of an adequate standard.

108. Differing views were expressed regarding the extent to which States parties to the Convention should be obliged to provide institutions for the care of children of working parents. One representative drew the attention of the Working Group to the fact that there were many developing countries where the possibility of having child care services and facilities was virtually non-existent due to scarcity of resources. Some delegations indicated that the concept that children of working parents have the right to benefit from child care services and facilities should not be omitted from the Convention under elaboration, even if in some countries there were no resources available yet to implement that right. One delegation stressed the importance of acknowledging that child care facilities in some countries are established and maintained primarily by local communities or private entities and that the eligibility requirements of such facilities must not be undermined by the Convention.

109. The Chairman announced that, after consultations, a compromise text had been elaborated which read as follows:

'States parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible. These services and facilities shall conform with the standards established by competent authorities, particularly in the areas of safety and health.'

110. The representative of the United Kingdom found the new text acceptable but suggested the addition, after the word 'health', of the words 'and in the number and suitability of their staff'.

111. The representative of Australia felt that only the first sentence of the above-mentioned text should be maintained as paragraph 3, and that the second sentence should be transferred to paragraph 2 of article 8.

112. The representative of Bulgaria requested the deletion of the phrase 'particularly in the areas of safety and health' at the end of the paragraph.

113. After a further exchange of views, a consensus was reached to the effect that the paragraph should read:

'States parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible. These services and facilities shall conform with the standards established by competent authorities, particularly in the areas of safety, health, and in the number and suitability of their staff.'

Paragraph 4

114. The representative of France suggested that the second sentence of paragraph 3, with a small amendment, should become a fourth paragraph which would read:

'The institutions, services and facilities referred to in paragraphs 2 and 3 of this article shall conform with the standards established by competent authorities, particularly in the areas of safety, health, and in the number and suitability of their staff.'

Many delegations expressed support for this proposal.

115. The Working Group adopted by consensus as paragraph 4 the text that had been presented by the representative of France. Consequently, paragraph 3 of article 8, as adopted by the Working Group, read as follows:

'States parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.'

Article 9

116. Article 9 of the revised Polish draft read as follows:

'Parents, guardians, State organs and social organizations shall protect the child against any harmful influence that mass media, and in particular the radio, film, television, printed materials and exhibitions, on account of their contents, may exert on his mental and moral development.'

117. The delegation of Norway proposed that the word 'film' in the third line of the paragraph be replaced by the phrase 'recorded vision or sound'.

118. The observer of the Holy See suggested the insertion of the words 'spiritual and social' in the fourth line between the words 'moral' and 'development'.

119. Differing views were expressed regarding the extent to which States parties should ensure the protection of the child against any harmful influence that mass media, and in particular radio, film, television, printed materials and exhibitions, on account of their contents, might exert on his mental and moral development.

120. One speaker felt that the mass media does more good than harm and therefore the article should be phrased in a positive way, rather than in terms of protecting children from the mass media. States parties should ensure freedom of information, so that children can take advantage of a diversity of opinion concerning all matters. The speaker also stated that his delegation would urge deletion of the article unless it could be reformulated to take a positive approach, acknowledging the educational role of the mass media, the need for reciprocity in the free flow of information across international borders, and the importance of guaranteeing children access to information from a diversity of sources.

121. Some delegations agreed with what had been advocated by that speaker, while another speaker pointed out that protecting the child from harmful influences of the mass media deserved special treatment by the Working Group. Also, the idea was put forward that it was necessary to recognize liberty, diversity and free circulation of information, as well as reciprocity of information between the States parties. Some other delegations supported the text of article 9 of the revised draft convention and indicated that in the Polish draft there was no question of limiting the freedom of information but only of the protection of children from the harmful influences of the mass media.

122. The representative of Australia proposed that article 9 of the revised Polish draft should be replaced by the following text:

'States parties to the present Convention shall assure to the child the right to protection from exploitation and abuse. To this end, States parties shall encourage parents and guardians to provide their children with appropriate protection from written, printed or recorded material injurious to the health or morals of children and shall encourage the mass media to follow guidelines consistent with its responsibilities.'

The representative of Australia observed that the proposal had been submitted not as a result of consultations but to facilitate further discussion of the issues raised in article 9.

123. The Working Group, however, was unable further to consider article 9 for lack of time.

124. Before finishing its work, several delegations expressed the view that the Working Group had made a very positive contribution towards the next phase of the drafting of the draft Convention on the rights of the child, and thanked the delegation of Poland for the draft that was contained in document E/CN.4/1349 which had proved a most useful basis for discussion.

#### Other provisions of the draft Convention

125. In addition, the Working Group had before it the following amendments which were not discussed by the Group for lack of time:

(a) A proposal by the representative of Australia to replace the existing text of article 10 by the following:

'A child of pre-school age shall not be separated from his parents unless extraordinary circumstances determine that such separation is necessary for the child's welfare.'

(b) Another proposal by the representative of Australia to amend article 11 as follows:

'Replace paragraph 2 with:

'The States parties to the present Convention shall provide an appropriate environment for the upbringing of a child who is deprived of his natural family environment or who, for reasons concerning his welfare, cannot be brought up in such an environment.'

'Replace paragraph 3 with:

'The States parties to the present Convention shall take measures to facilitate adoption of children where appropriate and shall ensure favourable conditions for establishing foster families.'

(c) A proposal submitted by the delegation of Denmark to amend article 11 as follows:

'Replace paragraph 2 with:

'The States parties to the present Convention shall ensure that a child who is deprived of his natural family environment or on account of his well-being, cannot be brought up in that environment shall be provided with a guardian.'

'Add to paragraph 3 the following:

'The child shall not, however, be adopted unless there has been a serious attempt to investigate and elucidate his status concerning parents, guardians, relatives and other biological and stable social relations.'

'Proposed new paragraph 4 to read:

'The refugee child, whether unaccompanied or in company with his family, guardian or relatives, needs special protection and assistance. The States parties to the present Convention undertake to assist the refugee child in every possible way and also undertake to, as soon as possible, investigate whether the child has a family or other close relations, and recognize the right of the refugee child to be reunited with his guardians or relatives. In cases where no close relatives have been found the child shall, if possible, be placed within his own cultural and linguistic group. The best interest of the child shall in every case be the guiding principle.'

(d) A proposal by the representative of Norway to add to article 11 a new paragraph 4 to read as follows:

'If a child's parents, or one of them, is imprisoned, taken into custody, exiled or deported, or by any other judicial or administrative action prevented from caring for the child, it is the duty of the State party to secure to the child adequate care and fostering, if necessary by support to the other parent, relatives or foster parents.'

(e) A proposal submitted by the representative of Australia to amend article 12 as follows:

'Replace "undertake to" with "shall" in paragraph 1.'

'Replace paragraph 2 with:

'A disabled child shall grow up and receive education in conditions designed to achieve the fullest possible social integration of the child.'

The special educational needs of the disabled child shall be met free of charge and aids and appliances shall be provided to ensure equal opportunity and access to institutions.'

#### Procedural question

126. The view was expressed by several delegations that the Working Group should ask the Commission on Human Rights to request the Economic and Social Council to authorize the Working Group to meet for one week prior to the next session of the Commission in order to facilitate completion of the work on the draft Convention. Several other delegations did not fully share this view in that the matter had financial implications which must be considered by Governments and that the question was entirely for the plenary of the Commission to resolve in dealing with the forthcoming draft resolution on the Convention.

#### Annex

#### Paragraphs of the draft Convention on the Rights of the Child adopted by the Working Group

#### The States Parties to the Convention

Considering that in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations have, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

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

Convinced that the family, as the basic unit of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

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

Recognizing that the child, for the full and harmonious development of his personality, should grow up in family environment, in an atmosphere of happiness, love and understanding.

Bearing in mind that the need for extending particular care to the child has been stated in the Geneva Declaration on the Rights of the Child of 1924 and in the Declaration on the Rights of the Child adopted by the United Nations in 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in the articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in its article 10) and in the statutes of specialized agencies and international organizations concerned with the welfare of children.

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom and brotherhood,

Have agreed as follows:

Article 1

According to the present Convention a child is every human being to the age of 18 years unless, under the law of his State, he has attained his age of majority earlier.

Article 2

1. The child shall have the right from his birth to a name and to acquire a nationality.

2. The States Parties to the present Convention shall ensure that their legislation recognizes the principle according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, or administrative authorities, the best interests of the child shall be a primary consideration.

2. In all judicial or administrative proceedings affecting a child that is capable of forming his own views, an opportunity shall be provided for the views of the child to be heard, either directly or indirectly through a representative, as a party to the proceedings, and those views shall be taken into consideration by the competent authorities, in a manner consistent with the procedures followed in the State Party for the application of its legislation.

3. The States Parties to the present Convention undertake to ensure the child such protection and care as is necessary for his well-being, taking

into account the rights and duties of his parents, legal guardians, or other individuals legally responsible for him, and, to this end, shall take all appropriate legislative and administrative measures.

4. The States Parties to the present Convention shall ensure competent supervision of officials and personnel of institutions directly responsible for the care of children.

#### Article 4

1. The States Parties to the present Convention shall respect and extend all the rights set forth in this Convention to each child in their territories without distinction of any kind, irrespective of the child's or his parents' or legal guardians' race, colour, sex, language, religion, political or other opinion, national or social origin, family status, ethnic origin, cultural beliefs or practices, property, educational attainment, birth, or any other basis whatever.

2. States Parties to the present Convention shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or other family members.

#### Article 5

The States Parties to the present Convention shall undertake all appropriate administrative and legislative measures, in accordance with their available resources, and, where needed, within the framework of international co-operation, for the implementation of the rights recognized in this Convention.

#### Article 7

The States Parties to the present Convention shall assure to the child who is capable of forming his own views the right to express his opinion freely in all matters, the wishes of the child being given due weight in accordance with his age and maturity.

#### Article 8

1. Parents or, as the case may be, guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common and similar responsibilities for the upbringing and development of the child.

2. For the purpose of guaranteeing and promoting the rights set forth in this Convention, the States Parties to the present Convention shall render appropriate assistance to parents and guardians in the performance of the child rearing responsibilities and shall ensure the development of institutions for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child care services and facilities for which they are eligible.

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

302. The Commission considered agenda item 16 at its 1640th meeting on 12 March 1981.

303. The Commission had before it the following documents: two reports from the Secretary-General on developments elsewhere in the United Nations system of interest to the Commission (E/CN.4/1276 and E/CN.4/1306); a report by the Secretary-General on medical measures that may properly be employed in the treatment of persons detained on the grounds of mental ill-health (E/CN.4/Sub.2/446); a written statement (E/CN.4/Sub.2/NGO/81) submitted by the International Association of Penal Law and the International Commission of Jurists (category II); and a written statement (E/CN.4/NGO/310) submitted by the International Organization of Consumer's Unions (category I) and the Natural Resources Defence Council (Roster).

304. The Commission heard a statement on behalf of the International Organization of Consumer's Unions, a non-governmental organization in consultative status (category I), and the Natural Resource Defence Council, a non-governmental organization on the Roster.

305. At the 1640th meeting, the representative of the Byelorussian Soviet Socialist Republic introduced a draft resolution (E/CN.4/L.1581). Amendments to the draft resolutions were introduced by the representative of Canada (E/CN.4/L.1622).

306. At the same meeting, the Commission voted on the draft resolution and the amendments to it.

307. Explanations of vote, before the vote, were made by the representatives of the United Kingdom, Cuba, USSR, and the Federal Republic of Germany.

308. There were 12 votes in favour, 12 against and 16 abstentions. The amendments to draft resolution E/CN.4/L.1581 were not adopted.

309. At the request of the representative of Canada, a separate vote was taken on paragraphs 3, 4 and 5 of draft resolution E/CN.4/L.1581. The representative of Cuba requested that the vote on those paragraphs should be taken by roll-call. Paragraphs 3, 4 and 5 were adopted by 27 votes to 9, with 7 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Costa Rica, Cuba, Ethiopia, Ghana, India, Iraq, Jordan, Mexico, Mongolia, Morocco, Nigeria, Pakistan, Panama, Peru, Poland, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zambia.

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

Abstaining: Cyprus, Fiji, France, Philippines, Portugal, Senegal, Zaire.

310. Draft resolution E/CN.4/L.1581 as a whole was adopted by 28 votes to 1, with 13 abstentions.

311. For the text of the resolution, see Chapter XXVIII, Section A, resolution 38 (XXXVII).

312. Statements in explanation of vote after the vote were made by the representatives of Australia, Ghana and Morocco.

XV. IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

313. The Commission considered agenda item 17 together with items 6, 7 and 21 (see chaps. IV, V and XVIII) at its 1596th to 1603rd held on 11 and 17 February respectively and at its 1611th and 1612th meetings on 23 February 1981.

314. In pursuance of article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Chairman of the Commission on Human Rights, at the thirty-sixth session, appointed a Group of three members of the Commission, consisting of the representatives of Bulgaria, Cuba and Nigeria, who were also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII.

315. By its resolution 13 (XXXVI) of 26 February 1980, the Commission decided, inter alia, that the Group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-seventh session of the Commission to consider the reports submitted by States parties in accordance with article VII; it also urged the States parties which had not yet done so to submit their reports as soon as possible, taking into consideration the guidelines laid down by the Group at its 1978 session (E/CN.4/1286, annex).

316. By its resolution 12 (XXXVI) of 26 February 1980, the Commission requested the Ad Hoc Working Group of Experts, in co-operation with the Special Committee against Apartheid and in accordance with paragraph 20 of the annex to resolution 34/24 adopted by the General Assembly on 15 November 1979, to undertake a study on ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid, including the establishment of the international jurisdiction envisaged by the said Convention.

317. The Group of Three established in accordance with article IX of the Convention held its fourth (1981) session from 26 to 30 January 1981. It considered reports submitted by 14 States parties to the Convention and submitted a report on its activities to the Commission at its thirty-seventh session, together with conclusions and recommendations based on its consideration of reports submitted by States parties.

318. The Commission had before it, at its thirty-seventh session, the report and recommendations of the Group to the Commission (E/CN.4/1417) and a note by the Secretary-General (E/CN.4/1415) concerning reports submitted by States parties under Article VII of the Convention. The following reports, transmitted to the Secretary-General by 14 States parties to the Convention, were made available to the Commission: Cuba (E/CN.4/1353/Add.7), Yugoslavia (E/CN.4/1353/Add.8), Tunisia (E/CN.4/1353/Add.9), Bulgaria (E/CN.4/1353/Add.10), Poland (E/CN.4/1353/Add.11), Qatar (E/CN.4/1415/Add.1), Union of Soviet Socialist Republics (E/CN.4/1415/Add.2), Mali (E/CN.4/1415/Add.3), Byelorussian Soviet Socialist Republic (E/CN.4/1415/Add.4), Ukrainian Soviet Socialist Republic (E/CN.4/1415/Add.5), Romania (E/CN.4/1415/Add.6), Egypt (E/CN.4/1415/Add.7), Burundi (E/CN.4/1415/Add.8) and Nigeria (E/CN.4/1415/Add.9). The Commission also had before it a note by the Secretary-General (E/CN.4/1416) relating to the exercise of the functions set out in article X of the Convention as well as a study prepared by the Ad Hoc Working Group of Experts (E/CN.4/1426) under Commission resolution 12 (XXXVI), on the ways and means of insuring implementation of

international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid and a written statement (E/CN.4/NGO/290) submitted by the Foundation for the Establishment of an International Criminal Court and non-governmental organization on the Roster.

319. At its 1596th meeting, the Commission heard a statement by Mr. Branimir Janković (Yugoslavia), the Vice-Chairman of the Ad Hoc Working Group of Experts, who introduced the study on the ways and means of insuring implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid.

320. At its 1597th meeting, the Commission heard a statement by Mr. Frank Ortiz-Rodriguez (Cuba), the Chairman/Rapporteur of the Group of Three, established under article IX of the Convention, who introduced the report of the Group on its fourth (1981) session (E/CN.4/1417).

321. During the general debate, several members of the Commission stressed once again the importance of the International Convention on the Suppression and Punishment of the Crime of Apartheid as an international instrument in support of action to eliminate all practices of segregation and racial discrimination, and appealed to States parties to the Convention fully to implement its provisions. In that connection, they noted with regret that only 59 States were so far parties to the Convention and that no State party to the Convention belonged to the group of Western European and other States. Those speakers, therefore, wished to endorse the recommendation made by the Group established under article IX of the Convention that the Commission should urge all States which had not yet done so to ratify or accede to the Convention without delay. They pointed out that universal acceptance of the Convention and a more consistent implementation of its provisions would help remove the last vestiges of apartheid, which all Member States deplored.

322. Referring to the report of the Group to the Commission (E/CN.4/1417), several speakers expressed their appreciation of the work of the Group at its 1981 session and their full support for its conclusions and recommendations.

323. Several speakers also expressed their appreciation of the study prepared by the Ad Hoc Working Group of Experts (E/CN.4/1426) on ways and means of ensuring the implementation of the Convention and took note with particular interest of the proposals, contained in that study, concerning a draft Convention on the Establishment of an International Penal Tribunal for the Suppression and Punishment of the Crimes of Apartheid and other International Crimes, and a draft Additional Protocol for the Penal Enforcement of the International Convention on the Suppression and Punishment of the Crime of Apartheid. In that connection, several members of the Commission stated that these proposals would be carefully studied by their Governments which would submit their views and comments on the study and on the proposals contained therein. While some members expressed support for the establishment of the international penal tribunal referred to in article V of the Convention, other members expressed reservations with regard to this matter.

324. One speaker stated, in particular, that, although his country was not a party to the Convention, he had followed with interest the discussion on the question of establishment of an international penal tribunal under article V of the Convention. He expressed the opinion that it would be inadvisable to create an international tribunal in this area of international criminal law without

having regard to the wider question of the need for a tribunal to cover other forms of international criminality as well.

325. Another speaker stated that the study of the Ad Hoc Working Group of Experts and the proposals contained therein were closely connected with the elaboration of the code of offences against the peace and security of mankind dealt with, for a long time, in the General Assembly and by the International Law Commission. His delegation, therefore, regarded that matter as one of common concern to all States, even if they were not parties to the Convention, and it would be useful for all States to have the opportunity to submit their views on the draft international instrument proposed in the study before the matter reached the General Assembly.

326. At the 1611th meeting, on 23 February 1981, the representative of Cuba introduced a draft resolution (E/CN.4/L.1554) co-sponsored by Bulgaria, Burundi, Egypt, \*/ Ethiopia, the Libyan Arab Jamahiriya, \*/ Morocco, Nigeria, Senegal, Syrian Arab Republic, Uganda, Zaire and Zambia. At the same meeting, the Commission adopted the draft resolution by 30 votes to none, with 11 abstentions.

327. For the text of the resolution, see Chapter XXVIII, Section A, resolution 6 (XXXVII).

328. At the same meeting, statements in explanation of vote on the draft resolution were made by the representatives of Australia, Canada, the Netherlands and the United Kingdom.

329. At the 1612th meeting, on 23 February 1981, statements in explanation of vote were made by the representatives of Brazil, Denmark, the Federal Republic of Germany, Peru, Portugal, Uganda, the Union of Soviet Socialist Republics and the United States of America.

330. The representatives of Mexico and Panama said that had they been present at the time of the vote they would have voted in favour of the draft resolution.

331. At the 1642nd meeting, on 13 March 1981, the Chairman announced the composition of the Group of Three members of the Commission, consisting of the representatives of Bulgaria, Mexico and Nigeria, who were also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII.

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\*/ In conformity with rule 69, paragraph 3, of the rules of procedure of the functional Commissions of the Economic and Social Council.

XVI. THE ROLE OF YOUTH IN THE PROMOTION AND PROTECTION OF  
HUMAN RIGHTS, INCLUDING THE QUESTION OF CONSCIENTIOUS  
OBJECTION TO MILITARY SERVICE

332. The Commission considered agenda item 18 at its 1640th meeting on 12 March 1981.

333. For consideration of the item the Commission had before it a report of the Secretary-General (E/CN.4/1419 and Add.1-5) on the role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service. In addition, the Commission had before it a written statement (E/CN.4/NGO/292) submitted by the Friends World Committee for Consultation, a non-governmental organization in consultative status (category II) and a written statement (E/CN.4/NGO/308) submitted by the International League for Human Rights, a non-governmental organization in consultative status (category II).

334. The representative of the Byelorussian Soviet Socialist Republic introduced a draft resolution on the role of youth in the promotion and protection of human rights (E/CN.4/L.1599) and orally revised it.

335. The representative of the Netherlands introduced a draft resolution on the question of conscientious objection to military service (E/CN.4/L.1605) which was co-sponsored by Canada, Costa Rica, Denmark and the Federal Republic of Germany. The representative of the Netherlands orally revised draft resolution E/CN.4/L.1605.

336. Draft resolution E/CN.4/L.1599, as revised, was adopted without a vote.

337. Draft resolution E/CN.4/L.1605, as revised, was adopted by 25 votes to 3 with 12 abstentions.

338. For the text of the resolutions see Chapter XXVIII, Section A, resolutions 39 (XXXVII) and 40 (XXXVII).

XVII. DRAFT DECLARATION ON THE ELIMINATION OF ALL FORMS OF  
INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION  
OR BELIEF

339. The Commission considered agenda item 19 at its 1635th and 1636th meetings on 10 March 1981.

340. By its resolution 35 (XXXVI), of 12 March 1980, the Commission decided to continue at its thirty-seventh session, as a matter of highest priority, its work on the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief and to complete the formulation of the declaration at that session for transmission to the General Assembly through the Economic and Social Council; it decided also to establish again the open-ended Working Group at its thirty-seventh session and to allot more time to the Working Group during the session in order that it might complete its task at the thirty-seventh session.

341. The Commission had before it: a working paper prepared by the Secretariat in 1973 pursuant to General Assembly resolution 3069 (XXVIII) (E/CN.4/1145); a note by the Secretary-General concerning the provisions of existing international instruments which relate to the problem of religious intolerance, made available in accordance with General Assembly resolution 33/106 (E/CN.4/L.1417); a written statement submitted by the International Association for Religious Freedom (E/CN.4/NGO/300); and a written statement submitted by the following non-governmental organizations in consultative status: Agudas Israel World Organization, Baha'i International Community, Caritas Internationalis, Co-ordinating Board of Jewish Organizations, Friends World Committee for Consultation, International Association for Religious Freedom, International League for Human Rights, Lutheran World Federation, St. Joan's International Alliance, World Conference on Religion and Peace, World Woman's Christian Temperance Union (category II), and Catholic International Education Office and World Federation of Christian Life Communities (Roster) (E/CN.4/NGO.312).

342. At its 1584th meeting on 3 February 1981 the Commission established an informal open-ended working group to continue the consideration of the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief. The representative of Senegal, Mr. A. Diéye, was elected Chairman-Rapporteur of the Working Group.

343. At the 1635th meeting of the Commission on 10 March 1981, the Chairman-Rapporteur of the informal Working Group introduced the Group's report. The report of the Working Group as it appears in document E/CN.4/1367 reads as follows:

"[...]

1. [...]

2. [...] The Working Group held 16 meetings, on 4, 5, 6, 9, 10, 11, 12, 16, 17, 18, 19, 25 February and 3 and 5 March 1981, and completed consideration of the draft declaration. The full text of the draft declaration is contained in an annex to this report.

3. [...]

4. It should be recalled that several articles of the draft declaration had already been adopted. The Working Group established by the Commission at its thirty-first, thirty-second and thirty-third sessions adopted the title and preamble of the draft (see E/5768, para. 177). By its resolution 20 (XXXV), the Commission decided to adopt, on the basis of those proposals on which there was far-reaching agreement, the first three articles of the draft declaration (see E/1979/36, chap. XXIV, A.). The Working Group established at the Commission's thirty-sixth session adopted article IV and article V, paragraph 1 (see E/1980/13, para. 318: report of the Working Group).

5. It should also be noted that the various working groups established by the Commission at each of its sessions since 1974 have considered the draft declaration on the basis of the text prepared by the Working Group established by the Commission at its twentieth session in 1964. This text is contained in a working paper prepared by the Secretariat in 1973 pursuant to General Assembly resolution 3069 (XXVIII) (E/CN.4/1145).

6. The Working Group established at the present session therefore continued the work on the draft declaration on the basis of that working paper, of the report of the Group established by the Commission at its thirty-sixth session (see document E/1980/13, para. 318) and of the various proposals submitted during the present session (E/CN.4/1981/WG.4/WP.1-19). In addition, a draft declaration submitted by the International Association for Religious Freedom, a non-governmental organization in consultative status, was reproduced in document E/CN.4/NGO/300.

## II. MATTERS DISCUSSED

7. The Working Group established at the present session continued consideration of article V and examined articles VI and VII of the draft, as well as proposals for three additional articles.

### A. Consideration of article V

8. As indicated above, article V, paragraph 1, had been adopted by the Working Group set up at the Commission's preceding session.

#### (i) Consideration of article V, paragraph 2

9. Three texts, proposed respectively by Brazil, the Byelorussian SSR and Canada, had been submitted to the Working Group established by the Commission at its thirty-sixth session. \*/

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\*/ The report of the Working Group established by the Commission at its thirty-sixth session is contained in paragraph 318 of the report of the Commission on the work of that session (E/1980/13).

10. The text submitted by Brazil reads as follows:

'2. No child shall be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians.' (Report of the Working Group, para. 35).

11. The text submitted by the Byelorussian SSR reads as follows:

'2. The child shall be protected from practices which may foster any form of discrimination on the ground of religion or beliefs. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.' (Report of the Working Group, para. 53).

12. The text submitted by Canada reads as follows:

'2. Every child shall enjoy the right to have access to education in the matter of religion or beliefs in accordance with the wishes of his parents and shall not be compelled to receive religious education inconsistent with the wishes of his parents or legal guardians.' (Report of the Working Group, para. 29).

13. The discussion was based on the proposal made by Canada, the Group having agreed that the text submitted by the Byelorussian SSR might form the subject of a separate paragraph. The Group also agreed that the idea contained in the text submitted by Brazil might be incorporated in the text submitted by Canada.

14. During the discussion, the United States submitted amendments to the text proposed by Canada.

15. Paragraph 2 was adopted after being amended by Brazil and the United States.

16. During the discussion on article V, paragraph 2, some representatives proposed that the concepts of 'religion' and 'belief', which are found throughout the draft declaration, should be defined in a separate article. They said that such an article could appear either at the beginning or at the end of the operative part of the draft.

17. Several members of the Group were of the view that such a definition was superfluous and even contrary to the goals of the declaration. The words 'religion and belief' were sufficiently broad to cover all religions and beliefs, and there was no point in making an enumeration which would necessarily be incomplete.

(ii) Consideration of article V, paragraph 3

18. The Group based its work on the text submitted by the Byelorussian SSR and reproduced in paragraph 11 above. The United States proposed an amendment to that text which was accepted by the Byelorussian SSR.

19. The Group also agreed, on the basis of a proposal by Brazil which was accepted by the Byelorussian SSR, that the ideas contained in a proposal submitted by Canada to the Working Group established by the Commission at its thirty-sixth session should be incorporated in the text submitted by the Byelorussian SSR.

20. The text submitted by Canada reads as follows:

'The child shall be brought up with respect for freedom of religion or beliefs and a spirit of mutual tolerance.' (Report of the Working Group, para. 29).

21. Paragraph 3 was adopted as revised and amended (see annex for text adopted).

22. After the adoption of paragraph 3, the representative of Australia drew the Group's attention to the need for an over-all review of the various provisions adopted in order to eliminate any 'sexist' connotations.

(iii) Consideration of article V, paragraph 4

23. The Group based its work on a proposal submitted by Canada to the Working Group established by the Commission at its thirty-sixth session. This proposal, designed essentially to ensure protection for refugee children, reads as follows:

'3. In the case of a child who has been deprived of his parents, their expressed or presumed wish in the matter of religion or belief shall be duly taken into account, the best interests of the child being the guiding principle.' (Report of the Working Group, para. 29).

24. The representative of Canada revised the text in the light of various suggestions made during the discussion.

25. Paragraph 4 was adopted as revised (see annex for text adopted).

(iv) Consideration of article V, paragraph 5

26. The Group based its work on the first part of a proposal submitted by Argentina to the Working Group established by the Commission at its thirty-sixth session (the idea contained in the second part having already been included in paragraph 3). The text reads as follows:

'The decision concerning the religion or belief in which a child should be brought up must not be injurious to his health, and must not do him physical or moral harm.' (Report of the Working Group, para. 31).

27. Several representatives supported this proposal, emphasizing that certain practices could cause physical, psychological, moral or mental harm to the child. In this connection, they made particular reference to the refusal of any blood transfusion and the refusal to send children to school advocated by certain religious sects.

28. Some representatives, however, expressed concern that the State might be given the opportunity for improper interference in the upbringing of the child and for defining what was and was not moral. Others considered that it would be appropriate to include in that paragraph a phrase referring back to the safeguard clause in article I, paragraph 3, relating to 'such limitations as are prescribed by law and are necessary to protect ... health or morals ...'.

29. The representative of the United States proposed that the words 'The decision concerning the' should be replaced by the words 'The practice of a religion or belief'.

30. The representative of the United Kingdom proposed that the term 'moral' should be replaced by the term 'mental'.

31. The representative of the Philippines proposed the inclusion of a reference to the idea of the 'full development' of the child.

32. The representative of France proposed the addition of the words 'taking into account article I, paragraph 3'.

33. Paragraph 5 was adopted, as revised and as amended by the United Kingdom, the Philippines and France.

#### B. Consideration of article VI

##### (i) Consideration of the introductory phrase of article VI

34. The Group considered the introductory phrase of article VI on the basis of the following text submitted by the United States:

'Freedom from discrimination and intolerance based on religion or belief also includes:'.

35. Some representatives expressed the view that article VI was redundant and proposed that it should be deleted. This view was not shared by the Working Group.

36. The representatives of the USSR and the Byelorussian SSR said that, while participating in the consideration of the various subparagraphs and provisions of the draft article VI submitted by the representative of the United States, they reserved the right to state their position on the text of that article as a whole at a later stage of the work. In addition, the representative of the Byelorussian SSR considered it necessary to include in the introductory phrase a reference to the relevant human rights texts.

37. There was a lengthy discussion regarding the limitations on the exercise of the freedoms enumerated in the draft article and the appropriateness or otherwise of inserting a reference to them in the introductory phrase. Several representatives referred to article 18, paragraph 3, of the International Covenant on Civil and Political Rights and to article I, paragraph 3, of the draft declaration.

38. Of the many amendments proposed on this point, a proposal by France, amended by the Netherlands, and a proposal by the USSR received particular attention from the Group.

39. The proposal of France reads as follows:

'The freedom to manifest one's religion or beliefs, as defined in article I, includes, in particular, the following freedoms: ...'.

40. The proposal of the USSR reads as follows:

'The freedom to manifest one's religion or beliefs includes, inter alia, subject to the provisions of article I, the following freedoms: ...'.

41. Following consultations, the text submitted by the United States was revised to read as follows:

'In accordance with article I, and subject to the provisions of paragraph 3 of article I, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms: ...'.

42. The text was adopted as revised (see annex).

(ii) Consideration of article VI, subparagraph (a)

43. The Working Group based its consideration of subparagraph (a) on the following text submitted by the representative of the United States:

'(a) To assemble and to establish and maintain places of worship or assembly;'.

44. Some representatives considered that the nature of the assemblies and places of assembly should be more clearly defined.

45. Following consultations, the representative of the United States revised the text to read as follows:

'(a) To worship or assemble in connection with religion or beliefs, and to establish and maintain places for these purposes;'.

46. Article VI, subparagraph (a), was adopted as revised (see annex for text adopted).

(iii) Consideration of article VI, subparagraph (b)

47. The Working Group considered subparagraph (b) on the basis of the following text submitted by the United States:

'(b) To establish and maintain charitable and educational institutions affiliated with religion or beliefs;'.

48. During the discussion, several amendments were proposed to the text. In particular, reservations were expressed regarding the use of the words 'charitable' and 'educational'.

49. The United States representative accepted a proposal by the United Kingdom to insert the words 'or humanitarian' after the word 'charitable'. He also agreed to the deletion of the words 'and educational', in order to take account of countries where only the State provided for education.

50. The representative of the United States submitted a revised text reading as follows:

'(b) To establish and maintain appropriate charitable or humanitarian institutions affiliated with religion or beliefs;'

51. The representative of the Byelorussian SSR proposed the deletion of the last part of the phrase following the word 'institutions'.

52. Subparagraph (a) was adopted as revised and as amended by the Byelorussian SSR (see annex for text adopted).

(iv) Consideration of article VI, subparagraph (c)

53. The Working Group considered subparagraph (c) on the basis of the following text submitted by the United States:

'(c) To make, distribute, and import where not available locally, to an adequate extent, the necessary articles and materials related to the rites or customs of religion or beliefs;'

54. The representative of Cuba proposed that that text should be reworded as follows:

'(c) To make, to acquire and to use to an adequate extent the necessary articles and materials related to the rites or customs of religion or beliefs;'

55. The Group adopted the text of subparagraph (c) proposed by Cuba (see annex for text adopted).

(v) Consideration of article VI, subparagraph (d)

56. The Working Group considered subparagraph (d) on the basis of the following text submitted by the United States:

'(d) To teach, write, publish, and disseminate publications in the field of religion or beliefs;'

57. The representative of Cuba proposed the deletion of the word 'teach', which was imprecise in Spanish ('enseñar'). During the discussion, it was suggested that this idea should be referred to in a separate subparagraph.

58. The representative of the Byelorussian SSR proposed that the word 'appropriate' should be inserted before the word 'publications' and that the remainder of the phrase, which he considered to be superfluous, should be deleted.

59. The representative of Australia proposed that the word 'relevant' should be used in place of the word 'appropriate'.

60. The representative of France proposed that the words 'in the field of religion or beliefs' should be replaced by the words 'in these areas'.

61. The Group adopted the text for subparagraph (d) proposed by the United States, as amended by Cuba, the Byelorussian SSR, Australia and France (see annex for text adopted).

(vi) Consideration of article VI, subparagraph (e)

62. The Working Group considered subparagraph (e) on the basis of the following text submitted by the United States:

'(e) To teach in the matter of religion or belief;'

63. The representative of the Byelorussian SSR drew the Group's attention to the educational system of countries in which public education was secular and there was no provision for religious education. He therefore considered it necessary to specify the context in which such education could be imparted.

64. On the basis of a proposal by Australia, amended by the United Kingdom, the Group adopted the following text for subparagraph (e):

'(e) To teach religion or beliefs in places suitable for these purposes;' (see annex for text adopted).

(vii) Consideration of article VI, subparagraph (f)

65. The Working Group considered subparagraph (f) on the basis of the following text submitted by the United States:

'(f) To solicit and receive financial and other contributions from individuals and institutions in support of religion or beliefs;'

66. The United States representative accepted a proposal by the representative of the USSR to insert the word 'voluntary' before the word 'financial'.

67. There was a long discussion on a proposal by the USSR to add the words 'and not motivated by political considerations' at the end of the text; the USSR representative emphasized that his proposal was designed to prevent the provision from being used as a pretext for contributions to fascist, nazi or anti-democratic movements or for interference by a foreign Power in the internal affairs of a State.

68. The amendment proposed by the USSR gave rise to a lengthy discussion in which many representatives took part.

69. The representative of the Byelorussian SSR proposed the deletion of that subparagraph, as well as of the ensuing subparagraphs in the draft article VI submitted by the United States.



79. The representative of the United States proposed the following revised version of the text:

'(g) To train, to appoint, to elect or to designate by succession, in adequate numbers, the leaders called for by the requirements of a religion or belief;'

80. The Group adopted the text of subparagraph (g), as revised and as amended by Canada, the Netherlands, Nigeria, and the Byelorussian SSR (see annex for text adopted). The representatives of the Byelorussian SSR and the USSR did not support this decision, since the words 'including leaders of atheist organizations' in the amendments proposed by the USSR were not adopted.

(ix) Consideration of article VI, subparagraph (h)

81. The Working Group considered subparagraph (h) on the basis of the following text submitted by the representative of the United States:

'(h) To celebrate holidays in accordance with the customs of religion or beliefs;'

82. France proposed the addition of the words 'and ceremonies' after the word 'holidays'.

83. On a proposal by France, the Philippines as well as by Nigeria, the words 'To observe days of rest and' were included before the words 'to celebrate' and the word 'customs' was replaced by the word 'precepts'.

84. Subparagraph (h) was adopted as amended by France, the Philippines and Nigeria (see annex for text adopted).

(x) Consideration of article VI, subparagraph (i)

85. The Working Group considered a proposed text for subparagraph (i) submitted by Canada, which reads as follows:

'(i) To maintain communications with individuals and communities in matters of religion and belief at the national and international levels'.

86. Some representatives considered this subparagraph to be superfluous. Other representatives took the view that the Canadian proposal was already partially covered by subparagraph (d), to which it would suffice to add a few words.

87. France proposed the insertion of the words 'To establish and' before the words 'to maintain'.

88. Since some delegations opposed the consensus which had emerged, the Group decided to adopt as subparagraph (i) the text submitted by Canada, as amended by France, and to place it between square brackets although there was no opposition to the substance of the text (see annex for text adopted).

89. The representatives of the Byelorussian SSR and the USSR stated that in their view, subparagraphs (f), (g) and (i) of article VI could not be considered adopted since they could not agree to those subparagraphs by consensus.

#### C. Consideration of article VII

90. The Working Group considered the following proposal for article VII submitted by the United States of America:

'The rights and freedoms set forth in this Declaration shall be accorded in such a manner that everyone shall be able to avail themselves of such rights and freedoms in practice as well as in principle'.

91. Argentina and the Byelorussian SSR proposed that the text proposed by the United States, which they considered superfluous, might be deleted.

92. Nigeria proposed that the end of the sentence, after the word 'freedoms', should be replaced by the words 'in principle as in practice'.

93. The United States proposed that the text should end after the word 'practice'.

94. France proposed that the text should be replaced by the sentence 'Everyone shall be able effectively to avail themselves of the rights and freedoms recognized in this Declaration'.

95. The representative of the Byelorussian SSR proposed that the words 'in accordance with national legislation' should be added at the end of the sentence. He recalled that a consensus had been reached in 1980 (see paragraph 52 of the report of the Group) on the fact that reference should be made to national legislation, and that such legislation should not be amended in accordance with the Declaration, but rather the Declaration should be applied in accordance with national legislation.

96. Australia proposed that the beginning of the sentence should be replaced by the words 'The rights and freedoms proclaimed in this Declaration shall be accorded in national legislation ...'.

97. Article VII was adopted as revised and as amended by Australia. However, the representatives of the Byelorussian SSR and the USSR stated that, in their view, article VII could not be considered adopted since they could not agree to that article by consensus (see the text, as adopted, in the annex).

#### D. Consideration of proposed additional articles

##### (a) Proposals concerning the adoption of an article VIII

98. The Working Group considered the following proposal for an article VIII submitted by the USSR:

'1. All States shall ensure that citizens have equal rights irrespective of their attitude to religion, that all religions are equal before the law, and that there is no coercion to profess or not to profess a religion.'

2. States shall not interfere in the internal (devotional, canonical) affairs of the church, and the church shall not interfere in the affairs of States.'

99. The Netherlands proposed that the first paragraph should be amended to read as follows:

'All States shall ensure that all individuals have equal rights and freedoms before the law, irrespective of their religion or beliefs, that all religions are equal before the law, and that there is no coercion to profess or not to profess a religion or belief.'

100. Australia, Canada, the Netherlands, Senegal, the United Kingdom and the United States proposed that the second paragraph of the proposed text should be deleted, since it was already dealt with in earlier articles or proposals. Australia also suggested that the proposals not be adopted as the subject matter was already covered by article III.

101. The proposals of the USSR, supported by the Byelorussian SSR, concerning an article VIII, were not adopted by the other members of the Group.

(b) Proposal concerning the adoption of an article IX

102. The Working Group considered the following proposal for an article IX, submitted by the USSR:

'The words "religion" and "belief" used in this Declaration include religious, non-religious and atheistic convictions.'

103. The Chairman recalled that this proposal had already been discussed, but that the majority of the representatives who had expressed their views on the matter had felt that the words 'religion' and 'belief' referred to all religions and beliefs and that it was not necessary therefore to provide a further definition of those words.

104. For the reasons given above, the proposal of the USSR supported by the Byelorussian SSR was not adopted by the other members of the Group.

(c) Proposals concerning the adoption of an additional article to be inserted at the end of the Declaration

105. The Working Group considered two proposals submitted by the Byelorussian SSR and the Netherlands respectively.

106. The Byelorussian proposal read as follows:

'Nothing in this, or any other, article of the Declaration shall be interpreted as affecting, modifying or adding to the provisions of the International Covenant on Civil and Political Rights or any other international instrument relating to the elimination of all forms of intolerance and of discrimination based on religion or belief.'

107. The representative of the Byelorussian SSR had originally proposed adding this text to article VI, paragraph 2.

108. The Netherlands proposal read as follows:

'There shall be no restriction upon and derogation from any of the provisions of the International Covenant on Civil and Political Rights or any other international instrument relating to the elimination of all forms of intolerance and of discrimination based on religion or belief on the pretext that the present declaration does not recognize such rights or that it recognizes them to a lesser extent.'

109. Subsequently, the representative of the Netherlands said that he would withdraw his proposal if the Byelorussian SSR did not insist on its text.

110. The representatives of Australia, France, Senegal, the United Kingdom and the United States considered that the proposals added nothing to the draft declaration. They therefore proposed that they should be dropped.

111. The representatives of the Byelorussian SSR and the USSR said that in their view the provisions set out in the draft article submitted by the Byelorussian SSR were necessary.

112. For the reasons given above, the proposal of the Netherlands and the proposal of the Byelorussian SSR supported by the USSR were not adopted by the other members of the Group.

113. Following the consideration of this proposal, the Chairman declared that the Working Group entrusted by the Commission on Human Rights with the elaboration of a draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief had completed its work.

114. At its 16th meeting held on 5 March 1981, the Working Group adopted its report to the Commission on Human Rights.

#### ANNEX

#### Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief

##### Preamble

##### (The General Assembly)

Considering that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all States members have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of non-discrimination and equality before the law and the right to freedom of thought, conscience, religion and belief, including the right to choose, manifest and change one's religion and belief,

Considering that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

Considering that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

Considering that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

Convinced that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

Noting with satisfaction the adoption of several and the coming into force of some conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

Concerned by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

Resolved to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief,

(Proclaims this Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief:)

#### Article I

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

## Article II

1. No one shall be subject to discrimination by any State, institution, group of persons or person on grounds of religion or other beliefs.

2. For the purpose of this Declaration, the expression 'intolerance and discrimination based on religion or belief' means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

## Article III

Discrimination between human beings on grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants relating to human rights, and as an obstacle to friendly and peaceful relations between nations.

## Article IV

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.

2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

## Article V

1. The parents or as the case may be the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.

2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interest of the child being their guiding principle.

3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.

4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.

5. The practices of a religion or beliefs in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article I, paragraph 3.

#### Article VI

In accordance with Article I, and subject to the provisions of paragraph 3 of Article I, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

(a) To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;

(b) To establish and maintain appropriate charitable or humanitarian institutions;

(c) To make, to acquire and to use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;

(d) To write, to publish and to disseminate relevant publications in these areas;

(e) To teach a religion or belief in places suitable for these purposes;

(f) To solicit and receive voluntary financial and other contributions from individuals and institutions [designed solely for the purpose of supporting a religion or beliefs and not motivated by any political aim];

(g) To train, to appoint, to elect or to designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;

(h) To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;

(i) [To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels].

#### Article VII

The rights and freedoms set forth in this Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail themselves of such rights and freedoms in practice."

344. Many members of the Commission expressed their appreciation of the work accomplished by the Working Group during the thirty-seventh session of the Commission, which enabled it to complete its task of elaborating the draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief and they expressed their support to the text of the draft declaration to be recommended for adoption by the General Assembly through the Economic and Social Council.

345. Some members of the Commission expressed their reservation with regard to some of the provisions of article VI and on article VII of the draft declaration. The opinion was also expressed that the word "belief" as used in the draft declaration was vague and did not clearly reflect the position of persons who held atheistic beliefs. One representative stated that the established arrangements concerning the principle of consensus had not been followed by the Working Group. Another representative stated several times that consensus was not the same as unanimity and that it allowed for a minority opinion to be registered in the report.

346. At the 1635th meeting on 10 March 1981 the representative of the Netherlands introduced a draft resolution (E/CN.4/L.1602), to which the draft Declaration was annexed, co-sponsored by Australia, Canada, Colombia, \*/ Costa Rica, France, Federal Republic of Germany, Ireland, \*/ Nigeria, Panama, Peru, the Philippines, Senegal, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

347. At the 1636th meeting, in the evening of the same day, the Commission adopted the draft resolution by 33 votes to none, with 5 abstentions.

348. For the text of the resolution and of the draft Declaration adopted by the Commission, see chapter XXVIII, section A, resolution 20 (XXXVII).

349. At the same meeting, statements in explanation of vote were made by the representatives of Argentina, Bulgaria, Cuba, Mexico, Pakistan, Poland, the Syrian Arab Republic and the United States of America.

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\*/ In conformity with rule 69, paragraph 3, of the rules of procedure of the functional Commissions of the Economic and Social Council.

XVIII. STUDY IN COLLABORATION WITH THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES OF WAYS AND MEANS OF ENSURING THE IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS BEARING ON APARTHEID, RACISM AND RACIAL DISCRIMINATION: IMPLEMENTATION OF THE PROGRAMME FOR THE DECADE FOR ACTION TO COMBAT RACISM AND RACIAL DISCRIMINATION

350. The Commission considered agenda item 21 together with items 6, 7 and 17 (see chapters IV, V and XV) at its 1596th to 1603rd meetings, from 11 to 17 February 1981, and at its 1611th and 1612th meetings on 23 February 1981. The Deputy Director of the Division of Human Rights introduced the item at the 1596th meeting.

351. The Commission had before it the following documents:

The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session (E/CN.4/1413 and Corr.1);

A note by the Chairman of the Commission at its thirty-sixth session prepared in accordance with Commission resolution 14 B (XXXVI) (E/CN.4/1431);

A note by the Secretary-General prepared in accordance with Commission resolution 14 C (XXXVI) (E/CN.4/1447);

Annual reports on racial discrimination submitted by the International Labour Organisation (E/CN.4/1448) and the United Nations Educational, Scientific and Cultural Organization (E/CN.4/1448/Add.1) prepared in accordance with Economic and Social Council resolution 1588 (L) of 21 May 1971 and General Assembly resolution 2785 (XXVI) of 6 December 1971;

General Assembly resolutions 34/24 of 15 November 1979, 35/33 and 35/34 of 14 November 1980;

The report of the seminar on "Recourse procedures available to victims of racial discrimination and activities to be undertaken at the regional level" (ST/HR/SER.A/3);

The report of the "Round table of university professors and directors of race relations institutions on the teaching of problems of racial discrimination" (ST/HR/SER.A/5);

The report of the seminar on "Political, economic, cultural and other factors underlying situations leading to racism, including a survey of the increase or decline of racism and racial discrimination" (ST/HR/SER.A/7).

352. The Commission heard statements by the observers for China (1599th meeting), the German Democratic Republic and Madagascar (1600th meeting), Czechoslovakia, Egypt, Hungary, Israel, Somalia, Viet Nam and Yemen (1602nd meeting). It also heard statements by the representatives of OAU (1597th meeting), SWAPO and the ANC (1598th meeting), UNESCO (1599th meeting) and the League of Arab States (1600th meeting).

353. In the course of the general debate, many speakers deplored the fact that in spite of the efforts of the international community to fight racism, racial discrimination and apartheid, these evils continued to exist in many parts of the world. The situation in South Africa and Namibia were cited as constituting the most flagrant examples of violations of human rights. Some speakers expressed the opinion that the fight against racial discrimination was closely linked to the struggle for peace, democracy, social progress and full respect for human rights. They pointed out that the combined efforts of the international community were essential for the speedy elimination of racism and racial discrimination.

354. Several representatives stated that they attached great importance to the implementation of the activities envisaged for the second half of the Decade for Action to Combat Racism and Racial Discrimination as well as the continued contribution of the Commission towards the achievement of the objectives of the Decade. A number of speakers reaffirmed their countries' commitment to the stated principles and objectives of the Decade. In connection with the second World Conference to Combat Racism and Racial Discrimination, many representatives expressed the opinion that the Conference could, among other things, serve to mobilize world public opinion in support of the peoples of southern Africa, who are victims of racism and racial discrimination. Some representatives drew attention to the importance of the seminar on effective measures to prevent transnational corporations and other established interests from collaborating with the racist régimes of South Africa to be held, in the context of the Decade, at Geneva from 29 June to 3 July 1981.

355. Some speakers referred to action already undertaken at the national and international levels in the context of the Decade. However, other speakers emphasized the need for further practical and effective measures, such as

(a) accession to relevant international human rights instruments such as the Convention on the Elimination of all Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid;

(b) implementation of relevant United Nations Conventions and resolutions;

(c) support for peoples struggling against racial discrimination and oppression;

(d) elimination of the root causes, including economic, political, social and other conditions, leading to racism and racial discrimination;

(e) ensuring equality before the law and effective recourse procedures to victims of racial discrimination;

(f) educating the public in the spirit of mutual understanding and full respect for human rights;

(g) intensifying the use of science, mass media and education in exposing the evils of racism and racial discrimination;

(h) giving particular attention to the problems of migrant workers, minorities and indigenous populations; and

(i) the isolation of South Africa in accordance with the various resolutions of the United Nations. In this connection, some delegations were of the opinion that the maintenance of political and economic relations with South Africa could conceivably contribute to the improvement of the human rights situation in that country and to some extent benefit the victims of its system of apartheid.

356. A number of speakers warned against the danger of the current wave of groups and organizations propagating racist ideologies, intolerance, hatred and terror, including nazism, fascism and neo-fascism. It was felt that certain forms of economic crises as well as tension between developed and less developed countries could give rise to various forms of racism, some taking new and, what was termed, pseudo-intellectual guises.

357. A number of speakers made references to zionism in connection with racial discrimination. In their view, in any discussion on racism and apartheid the provisions of General Assembly resolution 3379 (XXX) of 10 November 1975 should be borne in mind. Other delegations, however, were of the view that this suggestion introduced extraneous subject matter and was not conducive to the attainment of the aims and purposes of the Programme for the Decade as laid down in General Assembly resolution 3057 (XXVIII) of 2 November 1973.

358. At the 1611th meeting, on 23 February 1981, the representative of Ghana introduced a draft resolution (E/CN.4/L.1557) which was co-sponsored by Algeria, Burundi, Cuba, Ethiopia, Morocco, Nigeria, Senegal and Zambia. He indicated that the sponsors accepted the amendment submitted by the delegation of the Syrian Arab Republic in document E/CN.4/L.1562. The representatives of the Libyan Arab Jamahiriya, \*/ the Syrian Arab Republic, Uganda, Yemen \*/ and Zaire joined the sponsors of the draft resolution.

359. At the same meeting, the draft resolution as amended, was adopted by 32 votes to none with 8 abstentions.

360. For the text of the resolution see chapter XXVIII, section A, resolution 7 (XXXVII).

361. At the 1611th meeting statements in explanation of vote regarding draft resolution E/CN.4/L.1557 were made by the representatives of Australia, the Netherlands and the United Kingdom.

362. At the 1612th meeting, statements in explanation of vote were made by the representatives of Denmark, France, Mexico, Peru, the Philippines, Portugal, Uganda and the Union of Soviet Socialist Republics.

363. At the 1611th meeting, the Chairman informed the Commission that in connection with resolution 7 (XXXV), adopted by the Commission on 5 March 1979, entitled "Treatment of non-white immigrants", there were ongoing consultations between the Governments of India and the United Kingdom with a view to facilitating the process of greater mutual understanding of the problems involved and working towards a satisfactory outcome of the situation. He indicated that both Governments hoped to present a satisfactory report to the Commission at its thirty-eighth session.

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

## XIX. STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

364. The Commission considered agenda item 22 together with item 8 (see chapter VI above) at its 1612th, 1613th, 1614th and 1635th meetings held on 23 and 24 February and on 10 March 1981.

365. In its resolution 8 (XXXVI) of 21 February 1980, the Commission had requested the Secretary-General to submit to it at its thirty-seventh session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in that report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Commission had before it a report by the Secretary-General (E/CN.4/1444) prepared in response to that request. Moreover, the Secretary-General, in compliance with General Assembly resolution 35/132 of 11 December 1980, made available to the members of the Commission copies of the last annual report of the Human Rights Committee <sup>1/</sup> established under the International Covenant on Civil and Political Rights.

366. Those representatives who spoke on the item noted with appreciation that a number of States had acceded to both Covenants and to the Optional Protocol since the thirty-sixth session of the Commission, and expressed regret that more than half the membership of the United Nations had not yet become parties to those instruments. A number of representatives pointed out that some States members of the Commission, including those which played an important role in world politics and often declared their strong commitment to the cause of human rights, had yet to accede to these instruments. One member noted, however, that some States which had ratified the Covenants were rightly criticized for their mass and flagrant violations of human rights. Another member announced that his country expected to accede to both Covenants in the very near future.

367. A number of speakers stressed that effective implementation of the Covenants required not only universal accession to them but also strict implementation of their provisions. Administrative, legislative and judicial measures were said to be needed to give effect to the rights recognized in these instruments.

368. The speakers noted with appreciation that the Human Rights Committee, established under the International Covenant on Civil and Political Rights, continued to discharge its mandate and monitor the implementation by States parties of their obligations under that Covenant with the same vigour and seriousness as had marked its positive work ever since its inception. They also praised the exemplary manner in which both the Committee and States parties had been conducting their constructive dialogue in connection with the consideration by the Committee of the reports submitted by the States concerned under the Covenant, as clearly reflected in the annual reports of the Committee.

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<sup>1/</sup> Official records of the General Assembly, Thirty-fifth session, Supplement No. 40 (A/35/40).

369. Other representatives paid tribute to the valuable work of the Economic and Social Council's Sessional Working Group which has begun its consideration of the reports submitted by States parties in accordance with the International Covenant on Economic, Social and Cultural Rights. One member expressed the hope that the Sessional Working Group would succeed in formulating rules which would better enable it to carry out its mandate for the consideration of the reports of States parties.

370. Appreciation was expressed of the increased publicity given by the United Nations to the Covenants and the work of the bodies entrusted with the monitoring of their implementation. It was also pointed out that the Covenants should be accorded greater publicity by States parties since it was pointless to ratify international instruments if the people of the country concerned were not aware of their contents.

371. At the 1614th meeting held on 24 February 1981, the representative of Denmark introduced draft resolution E/CN.4/L.1567 co-sponsored by Canada, Costa Rica, Cyprus, Senegal and the United Kingdom.

372. At the 1635th meeting, held on 10 March 1981, the draft resolution was adopted without a vote. The representative of Brazil made a statement after the adoption of the resolution.

373. For the text of the resolution see chapter XXVIII, section A, resolution 16 (XXXVII).

XX. REPORT OF THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES  
ON ITS THIRTY-THIRD SESSION

374. The Commission considered agenda item 23 at its 1592nd to 1595th meetings, on 9 to 11 February 1981, and at its 1635th meeting on 10 March 1981.

375. The Commission had before it the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session (E/CN.4/1413 and Corr.1) and a note by the Secretary-General containing comments by the Government of Guatemala (E/CN.4/1420).

376. A statement was made by the representative of the International Confederation of Free Trade Unions, a non-governmental organization in consultative status (category 1).

377. The item was introduced by the Director of the Division of Human Rights who stated that the Sub-Commission had been an invaluable partner of the Commission in advancing the cause of human rights. Among the bodies concerned with human rights which were based on the Charter of the United Nations, the Sub-Commission was the only one consisting of expert members who were elected in their individual capacities and could deal with human rights problems as specialists without being bound by the instructions of their Governments. He recalled that the Sub-Commission's terms of reference had first been spelt out by the Commission at its fifth session and had subsequently been broadened by Economic and Social Council resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970 and Commission resolution 8 (XXIII). In addition, the Commission, the Economic and Social Council and the General Assembly occasionally entrusted tasks to the Sub-Commission.

378. The value of the work of the Sub-Commission was recognized by many delegations, who also stated that the Sub-Commission should be encouraged to contribute to the Commission's activities for the promotion and protection of human rights.

379. In view of the importance of the work of the Sub-Commission, many representatives stated that the report of the Sub-Commission deserved greater attention than the Commission had been able to give it in recent years. The Sub-Commission, it was felt, should be provided with the advice and the guidance of the Commission.

380. A large number of speakers stated that the Sub-Commission should be more mindful of its terms of reference and should ensure that it kept within its mandate. It was also said that the Sub-Commission should be careful about the manner in which it adopted resolutions and decisions, particularly on matters requiring the consent of the Commission or the Economic and Social Council. The Sub-Commission should also exercise care in making requests to the Secretary-General so as to avoid situations in which the Secretary-General might be asked to carry out activities which the Sub-Commission was not competent to request. Examples were cited of particular decisions in which the Sub-Commission had, in the view of some delegations, exceeded its mandate. The decisions in question are reflected in the summary records of the 1592nd to 1595th meetings of the Commission.

381. The view was expressed by many delegations that the Sub-Commission should, as a rule refrain from addressing Governments or other United Nations bodies directly. In principle the Sub-Commission should make such requests through the Commission on Human Rights. Likewise, requests to Governments for information should also normally be made through the Commission.

382. The view was also expressed that a decision as to whether the human rights situation in a given country should be subjected to first-hand examination should be left, in each case, to the Commission itself. However, the Sub-Commission, in compliance with its mandate, could draw such situations to the attention of the Commission together with pertinent information thereon.

383. Some delegations expressed doubts as to the wisdom of the practice whereby members of the Sub-Commission unable to attend its meetings designated alternates. It was felt that since the members of the Sub-Commission were elected in their individual capacities, the designation of alternates was not satisfactory. Reference was made in that connection to rule 13 of the rules of procedure of the functional commissions of the Economic and Social Council. Different views were expressed as to the interpretation of that rule. According to one view, the rule provided a basis for the designation of alternates by members of the Sub-Commission. On the other hand, it was said that since members of the Sub-Commission, though nominated by Governments, were in fact elected by the Commission, the rule was not applicable.

384. Different views were expressed about the Sub-Commission's proposals that its name should be changed and that it should have two annual sessions of two weeks each, alternating between Geneva and New York.

385. Various comments were made on specific resolutions and decisions of the Sub-Commission. The details of those comments are reflected in the summary records of the 1592nd to 1595th meetings of the Commission. It was suggested that the Commission should devise appropriate methods for considering the Sub-Commission's report and for taking action on its various resolutions and decisions. It was suggested in that connection that, wherever possible, resolutions or decisions should be taken up in conjunction with the related items on the agenda of the Commission. Another suggestion was that a sessional working group of the Commission should be entrusted with studying the report of the Sub-Commission and making recommendations to the Commission.

386. Reference was made to the request by the Economic and Social Council to the Sub-Commission to draw up a long-term programme of work and to provide recommendations to the Commission on the subject. The view was expressed that the Sub-Commission had not yet complied with that request. In that regard, concern was expressed over the great number of studies and reports being undertaken by the Sub-Commission. It was felt that not enough care was exercised in deciding to recommend studies and that the costs of preparing such studies were not taken sufficiently into account.

387. In connection with comments to the effect that the Secretariat should provide more advice and guidance to the Sub-Commission on matters related to its mandate and terms of reference, the Director of the Division of Human Rights outlined the principles which guided the Secretariat on such matters.

388. During the consideration of the present item, Mrs. Erica-Irene A. Daes, Special Rapporteur of the Sub-Commission, introduced her study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights (E/CN.4/Sub.2/432/Rev.1 and E/CN.4/Sub.2/432/Add.1-7) - A contribution to the freedom of the individual under law. She pointed out, inter alia, that she alone was the sole author of every word of the study and that no outside expertise of any kind had been used during the elaboration of the study. She also stated that the general purposes of the study were to contribute to the freedom of the individual under law, to provide guidelines and to supply Governments with United Nations standards related to the main topics of the study, to examine and define the duties and responsibilities of the individual to the community, and to indicate, at the national, regional and international levels, the basic judicial and other procedures and remedies against unlawful or arbitrary restrictions on individual rights and freedoms. The study as a whole and its conclusions and recommendations had been elaborated on a world-wide basis and were further intended to be action-oriented and to be used for the enlightenment of public opinion. Many delegations praised the Special Rapporteur for the work she had undertaken in preparing such a useful and scholarly study which, they felt, deserved serious consideration. A great number of delegations expressly endorsed Sub-Commission resolutions 6 and 7 (XXXIII), which contain the main relevant recommendations of the Sub-Commission to the Commission.

389. Reference was also made during the debate to the study of the problem of discrimination against indigenous populations undertaken by the Sub-Commission. The view was expressed that the study should be completed as soon as possible, in order to enable the United Nations to give thorough attention to the problem of these populations.

390. Three draft resolutions were before the Commission: a draft resolution submitted by the Sub-Commission in its resolution 6 (XXXIII); a draft resolution submitted by the Sub-Commission in its resolution 7 (XXXIII); and, a draft resolution (E/CN.4/L.1583) sponsored by the delegations of Argentina, Australia, Brazil, Canada, Cuba, Fiji, Ghana, Greece, India, Mexico, Peru, Philippines, Syrian Arab Republic, United Kingdom, Uruguay and Yugoslavia.

391. At the 1635th meeting, the Director of the Division of Human Rights made a statement concerning the administrative and financial implications of the draft resolutions contained in Sub-Commission resolutions 6 (XXXIII) and 7 (XXXIII).

392. At the same meeting, the representative of the Soviet Union proposed an oral amendment to the effect that in paragraph 1 of the draft resolution contained in Sub-Commission resolution 6 (XXXIII), the words after the word "study" should be deleted and replaced by: "on the topic entitled 'The status of the individual and contemporary international law'. The Special Rapporteur, in preparing her study, should take into account the doctrines and practices existing in various legal systems in the world and the relevant comments made by the members of the Sub-Commission".

393. That amendment was adopted by 19 votes to 11, with 8 abstentions.

394. The draft resolution contained in Sub-Commission resolution 6 (XXXIII), as amended, was adopted by 26 votes to none, with 9 abstentions.

395. For the text of the resolution see chapter XXVIII, section A, resolution 18 (XXXVII).

396. At the 1635th meeting, the representative of the Soviet Union proposed that paragraph 3 of the draft resolution contained in Sub-Commission resolution 7 (XXXIII) should be deleted. The proposal was rejected by 11 votes to 8, with 17 abstentions.

397. At the same meeting, the representative of the Netherlands introduced the amendment contained in document E/CN.4/L.1572. That amendment was adopted by 15 votes to 12, with 11 abstentions.

398. The draft resolution contained in Sub-Commission resolution 7 (XXXIII), as amended, was adopted by 28 votes to 4, with 5 abstentions.

399. For the text of the resolution see chapter XXVIII, section A, resolution 19 (XXXVII).

400. At the 1635th meeting, the representative of Australia introduced a draft resolution (E/CN.4/L.1583). The draft resolution was adopted at the same meeting without a vote.

401. For the text of the resolution, see chapter XXVIII, section A, resolution 17 (XXXVII).

XXI. RIGHTS OF PERSONS BELONGING TO NATIONAL, ETHNIC,  
RELIGIOUS AND LINGUISTIC MINORITIES

402. The Commission considered agenda item 24 at its 1636th meeting on 10 March 1981.

403. At its thirty-seventh session the Commission had before it the following documents:

The report of the Sub-Commission's Working Group on the rights of persons belonging to national, ethnic, religious and linguistic minorities (E/CN.4/Sub.2/455/Rev.1) reproduced in paragraph 268 of the report of the Sub-Commission on its thirty-third session, (E/CN.4/1413 and Corr.1);

The discussion of the Sub-Commission on the matter as reflected in paragraphs 269-275 of its report, and in the summary records of the debate on the item (E/CN.4/Sub.2/SR.882 and SR.891);

A note by the Secretary-General incorporating all provisions relevant to the rights of minorities as contained in international instruments (E/CN.4/Sub.2/L.735) and

The revised draft Declaration on Minorities (E/CN.4/Sub.2/L.734).

404. At its 1583rd meeting on 2 February 1981 the Commission established an open-ended Working Group to consider further the drafting of a Declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities. Mr. Toševski (Yugoslavia) was elected Chairman-Rapporteur of the Working Group.

405. At the 1636th meeting the Chairman-Rapporteur introduced the report of the Working Group (E/CN.4/L.1579).

406. The report of the Working Group as it appears in the document E/CN.4/L.1579, paras. 10 to 24 and annex reads as follows:

"[...]

A. General Observations

10. The Group held its discussions on the basis of the revised draft Declaration prepared by the Chairman-Rapporteur of the working Group set up by the Commission at its thirty-sixth session (E/CN.4/Sub.2/L.734). It was the understanding of the Group that its present work was a first reading of the draft and that such agreement as was reached on the text at this stage would be of preliminary character. 1/

11. The debate of the Working Group opened with some general comments on the draft Declaration. A number of delegates stressed the importance of defining the term 'minority'. This term was liable to many interpretations and the task of defining it was difficult but nonetheless quite indispensable in their view. Due to the complexity of the issue the Group decided to reconsider the definition of 'minority' at a later stage, in the light of the debate on the whole of the draft Declaration. A number of other representatives, however, considered that the term 'minorities' was well enough understood and required no other definition in this draft.

12. Some representatives reiterated the opinion of their Governments as to article 27 of the International Covenant on Civil and Political Rights which they considered as an important basis of the work of the Group. They referred in particular to the non-inclusion of the word 'national' in that article and thought that such reference to national minorities should also be omitted in the draft Declaration. A number of other representatives said that article 27 of the Covenant, while of great importance, did not limit the Working Group in this regard and pointed out that several international instruments refer to the rights of national minorities. They therefore felt that the word 'national' should be retained. The Group agreed to retain the word 'national' in brackets and stressed the importance of Governments stating their final views at the earliest possible date as to the inclusion or exclusion of this word from the draft Declaration.

13. Several representatives suggested that in keeping with the wording of article 27, reference should be made both in the title and throughout the text of the draft Declaration to the 'rights of persons belonging to ... minorities' and not to the 'rights of ... minorities'. The view was also expressed, however, that some rights, such as cultural rights, could only be exercised collectively by persons belonging to minorities and that the draft Declaration should also safeguard the collective exercise of such rights. It was further pointed out that a temporary solution to bracket the words 'persons belonging to minorities' throughout the whole text, as had been suggested by some representatives would not fully express reality; some rights were indeed group rights, some were individual rights and others were both group and individual rights. Therefore a case by case consideration was necessary depending on the nature of the rights under discussion. In response to this observation some representatives stated that the Declaration should be based on its title which was itself based on the original Sub-Commission resolution proposing a draft Declaration; 2/ that resolution referred to rights of 'persons belonging to' minorities and this formulation should be followed by the Group. The Group agreed to defer final debate on this issue and emphasized the importance of inviting Governments, through the Commission, to express their final views, as soon as possible, regarding the inclusion or exclusion from the draft of the words 'persons belonging to ...'.

14. A number of representatives pointed out that the draft Declaration should include the idea that minorities had also duties toward the State in which they resided. This was very important since the exercising of the rights of minorities could be in conflict with the rights of the majority.

15. One representative suggested that the draft Declaration should take account of the view, which was also expressed in Professor Capotorti's report, 3/ that if within a minority certain individual members prefer to be assimilated into the majority of the population, they should be allowed to do so if this is their free choice.

16. Some representatives noted the relation of the work of the Group to the ongoing study of the Sub-Commission concerning indigenous populations. It was the consensus of the Working Group that, as had been stated on previous occasions, the draft Declaration and the discussions of the Group did not encompass the special problems of indigenous populations.

B. Title of the draft Declaration

17. In the revised draft prepared by the Chairman-Rapporteur of the Working Group set up by the Commission at its thirty-sixth session (E/CN.4/Sub.2/L.734), the title reads as follows:

'Draft declaration on the rights of persons belonging to national, ethnic, religious or linguistic minorities'

Commenting on the proposed title several representatives questioned the distinction between 'national' and 'ethnic' minorities and suggested the deletion of the word 'national' from the draft Declaration as a whole. This, in their view, would also be in line with article 27 of the International Covenant on Civil and Political Rights. Several delegates, on the other hand, believed that reference to 'national' minorities should be retained, since the term had also been used in other international instruments. It was pointed out that the term 'national' minority could in no case refer to aliens but only to citizens of the State concerned. The view was also expressed that the word 'religious' should be deleted and that the term 'minority' might be replaced by 'group'. As a preliminary solution, pending further study, the Group agreed to retain the word 'national' in brackets, both in the title and throughout the text, and to add the word 'or' after 'national', also in brackets. The title as temporarily agreed upon by the Group reads as follows:

'Draft Declaration on the rights of persons belonging to [national or] ethnic, religious or linguistic minorities'

C. Preamble of the draft Declaration

18. The Group discussed the first five preambular paragraphs of the draft (E/CN.4/Sub.2/L.734) as well as a new proposed preambular paragraph. Some preliminary comments were made regarding the form and contents of the preamble. It was pointed out that the preamble was too long in relation to the substantive part of the draft Declaration and that an effort should be made to shorten it. The opinions were expressed that a new paragraph should be added dealing specifically with article 27 of the International Covenant on Civil and Political Rights and that reference to the rights of the majority should also appear in the preamble. With regard to punctuation it was suggested that full-stops at the end of each preambular paragraph should be replaced by commas, as was the practice in the drafting of international instruments. The Working Group then began its consideration of the preamble paragraph by paragraph.

19. First preambular paragraph. This paragraph was agreed upon by the Group with minor amendments. It was observed that the language should be slightly modified so as to reflect the wording of paragraph 3 of article 1 of the Charter of the United Nations. Thus the words 'enhance the' in the second line should be replaced by the word 'encourage' and the word 'for' should be inserted between the words 'and' and 'fundamental'. It was also pointed out that the word 'recognizing' at the beginning of the paragraph might seem rather anachronistic since the General Assembly had already long ago recognized that one of the basic aims of the United Nations was to

promote and encourage respect for human rights; the word 'reaffirming' should therefore replace 'recognizing'. The first preambular paragraph as agreed upon by the Group reads as follows:

'The General Assembly

Reaffirming that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion',

20. Second preambular paragraph. This paragraph was agreed upon by the Group as it appears in the draft 4/ with only a minor change at the beginning presenting a choice of three words in brackets. The paragraph as agreed upon reads as follows:

'[Reaffirming] [Reiterating] [Declaring] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,'

21. Third preambular paragraph. As proposed in the revised draft by the Chairman-Rapporteur of the Working Group set up by the Commission at its thirty-sixth session 5/ the third preambular paragraph reads as follows:

'Bearing in mind the international instruments relating to human rights, including the rights of national, ethnic, linguistic and religious minorities and their members, such as ... the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and in particular its Article 27, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention of the United Nations Educational, Scientific and Cultural Organization against Discrimination in Education and the Convention of the International Labour Organisation concerning Discrimination in Respect of Employment and Occupation, as well as the international instruments that have been adopted at the universal or regional level and those concluded between individual States members of the United Nations.'

The Group was presented with a proposed amended version of the third preambular paragraph which mainly aimed at shortening the paragraph by deleting detailed reference to certain international instruments. The proposed amendment read as follows:

'Desiring to promote the realization of the principles which form the basis of the Charter of the United Nations, the Universal Declaration on Human Rights, the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination as well as other relevant international instruments,'

In the ensuing debate a number of representatives expressed the opinion that the inclusion of all instruments as in the revised draft proposed by the Chairman-Rapporteur of the Working Group set up by the Commission at its thirty-sixth session 6/ would be more appropriate since in this way the Declaration would refer to the whole system of international law. Representatives particularly mentioned the International Convention on the Suppression and Punishment of the Crime of Apartheid and the reference to agreements adopted at the 'regional level and those concluded between individual States members of the United Nations'. In response to these comments it was pointed out that, since the draft Declaration dealt with the rights of minorities, it would be rather contradictory and confusing to mention a Convention which referred to the rights of the black majority which were violated by the apartheid régime of the white minority. It was also observed that reference to bilateral agreements, which by their nature regulated specific problems, should not appear in the draft because, many such agreements not being familiar to the Group, the Declaration would be thus risking the attribution of a sense of 'universal approval' to unknown instruments. An amendment was proposed to include the words 'concerning the rights of persons belonging to minorities' after the word 'principles'. Some representatives, however, considered that the Charter of the United Nations and the Universal Declaration of Human Rights do not contain provisions referring to the rights of persons belonging to minorities and that therefore these words should be deleted. The Working Group finally adjourned its debate on the third preambular paragraph by agreeing to the following text with some bracketed words for future considerations:

'Desiring to promote the realization of the principles [concerning the rights of] [persons belonging to] [minorities] which form the basis of the Charter of the United Nations, the Universal Declaration on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination as well as other relevant international instruments [that have been adopted at the Universal or regional level and those concluded between individual States members of the United Nations],'

22. Fourth preambular paragraph. This paragraph was agreed upon by the Group with minor amendments. It reads as follows:

'Confirming that friendly relations and co-operation among States, which take place in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contribute to international peace and security and to the creation of more favourable conditions for the realization and promotion of human rights, including the rights of [persons belonging to] [national or], ethnic, linguistic and religious minorities,'

23. Fifth preambular paragraph. As proposed in the revised draft by the Chairman-Rapporteur of the Working Group set up by the Commission at its thirty-sixth session 7/ the fifth preambular paragraph reads as follows:

'Emphasizing that the realization and constant promotion of the rights of minorities, as an integral part of over-all social progress and the development of democratic relations, in turn contribute to the strengthening of friendship and co-operation among peoples and States.'

The main amendment proposed in respect to this paragraph was the deletion in the second line of the words 'of over-all social progress and the development of democratic relations' and their replacement by the following words:

'... of the development of society as a whole and within the constitutional framework would...'

In the view of the sponsors, such a formulation would take into account the rights of the majority in the State in which minorities resided. It was pointed out that the purpose of this preambular paragraph was to stress the progress of minorities in the context of the whole of the society in which they existed and of which they formed part. The paragraph as agreed upon by the Group reads as follows:

'Emphasizing that the constant promotion and realization of the rights of persons belonging to minorities, as an integral part of the development of society as a whole and within the constitutional framework would in turn contribute to the strengthening of friendship and co-operation among peoples and States,'

A representative made a reservation as to the formulation of paragraph 5 of the preamble.

24. New preambular paragraph. A new paragraph specifically mentioning article 27 of the International Covenant on Civil and Political Rights was proposed to the Group which read as follows:

'Inspired by the provisions of Article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,'

An amendment was introduced regarding the opening words of the paragraph; it was proposed to replace 'inspired by' by 'based on'. The view was expressed that this amendment better reflected the source of the work of the Group since the original Sub-Commission resolution 8/ which had launched the idea of a Declaration mentioned that such a Declaration should be in the 'framework of the principles' of Article 27. A number of representatives felt that it would not be exact to use the word 'based' because the preamble also included other international instruments; the word 'inspired' was a more precise term. Finally the Group decided to retain the original wording of the paragraph, as this better represented the opinion of the majority, and add the proposed amendment in brackets for future consideration. Thus the new paragraph, which would be the fourth paragraph of the preamble, as agreed upon by the Group reads as follows:

'Inspired by [based on] the provisions of Article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,'

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- 1/ See the annex.
  - 2/ Resolution 5 (XXX), 31 August 1977.
  - 3/ E/CN.4/Sub.2/384/Rev.1, para. 573.
  - 4/ E/CN.4/Sub.2/L.734.
  - 5/ Ibid.
  - 6/ Ibid.
  - 7/ Ibid.
  - 8/ Resolution 5 (XXX) of 31 August 1977.

#### ANNEX

Text of that part of the draft Declaration on which preliminary agreement was reached in the Working Group

Draft Declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

[Reaffirming] [Reiterating] [Declaring] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles [concerning the rights of] [persons belonging to] [minorities] which form the basis of the Charter of the United Nations, the Universal Declaration on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination as well as other relevant international instruments [that have been adopted at the Universal or regional level and those concluded between individual States members of the United Nations],

Inspired by [Based on] the provisions of Article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Confirming that friendly relations and co-operation among States, which take place in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contribute to international peace and security and to the creation of more favourable conditions for the realization and promotion of human rights, including the rights of [persons belonging to] [national or], ethnic, linguistic and religious minorities,

Emphasizing that the constant promotion and realization of the rights of persons belonging to minorities, as an integral part of the development of society as a whole and within the constitutional framework would in turn contribute to the strengthening of friendship and co-operation among peoples and States,"

407. At the 1636th meeting on 10 March 1981, a draft resolution (E/CN.4/L.1595) submitted by Yugoslavia on behalf of the Working Group was adopted without a vote.

408. For the text of the resolution, see chapter XXVIII, section A, resolution 21 (XXXVII).

409. At the same meeting the representative of Denmark introduced draft resolution E/CN.4/L.1597 co-sponsored by Australia, Canada, Finland, \*/Netherlands, Norway \*/ and Sweden \*/, concerning the study being prepared by Mr. Martínez Cobo, Special Rapporteur of the Sub-Commission, on indigenous populations. The representative stated that item 24 was the most appropriate agenda item for this topic. Draft resolution E/CN.4/L.1597 was adopted without a vote.

410. For the text of the resolution see chapter XXVIII, section A, resolution 22 (XXXVII).

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\*/ In conformity with rule 69, paragraph 3, of the rules of procedure of the functional Commissions of the Economic and Social Councils.

XXII. QUESTION OF MEASURES TO BE TAKEN AGAINST IDEOLOGIES  
AND PRACTICES BASED ON TERROR OR INCITEMENT TO RACIAL  
DISCRIMINATION OR ANY OTHER FORM OF GROUP HATRED

411. The Commission considered agenda item 25 at its 1590th, 1591st, and 1611th meetings on 6, 9, and 23 February 1981.

412. The item was introduced at the 1590th meeting by the Deputy Director of the Division of Human Rights who recalled that the item had been on the Commission's agenda since the twenty-eighth session by virtue of General Assembly resolution 2839 (XXVI) of 18 December 1971. The Deputy Director drew the attention of the Commission to General Assembly resolution 35/200 adopted on 15 December 1980 and entitled "Measures to be taken against nazi, fascist and neo-fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance hatred and terror". He added that the Commission was specifically requested in paragraph 4 of that resolution to consider this matter at its current session. Furthermore, it was noted that the Secretary-General would submit, through the Economic and Social Council, to the General Assembly at its thirty-sixth session, a report in the light of the discussion that would take place in the Commission and on the basis of comments provided by States.

413. In the course of the general debate, statements were made by the observers for Belgium, the German Democratic Republic, Israel, Spain and Turkey. The Commission also heard statements by the observer for the League of Arab States and the representative of the World Jewish Congress.

414. Representatives who participated in the debate were unanimous in their condemnation of nazism, fascism, neo-fascism and any ideology based on racial intolerance, hatred and terror. Some speakers expressed deep concern at the increased intensity of the activities of groups and organizations propagating such ideologies and practices which they felt constituted a threat not only to world peace and international security but also to the realization of human rights and fundamental freedoms. A number of representatives recalled the suffering visited upon their respective countries during the Second World War in their struggle against nazism and fascism. With this in mind, they felt that the resurgence of neo-fascist and neo-nazi ideologies and practices was fraught with danger and for that reason called upon all progressive and democratic forces of the world to unite in counteracting such tendencies. In addition to seeking to determine the root cause of the resurgence of such ideologies and practices it was felt that public opinion should focus on the danger which such phenomena pose as a constant source of international tension.

415. Some speakers recalled the trauma of aggression and occupation of a number of countries and emphasized the necessity for the international community to remain vigilant against the re-emergence of any form of authoritarian or totalitarian system that would tend to violate basic human rights. Speaking of various forms of totalitarianism, those speakers pointed out that each form used the existence of the other as a justification for the violation of fundamental human rights and for the exploitation of group hatred, including class hatred. It was, therefore, felt that all countries should take effective measures to limit the spread of all forms of totalitarian régimes and their ideologies.

416. Other representatives, while condemning nazism and fascism, expressed the opinion that those ideologies were not necessarily the major source of current acts of terrorism which, in their view, are aimed at destroying basic human rights to life, liberty and security of persons. It was argued that the resurgence of fascism in some parts of the world was indeed disturbing but could not be viewed in isolation from persistent totalitarianism in many parts of the world. In that context, it was stated that totalitarianism in any form is predicated on the denial of basic human rights and values as well as on the insignificance of the rights of the individual. As such, it was said that totalitarianism is conducive to all forms of terrorism and practices based on terror. There was an urgent appeal for international action to stem the tide of this current phenomenon since it was felt that all nations had a common interest in condemning and outlawing it. It was suggested that the only lasting defence against nazism, fascism and other forms of totalitarianism was moderation in political affairs and the encouragement of the protection of fundamental rights by effective national and international procedures. One speaker stressed the links between anti-zionism on the one hand and anti-semitism and neo-nazism on the other hand.

417. The view was also expressed that zionism was a form of racism and racial discrimination and, after reference to General Assembly resolution 3379 (XXX) of 10 November 1975, on this subject, it was stated that any resolution which might be adopted by the Commission under the item would implicitly apply to zionism.

418. At the 1591st meeting on 9 February 1981, the representative of the Byelorussian Soviet Socialist Republic introduced a draft resolution (E/CN.4/L.1548) co-sponsored by Bulgaria, Czechoslovakia, \*/ the German Democratic Republic; \*/ Mongolia and Poland.

419. Amendments to the draft resolution were proposed by the delegations of Australia, Canada, Greece and the Netherlands in document E/CN.4/L.1551.

420. On the basis of views expressed in the general debate, particularly with respect to the proposed draft resolution (E/CN.4/L.1548), a revised text (E/CN.4/L.1548/Rev.1) was introduced at its 1611th meeting on 23 February 1981, by the representative of the Byelorussian Soviet Socialist Republic.

421. The representatives of the following countries made statements in explanation of vote on draft resolution E/CN.4/L.1548/Rev.1 before the vote: Canada, the Federal Republic of Germany and the United States of America.

422. At the same meeting the representative of the United Kingdom requested a separate vote by roll-call on the sixth preambular paragraph together with paragraph 4 of the revised draft resolution. By a vote of 24 to none, with 15 abstentions, the two paragraphs were adopted. The voting was as follows:

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

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

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

423. At the same meeting the representative of Greece requested a separate vote by roll-call on the words "... including the possibility of elaborating a draft Declaration, ..." contained in paragraph 5 of draft resolution E/CN.4/L.1548/Rev.1. By a vote of 23 to 11, with 5 abstentions, the words were retained. The voting was as follows:

In favour: Algeria, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cuba, Ethiopia, Ghana, India, Iraq, Jordan, Mongolia, Morocco, Nigeria, Poland, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, Yugoslavia, Zaire, Zambia.

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

Abstaining: Argentina, Fiji, Peru, Philippines, Uruguay.

424. Also at the 1611th meeting, the representative of Cuba requested a vote by roll-call on draft resolution E/CN.4/L.1548/Rev.1 as a whole. The resolution was adopted by 38 votes to none, with 1 abstention. The voting was as follows:

In favour: Algeria, Argentina, Australia, Benin, Brazil, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Canada, Cuba, Cyprus, Denmark, Ethiopia, Fiji, France, Germany, Federal Republic of, Ghana, Greece, India, Iraq, Jordan, Mongolia, Morocco, Netherlands, Nigeria, Peru, Philippines, Poland, Portugal, Senegal, Syrian Arab Republic, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Yugoslavia, Zaire, Zambia.

Abstaining: United States of America.

425. For the text of the resolution see chapter XXVIII, section A, resolution 3 (XXXVII).

426. At the same meeting statements in explanation of vote on draft resolution E/CN.4/L.1548/Rev.1 were made by the representatives of Argentina, Australia, Netherlands, Portugal, Syrian Arab Republic, United Kingdom, USSR and Zambia. The representatives of Costa Rica, Panama and Mexico stated that had their delegations been present when the vote was taken they would have voted in favour of the text.

### XXIII. ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

427. The Commission considered item 26 at its 1640th meeting held on 12 March 1981.

428. The Commission had before it the following documents: a report of the Secretary-General on the programme of advisory services in the field of human rights for 1980 (E/CN.4/1445); the report of the symposium on the role of the police in the protection of human rights held at The Hague from 14 to 25 April 1980 (ST/HR/SER.A/6); the report of the seminar on the effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms held at Geneva from 30 June to 11 July 1980 (ST/HR/SER.A/8).

429. During a brief discussion, the view was expressed that the Commission should allocate sufficient time to discuss this important issue in detail next year.

430. At the same meeting, the Commission took note of the report of the Secretary-General. (For the text of decision, see chapter XXVIII, section B, decision 8 (XXXVII)).

#### XXIV. COMMUNICATIONS CONCERNING HUMAN RIGHTS

431. The Secretary-General distributed to the members of the Commission confidential lists of communications (E/CN.4/CCR/80/1-12), replies of Governments (E/CN.4/GR.80/1 and Add.1, E/CN.4/GR.80/2-6 and Add.1, E/CN.4/GR.80/7 and Add. 1 and 2, E/CN.4/GR.80/8 and Add.1 and E/CN.4/GR.80/9-12) and a confidential document of a statistical nature (E/CN.4/CCR/Stat.22).

XXV. ELECTION OF MEMBERS OF THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES

432. In accordance with Economic and Social Council resolution 1334 (XLIV) of 31 May 1968 and Economic and Social Council decision 1978/21 of 5 May 1978, the Commission at its thirty-seventh session had to elect the 26 members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities from nominations of experts made by States Members of the United Nations, on the following basis:

From African States:	7 members;
From Asian States:	5 members;
From Western European and other States:	6 members;
From Latin American States:	5 members;
From Eastern European States:	3 members.

433. The three-year term of the previous membership of the Sub-Commission, elected by the Commission on Human Rights at its thirty-fourth session, at the 1474th meeting, had expired in 1980.

434. The Secretary-General had received the following nominations for election to membership in the Sub-Commission (E/CN.4/L.1616):

African States

Mr. Abdelwahab Bouhdiba	Tunisia
Mr. Jonas K.D. Foli	Ghana
Mr. Ibrahim Jimeta	Nigeria
Mr. Ahmed Khalifa	Egypt
Mr. François-Xavier Mbouyom	United Republic of Cameroon
Mr. C.L.C. Mubanga-Chipoya	Zambia
Mr. Mohamed Yousif Mudawi	Sudan
Mr. Paul Nikiema	Upper Volta
Mr. Abdillahi Said Osman	Somalia
Mrs. Halima Embarek Warzazi	Morocco
Mr. Fisseha Yimer	Ethiopia
Mr. Dzankon Detemeni Ololi Zubu	Zaire

Asian States

Mr. Emilio Bejasa	Philippines
Mr. Abu Sayeed Chowdhury	Bangladesh
Mr. Riyadh Aziz Hadi	Iraq
Mr. Nasser Kaddour	Syrian Arab Republic
Mr. Syed S.A. Masud	India
Mr. S. Sharifuddin Pirzada	Pakistan

Eastern European States

Mr. Dumitru Ceausu	Romania
Mr. Vsevolod N. Sofinsky	USSR
Mr. Ivan Tosevski	Yugoslavia

Latin American States

Mr. Julio Cesar Aviles Aburto	Nicaragua
Mr. Miguel Alfonso Martinez	Cuba
Mr. Antonio Martínez Baez	Mexico
Mrs. Elizabeth Odio Benito	Costa Rica
Mr. Raul Ferrero	Peru
Mr. Carlos Holguin-Holguin	Colombia
Mr. Julio Oyhanarte	Argentina
Mr. Jorge Eduardo Ritter	Panama

Western European and other States

Mr. Marc Bossuyt	Belgium
Mr. Beverly Carter Jr.	United States
Mrs. Erica-Irene A. Daes	Greece
Mr. Asbjørn Eide	Norway
Mr. Hicri Fisek	Turkey
Mrs. Nicole Questiaux	France
Mr. Benjamin Whitaker	United Kingdom

435. Biographical data relating to the candidates were circulated in documents E/CN.4/1446 and Add.1-12

436. At the Commission's 1640th meeting, two secret ballots were taken, in accordance with Economic and Social Council resolution 1334 (XLIV) and Economic and Social Council decision 1978/21.

437. In the first ballot the following twenty-four candidates were elected:

African States

Mr. Jonas K.D. Foli	Ghana
Mr. Ibrahim Jimeta	Nigeria
Mr. Ahmed Khalifa	Egypt
Mr. C.L.C. Mubanga-Chipoya	Zambia
Mr. Mohamed Yousif Mudawi	Sudan
Mrs. Halima Embarek Warzazi	Morocco
Mr. Fisseha Yimer	Ethiopia

Asian States

Mr. Abu Sayeed Chowdhury	Bangladesh
Mr. Riyadh Aziz Hadi	Iraq
Mr. Nasser Kaddour	Syrian Arab Republic
Mr. Syed S.A. Masud	India
Mr. S. Sharifuddin Pirzada	Pakistan

Eastern European States

Mr. Dumitru Ceausu	Romania
Mr. Vsevolod N. Sofinsky	USSR
Mr. Ivan Tosevski	Yugoslavia

Latin American States

Mr. Antonio Martínez Baez	Mexico
Mrs. Elizabeth Odio Benito	Costa Rica
Mr. Raul Ferrero	Peru
Mr. Julio Oyhanarte	Argentina
Mr. Jorge Eduardo Ritter	Panama

Western European and other States

Mr. Marc Bossuyt	Belgium
Mrs. Erica-Irene A. Daes	Greece
Mrs. Nicole Questiaux	France
Mr. Benjamin Whitaker	United Kingdom

438. There were seven candidates from the Western European and other States. That group of States is entitled to six members in the Sub-Commission. As indicated above, only four of the six members were elected in the first ballot. A second ballot was therefore necessary to elect the two remaining members of that group. In the second ballot, the Commission elected Mr. Beverly Carter Jr. (United States) and Mr. Asbjørn Eide (Norway) as members of the Sub-Commission.

XXVI. CONSIDERATION OF THE DRAFT PROVISIONAL AGENDA FOR  
THE THIRTY-EIGHTH SESSION OF THE COMMISSION

439. The Commission considered agenda item 29 at its 1642nd meeting, on 13 March 1981. In accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII), a note by the Secretary-General (E/CN.4/L.1623), containing a draft provisional agenda for the thirty-eighth session of the Commission and indicating the documents to be submitted under each item and the legislative authority for their preparation, was before the Commission. The Commission took note of that draft provisional agenda at the same meeting.

440. For the text of the decision, see chapter XXVIII, section B, decision 12 (XXXVII).

441. The text of the draft provisional agenda for the thirty-eighth session reads as follows:

1. Election of officers
2. Adoption of the agenda
3. Organization of the work of the session

Legislative authority: relevant resolutions and decisions of the General Assembly, the Economic and Social Council and the Commission.

4. Question of the violation of human rights in the occupied Arab territories, including Palestine

Legislative authority: Commission resolution 1 A (XXXVII)

Documentation:

(a) Report by the Secretary-General containing information concerning detainees, such as their number, identity, place and duration of detention (paragraph 15);

(b) report to the Secretary-General containing information submitted by Israel on the implementation of paragraphs 5, 6, 7, 9, 10, 13 and 14 of the resolution (paragraph 18);

(c) report by the Secretary-General on the measures taken to bring the resolution to the attention of all Governments, the Competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity (paragraph 19);

(d) list of United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of the occupied Arab territories (paragraph 20).

5. Question of human rights in Chile

Legislative authority: Commission resolution 9 (XXXVII)

Documentation:

Report of the Special Rapporteur on further developments in the situation of human rights in Chile (paragraph 9).

6. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts

Legislative authority: Commission resolutions 12 (XXXV) and 9 (XXXVI)  
5 (XXXVII)

Documentation:

(a) Progress report of working group (paragraph 19 of resolution 5 (XXXVII));

(b) Report of the Ad Hoc Working Group of Experts on the results of the inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or of a serious violation of human rights (paragraph 22 of resolution 5 (XXXVII)).

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

Legislative authority: Commission resolution 8 (XXXVII)

Documentation:

Updated version of the report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (paragraph 7).

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

(a) Problems related to the right to enjoy an adequate standard of living; the right to development;

(b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms

Legislative authority: Commission resolution 36 (XXXVII)

Documentation:

(a) Second part of the study on the regional and national dimensions of the right to development (paragraph 8);

(b) Report of Seminar on human rights, peace and development (paragraph 9);

(c) Report of Working Group (paragraph 13).

9. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation

Legislative authority: Commission resolutions 5 (XXXVI), 2 (XXXVII), 11 (XXXVII)

Documentation:

(a) List of reports, studies and publications prepared by the Special Unit on Palestinian Rights, established by General Assembly resolution 32/40 B (resolution 2 (XXXVII), paragraph 9);

(b) Observations and recommendations by the Sub-Commission on human rights situation in Kampuchea (resolution 11 (XXXVII), paragraph 6).

10. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:

(a) Torture and other cruel, inhuman or degrading treatment or punishment;

(b) Question of missing and disappeared persons.

Legislative authority: Commission resolutions 10 (XXXVII), 25 (XXXVII)

Documentation:

(a) Report of the Working Group of Experts containing its conclusions and recommendations on questions relevant to enforced or involuntary disappearances of persons (resolution 10 (XXXVII), paragraph 4);

(b) General recommendations of the Sub-Commission on the means for eliminating enforced or involuntary disappearances of persons (resolution 10 (XXXVII), paragraph 7);

(c) Relevant materials relating to the draft convention on torture and other cruel, inhuman or degrading treatment or punishment (resolution 25 (XXXVII), paragraph 2);

(d) Report of Working Group (resolution 25 (XXXVII), paragraph 1).

11. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms

(a) National institutions for the promotion and protection of human rights

Legislative authority: Commission resolution 24 (XXXV)

Documentation:

Summary of reports from national institutions requested under paragraph 5

Information received under paragraphs 2 and 5, and summary of reports requested under paragraph 6.

- (b) Report of the Working Group (paragraph 3)
- (c) Analytical report of the Secretary-General, pursuant to paragraph 4
- (d) Report on the public information activities in the field of human rights 24 (XXXVII) (paragraph 5).

12. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

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

- (a) Legislative authority: Economic and Social Council resolution 1102 (XL).

Documentation:

Annual supplement to document E/4226 (E/CN.4/923/Add.13), listing decisions taken by United Nations bodies during 1980 relevant to the question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories.

- (b) Legislative authority: General Assembly resolution 2785 (XXVI).

Documentation:

Information which may be submitted by the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

- (c) Legislative authority: Commission decision 5 (XXXVII)

Documentation:

Report of the Secretary-General on the question of human rights in Cyprus

- (d) Legislative authority: Commission resolution 34 (XXXVII)

Documentation:

Report of Special Envoy on Situation of Human Rights in Bolivia (paragraph 5).

- (e) Legislative authority: Commission resolution 33 (XXXVII)

Documentation:

Report of the Secretary-General on direct contacts with the Government of Guatemala (paragraph 2).

- (f) Legislative authority: Commission decision 32 (XXXVII).

Documentation:

Report of Special Representative of the Commission on situation of human rights in El Salvador.

(g) Legislative authority: Commission resolution 29 (XXXVII)

Documentation:

Study of Special Rapporteur on Mass Exoduses (paragraph 7).

(h) Legislative authority: Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) and Commission on Human Rights decision 4 (XXXVII) subject to approval of the Economic and Social Council.

Confidential documents, including those of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and its Working Group on Communications and the report of the Working Group established by the Commission at its thirty-fifth session.

13. Question of a convention on the rights of the child

Legislative authority: Commission resolution 26 (XXXVII)

Documentation:

Report of the Working Group (paragraph 2).

14. Measures to improve the situation and ensure the human rights and dignity of all migrant workers

Legislative authority: Commission resolution 37 (XXXVII)

Documentation:

Report by the Secretary-General concerning the model agreements and agreements on the various aspects of inter-State relations in so far as they concern migrant workers, which have been formulated by United Nations bodies, the specialized agencies and the other world-wide and regional intergovernmental organizations and competent non-governmental organizations, and the countries of origin and host countries of migrant workers (resolution 25 (XXXV)).

15. Human rights and scientific and technological developments

16. Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid

Legislative authority: Commission resolution 6 (XXXVII)

Documentation:

(a) Reports submitted by States parties to the Convention under article VII of the Convention (paragraph 6 of resolution 6 (XXXVII));

(b) Information provided by competent United Nations organs concerning measures taken by the authorities responsible for the administration of Trust

and Non-Self-Governing Territories, and all other Territories to which General Assembly resolution 1514 (XV) of 14 December 1960 applies, with regard to individuals alleged to be responsible for crimes under article II of the Convention who are believed to be under their territorial and administrative jurisdiction (paragraphs 6 and 10 of Commission resolution 12 (XXXVI)).

(c) Report of the group established in accordance with article IX of the Convention (paragraph 6 of Commission resolution 6 (XXXVII)).

(d) Comments submitted by States Parties on the interim study prepared by the Ad Hoc Working Group of Experts (paragraph 5).

17. The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service

Legislative authority: Commission resolution 40 (XXXVII)

Documentation:

Recommendations to the Commission by the Sub-Commission (paragraph 2 of the resolution)

18. (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination

(b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination

Legislative authority: Commission resolution 14 (XXXVI)

Documentation:

Report of the Secretary-General on specific proposals with regard to the preparation of the study referred to in paragraph 18 of the Programme of activities adopted by the General Assembly in its resolution 34/24.

19. Status of the International Covenants on Human Rights

Legislative authority: Commission resolution 16 (XXXVII)

Documentation:

Report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, including information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights (paragraph 11).

20. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-fourth session

Legislative authority: Commission resolution 17 (XXXVII)

Documentation:

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

21. Rights of persons belonging to national, ethnic, religious and linguistic minorities

Legislative authority: Commission resolution 21 (XXXVII)

Documentation:

Report of the Working Group on revised draft declaration taking into account all relevant material.

22. Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred

23. Advisory services in the field of human rights

Legislative authority: General Assembly resolution 926 (X), Economic and Social Council resolutions 684 (XXVI) and 1008 (XXXVII).

Documentation:

Report of the Secretary-General on the Programme of Advisory Services in the field of human rights.

24. Communications concerning human rights

(a) Legislative authority: Economic and Social Council resolution 728F (XXVIII) and Commission resolutions 14 (XV) and 51 (XV).

Documentation:

Confidential and non-confidential lists of communications and documents containing the replies of Governments to communications furnished to them and a confidential document of a statistical nature.

(b) Communications on the Status of Women

Legislative authority: Economic and Social Council resolution 1980/39, paragraph 1.

25. Draft provisional agenda for the thirty-ninth session of the Commission

Legislative authority: Economic and Social Council resolution 1894 (LVII).

Documentation:

Note by the Secretary-General containing the draft provisional agenda for the thirty-ninth session of the Commission, together with information concerning documentation relating thereto.

26. Report to the Economic and Social Council on the thirty-eighth session of the Commission

Legislative authority: rule 38 of the rules of procedure of the functional commissions.

XXVII. ADOPTION OF THE REPORT

442. At its 1641st and 1642nd meetings, on 13 March 1981, the Commission considered its draft report on the work of its thirty-seventh session. The draft report, as amended during the course of the discussion, was adopted unanimously at the 1642nd meeting, on 13 March 1981.

XXVIII. RESOLUTIONS AND DECISIONS ADOPTED BY THE  
COMMISSION AT ITS THIRTY-SEVENTH SESSION

A. Resolutions

1 (XXXVII). Question of the violation of human rights in the  
occupied Arab territories, including Palestine

A 1/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations as well as the principles and provisions of the Universal Declaration of Human Rights,

Bearing in mind the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and of other relevant conventions and regulations,

Recalling its resolution I (XXXVI) of 13 February 1980 on the "Question of Violation of Human Rights in the Occupied Arab Territories, including Palestine", and previous resolutions of the Commission on Human Rights on this subject,

Recalling General Assembly resolution ES-7/2 of 29 July 1980, 35/75 of 5 December 1980 and resolution 35/122 of 11 December 1980 and all General Assembly resolutions on Israeli violations of the human rights of the population of occupied territories,

Recalling, in particular, Security Council resolutions 237 (1967) of 14 June 1967, 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Bearing in mind resolution No. II, adopted on 24 June 1980 by the International Labour Conference at its sixty-sixth session, entitled "Resolution concerning the Implications of Israeli Settlements in Palestine and other Occupied Arab Territories in Connection with the Situation of Arab Workers",

Taking note of the reports and of the resolutions of the World Health Organization and the United Nations Educational, Scientific and Cultural Organization concerning the health and educational conditions of the Arab population in the Palestinian and other occupied Arab territories since 1967, including Jerusalem,

Bearing in mind paragraph 5 of the Programme of Action adopted by the World Conference of the United Nations Decade for Women: Equality, Development and Peace,

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1/ Adopted at the 1595th meeting on 11 February 1981, by a roll-call vote of 31 to 3, with 8 abstentions. See chap. II.

Taking into consideration that the General Assembly has adopted resolution 3314 (XXIX) of 14 December 1974, which defined as an act of aggression the invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

1. Reaffirms the fact that occupation itself constitutes a fundamental violation of the human rights of the civilian population of the Palestinian and other Arab occupied territories;
2. Reiterates the alarm deeply expressed by the Special Committee to investigate Israeli practices affecting the human rights of the population of the occupied territories in its report 2/ submitted to the General Assembly at its thirty-fourth session and confirmed in its report 3/ to the General Assembly at its thirty-fifth session that Israel's policy in the occupied territories is based on the so-called "Homeland" doctrine which envisages a mono-religious (Jewish) State that includes also territories occupied by Israel since June 1967;
3. Calls upon Israel to take immediate steps for the return of the displaced Arab inhabitants to their homes and property in Palestine and the other Arab territories occupied since June 1967;
4. Declares that Israel's grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 are war crimes and an affront to humanity;
5. Firmly rejects and condemns Israel's decision to annex Jerusalem, declare it as its "capital" and alter its physical character, demographic composition, institutional structure and status, and considers all these measures and their consequences null and void;
6. Shares the concern of the General Assembly expressed in resolution 35/122 E of 11 December 1980, concerning reports indicating the intention of the Israeli authorities to enact legislation embodying changes in the character and status of the occupied Syrian Arab Golan Heights and condemns the persistence of Israel in changing the physical character, demographic composition, institutional structure and legal status of the aforementioned area;
7. Condemns the following Israeli policies and practices:
  - (a) The annexation of parts of the occupied territories;
  - (b) The establishment of Israeli settlements therein and the transfer of an alien population thereto;

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2/ A/34/631.

3/ A/35/425.

(c) The arming of settlers in the occupied territories to commit acts of violence against Arab civilians, the perpetration of acts of violence by these armed settlers against individuals, causing injury and death and wide scale damage to Arab property;

(d) The evacuation, deportation, expulsion, displacement and transfer of Arab inhabitants of the occupied territories, and the denial of their right to return;

(e) The confiscation and expropriation of Arab property in the occupied territories and all other transactions for the acquisition of land involving Israeli authorities, institutions or nationals on the one hand, and inhabitants or institutions of the occupied territories on the other and, most recently, the expropriation of the Arab electric company of Jerusalem;

(f) The destruction and demolition of Arab houses;

(g) Mass arrests, collective punishments, administrative detention and ill-treatment of the Arab population and the torture of persons under detention, the inhuman conditions in prisons, in particular in the Nafha prison;

(h) The pillaging of archaeological and cultural property;

(i) The interference with religious freedoms and practices as well as with family rights and customs;

(j) The systematic Israeli campaign of repression against universities in the occupied Palestinian territories, restricting and impeding academic activities of Palestinian universities by subjecting selections of courses, textbooks and educational programmes, admission of students and appointment of faculty members to the control and supervision of the military occupation authorities, in clear contravention of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

(k) The illegal exploitation of the natural wealth, resources and population of the occupied territories;

8. Condemns the assassination attempts on the life of Bassam Shaka'a, Mayor of Nablus, of Karim Khalaf, Mayor of Ramallah, and of Ibrahim Tawil, Mayor of El-Bireh;

9. Calls upon the Israeli authorities to implement forthwith Security Council resolution 484 (1980) of 19 December 1980 and previous resolutions calling for the immediate return of the expelled Mayors of Hebron and Halhul so they can resume the functions for which they were elected and appointed;

10. Further condemns administrative and legislative measures by the Israeli authorities to encourage, promote and expand the establishment of settler colonies in the occupied territories, which further demonstrate Israel's determination to annex those territories, and strongly deplores the continuation and persistence of Israel in pursuing those policies and practices and calls upon the Government of Israel to rescind those measures, to dismantle the existing settlements and in particular to cease, on an urgent basis, the establishment, construction and planning of settlements in the Palestinian and other Arab territories occupied since 1967;

11. Reaffirms that all measures taken by Israel to change the physical character, demographic composition, institutional structure or status of the occupied territories, or any part thereof, including Jerusalem, are null and void, and that Israel's policy of settling parts of its population and new settlers in the occupied territories constitutes a flagrant violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War and of the relevant United Nations resolutions;

12. Demands that Israel desist forthwith from the policies and practices referred to in paragraphs 5, 6, 7, 10 and 11 above;

13. Demands that Israel cease forthwith all acts of torture and ill-treatment of Arab detainees and prisoners;

14. Calls upon Israel to release all Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories, and to accord to them, pending their release, the protection envisaged in the relevant provisions of the international instruments concerning the treatment of prisoners of war;

15. Renews its request to the Secretary-General to collect all relevant information concerning detainees, such as their number, identity, place and duration of detention, and to make this information available to the Commission at its thirty-eighth session;

16. Condemns once more the massive deliberate destruction of Quneitra perpetrated during Israeli occupation and prior to the withdrawal of Israeli forces from that city in 1974, and considers this act a grave breach of the Geneva Convention relative to the Protection of Civilian Persons in Time of War;

17. Reiterates its call upon all States, in particular the States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War in accordance with article 1 of that Convention, and upon international organizations and specialized agencies, not to recognize any changes carried out by Israel in the occupied territories, including Jerusalem, and to avoid taking any action or extending any aid which might be used by Israel in its pursuit of the policies of annexation and colonization or any other policies and practices referred to in the present resolution;

18. Calls upon Israel, to report, through the Secretary-General, to the Commission at its thirty-eighth session on the implementation of paragraphs 5, 6, 7, 9, 10, 13 and 14 above;

19. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies and in particular the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, the regional intergovernmental organizations and the international humanitarian organizations, and to give it the widest possible publicity, and to report to the Commission on Human Rights at its thirty-eighth session;

20. Decides to place on the provisional agenda of the thirty-eighth session as a matter of high priority, the item entitled "Question of violation of human rights in the Arab occupied territories, including Palestine", and requests the

Secretary-General to bring to the attention of the Commission all United Nations reports appearing between sessions of the Commission that deal with the situation of the civilians of those territories.

B 4/

The Commission on Human Rights,

Recalling its resolution 1 B (XXXVI) of 13 February 1980 and General Assembly resolutions 3092 A (XXVIII) of 7 December 1973, 32/91 A of 13 December 1977, 33/113 A of 18 December 1978, resolution 34/90 B of 12 December 1979, and resolution 35/122 A of 11 December 1980,

Recalling Security Council resolutions 465 (1980) of 1 March 1980, 468 (1980) of 8 May 1980, 469 (1980) of 20 May 1980, 471 (1980) of 5 June 1980, 476 (1980) of 30 June 1980, 478 (1980) of 20 August 1980 and 484 (1980) of 19 December 1980,

Bearing in mind that the provisions of the Geneva Conventions of 12 August 1949 must be fully applied in all circumstances to all persons who are protected by those instruments, without any adverse distinction based on the nature or origin of the armed conflict or on the causes espoused by or attributed to the conflict,

Recognizing that the failure of Israel to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 creates a situation fraught with danger,

Taking into account that States parties to the Geneva Convention of 12 August 1949 undertake, in accordance with article 1 thereof, not only to respect but also to ensure respect for the Conventions in all circumstances,

1. Expresses its deep concern at the consequences of Israel's systematic refusal to apply the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 in all its provisions to Palestinian and other Arab territories occupied since 1967, including Jerusalem;
2. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War is applicable to all the Arab territories occupied by Israel since 1967, including Jerusalem;
3. Condemns the failure of Israel to acknowledge the applicability of that Convention to the territories it has occupied since 1967, including Jerusalem;
4. Calls upon Israel to abide by and respect the obligations arising from the Charter of the United Nations and other instruments and rules of international law, in particular the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, in Palestinian and other Arab territories occupied since 1967, including Jerusalem;

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4/ Adopted at the 1595th meeting, on 11 February 1981, by a roll-call vote of 41 to 1. See chap. II.

5. Urges once more all States parties to that Convention to exert all efforts in order to ensure respect for and compliance with the provisions thereof in all the Arab territories occupied by Israel since 1967, including Jerusalem;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations, the international humanitarian organizations and non-governmental organizations.

2 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 5/

The Commission on Human Rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960, 3236 (XXIX) of 22 November 1974, 3375 (XXX) and 3376 (XXX) of 10 November 1975, 32/14 of 7 November 1977, 32/20 of 25 November 1977, 32/40 of 2 December 1977, 32/42 of 7 December 1977, 33/28 of 7 December 1978, 34/65 B of 29 November 1979, ES-7/2 of 29 July 1980, 35/169 of 15 December 1980,

Recalling further Economic and Social Council resolutions 1865 (LVI) and 1866 (LVI) of 17 May 1974,

Reaffirming its resolutions 3 (XXXI) of 11 February 1975, 6 (XXXI) of 21 February 1975, 2 (XXXIV) and 3 (XXXIV) of 14 February 1978 and 2 (XXXV) of 21 February 1979 and 2 (XXXVI) of 14 February 1980,

Bearing in mind the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, 6/

Reaffirming that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations and other relevant United Nations resolutions,

Expressing its grave concern that the Palestinian people have been prevented by force from enjoying their inalienable rights, in particular their right to self-determination,

Recalling General Assembly resolution 35/169 A of 15 December 1980 which expresses its grave concern that no just solution to the problem of Palestine has been achieved and that this problem therefore continues to aggravate the Middle East conflict, of which it is the core, and to endanger international peace and security, and that Security Council resolution 242 (1967) of 22 November 1967 does

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5/ Adopted at the 1595th meeting, on 11 February 1981, by a roll-call vote of 25 to 9, with 8 abstentions. See Chap. VII.

6/ Official Records of the General Assembly, Thirty-fifth Session, Supplement No. 35, A/35/35.

not provide for the future and for the inalienable rights of the Palestinian people, the attainment of which is a conditio sine qua non for a just solution of the question of Palestine,

Taking note of paragraphs 59 and 72 of the report of the Committee on the Exercise of the Inalienable Rights of the Palestinian People,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference and the establishment of a fully independent and sovereign State in Palestine;

2. Reaffirms the inalienable right of the Palestinians to return to their homes and property, from which they have been displaced and uprooted, and calls for their return in the exercise of their right to self-determination;

3. Recognizes the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations;

4. Reaffirms its concern that the Camp David accords were concluded outside the framework of the United Nations and without the participation of the Palestine Liberation Organization, the representative of the Palestinian people;

5. Rejects those provisions of the accords which ignore, infringe upon, violate or deny the inalienable rights of the Palestinian people, including the right of return, the right to self-determination and the right to national independence and sovereignty in Palestine, in accordance with the Charter of the United Nations, and which envisage and condone continued Israeli occupation of the Palestinian territories and other Arab territories occupied by Israel since 1967;

6. Strongly condemns all partial agreements and separate treaties which constitute a flagrant violation of the rights of the Palestinian people, the principles of the Charter and the resolutions adopted in the various international forums on the Palestinian issue;

7. Declares that the Camp David accords and other agreements have no validity in so far as they purport to determine the future of the Palestinian people and of the Palestinian territories occupied by Israel since 1967;

8. Urges all States, United Nations organs, specialized agencies and other international organizations to extend their support to the Palestinian people through its representative, the Palestine Liberation Organization, in its struggle to restore its rights in accordance with the Charter;

9. Requests the Secretary-General to make available to the Commission on Human Rights and to the Sub-Commission on Prevention of Discrimination and Protection of Minorities the reports, studies and publications prepared by the Special Unit on Palestinian Rights, which was established by General Assembly resolution 32/40 B of 2 December 1977.

3 (XXXVII). Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred 7/

The Commission on Human Rights,

Recalling that the United Nations emerged from the struggle against nazism, fascism, and foreign aggression and occupation,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling that the Charter of the United Nations states in Article I that the purposes of the United Nations are, inter alia, to achieve international co-operation in solving international problems and in promoting and encouraging respect for human rights and fundamental freedoms,

Emphasizing that all totalitarian or other ideologies and practices, in particular nazi, fascist and neo-fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences, may jeopardize world peace and constitute obstacles to friendly relations between States and to the realization of human rights and fundamental freedoms,

Recalling General Assembly resolution 35/200 of 15 December 1980,

Reaffirming that all totalitarian or other ideologies and practices, in particular nazi, fascist and neo-fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences, are incompatible with the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, the International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention of the Prevention and Punishment of the Crime of Genocide and other relevant international instruments,

Expressing deep concern at increasing activities in any part of the world by groups and organizations or whoever is propagating and practising the above-mentioned inhumane ideologies,

Bearing in mind that racist ideologies are totally incompatible with the purposes of international co-operation in promoting and developing respect of human rights and fundamental freedoms of all individuals and peoples without distinction as to race, sex, language, religion, or national or ethnic origin,

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7/ Adopted at the 1611th meeting, on 23 February 1981, by a roll-call vote of 38 to none, with 1 abstention. See chap. XXII.

1. Condemns all totalitarian or other ideologies and practices, in particular nazi, fascist and neo-fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences;

2. Urges all States to draw attention to the threats to democratic institutions by the above-mentioned ideologies and practices and to consider taking measures, in accordance with their national constitutional systems, to prohibit or otherwise deter activities by groups and organizations or whoever is practising these ideologies;

3. Calls upon appropriate international, inter-governmental and non-governmental organizations to initiate or intensify measures against the ideologies and practices described in paragraph 1 above;

4. Appeals to States which have not yet done so to become parties to the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and other relevant international instruments;

5. Decides to consider this question, including the possibility of elaborating a draft Declaration, at its thirty-eighth session.

4 (XXXVII). Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 8/

The Commission on Human Rights,

Recalling Security Council resolutions 435 (1978) of 29 September 1978 and 439 (1978) of 13 November 1978 which established the United Nations plan for the independence of Namibia based on free and fair elections in the territory under the supervision and control of the United Nations,

Recalling also General Assembly resolutions 35/28 and 35/29 of 11 November 1980, 35/118 and 35/119 of 11 December 1980 and 35/206 E of 16 December 1980,

Noting with satisfaction the report of the Ad Hoc Working Group of Experts 9/ on violations of human rights in southern Africa,

Reaffirming that the continued administration of Namibia by the Government of South Africa is a violation of the inalienable rights of the Namibian people to the enjoyment of their human rights,

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8/ Adopted at the 1611th meeting, on 23 February 1981, by a roll-call vote of 35 to none, with 6 abstentions. See chap. IV.

9/ E/CN.4/1429.

Cognizant of the report of the United Nations Secretary-General to the Security Council 10/ which envisaged independence for Namibia in 1981 on the basis of which direct talks were held in Geneva from 7 to 14 January 1981, between the South West Africa People's Organization and South Africa aimed at reaching agreement on the ceasefire and date for the emplacement of the United Nations Transition Assistance Group in Namibia in March 1981,

Noting racist South Africa's refusal at the Geneva talks to agree to the date for a ceasefire and the emplacement of the United Nations Transition Assistance Group and its defiance of the peaceful overtures of the international community,

Disappointed that three years of talks between the United Nations and racist South Africa aimed at achieving a negotiated settlement of the Namibian question have so far failed due to the bad faith consistently shown by racist South Africa,

Bearing in mind the provisions of the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949 and Additional Protocol I to the Geneva Conventions, of 8 June 1977, recognizing the status of liberation movements,

1. Welcomes declared readiness of the South West Africa People's Organization at the Geneva meeting to agree to the date for a ceasefire and the emplacement of the United Nations Transition Assistance Group in Namibia in accordance with Security Council resolutions 435 (1978) of 29 September 1978 and 439 (1978) of 13 November 1978;
2. Strongly condemns the position of the Government of South Africa at the Geneva talks and holds it fully responsible for the breakdown of that meeting;
3. Reaffirms the inalienable rights of the Namibian people to self-determination and to independence;
4. Declares that only exercise in the conditions determined by the United Nations of the right of self-determination of the Namibian people conforms to international law;
5. Condemns further the attempt by the racist régime of South Africa to impose a puppet régime on the people of Namibia;
6. Demands that South Africa cease forthwith all acts of torture and ill-treatment of Namibian detainees and prisoners;
7. Further demands that captured freedom fighters be granted prisoner-of-war status and that they should be treated in accordance with the Geneva Conventions of 1949;
8. Calls for the immediate release of all Namibian political prisoners interned in Namibia and in South Africa;

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10/ S/14266 of 24 November 1980.

9. Calls upon South Africa to desist forthwith from its aggression and flagrant violations of the territorial integrity of African States through attacks by land and air aimed at destabilizing those States in their resolve to support the heroic struggle of the Namibian people for self-determination and independence;

10. Appeals to all States and competent organs of the United Nations to increase all necessary political, financial and material assistance to the South West Africa People's Organization in its liberation struggle;

11. Calls upon those countries from which South Africa recruits mercenaries to fight with the South African army in Namibia to prevent their nationals from being so recruited;

12. Requests the Security Council to:

(a) Consider imposing mandatory economic sanctions against South Africa, under Chapter VII of the Charter of the United Nations, including in particular a mandatory embargo on the supply of petroleum and petroleum products to South Africa.

(b) Reinforce the arms embargo against South Africa by adopting comprehensive mandatory measures to end all military and nuclear collaboration with the apartheid régime of South Africa.

5 (XXXVII). Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts 11/ 12/

The Commission on Human Rights,

Recalling its resolution 2 (XXIII), by which it set up the Ad Hoc Working Group of Experts, and its resolutions 21 (XXV), 7 (XXVII), 19 (XXIX), 5 (XXXI), 6 (XXXIII) and 12 (XXXV) by which it extended and broadened the terms of reference of that Group,

Recognizing the contribution which the reports of the Ad Hoc Working Group of Experts have made and are continuing to make to the efforts of the United Nations to seek out and combat the violations of human rights, in particular the policies of apartheid and racial discrimination, pursued in South Africa and in Namibia,

Having examined the report of the Ad Hoc Working Group of Experts, 13/

Having noted that the South African authorities, far from changing their policy of apartheid, are strengthening it by various means and are continuing to occupy Namibia illegally,

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11/ Adopted at the 1611th meeting, on 23 February 1981, by 33 votes to 3, with 5 abstentions. See chap. IV.

12/ A statement of the financial implications of this resolution appears in annex III.

13/ E/CN.4/1429.

1. Congratulates the Ad Hoc Group of Experts on the excellent work accomplished and warmly thanks it;
2. Strongly condemns the increased South African military presence in Namibia;
3. Denounces and condemns as a breach of international law the attacks perpetrated by the Pretoria régime on the territorial integrity of the independent countries bordering on Namibia or South Africa;
4. Reaffirms the inalienable right of the Namibian people to self-determination and independence and its right to enjoy all the rights recognized in the Universal Declaration of Human Rights and other relevant international instruments;
5. Declares that only in the conditions determined by the United Nations is the exercise by the Namibian people of its right to self-determination in conformity with international law;
6. Denounces once again the bantustanization invented and imposed by South Africa to oppose the legitimate claims of the black population to liberty and dignity as a violation of the right to self-determination;
7. Requests the General Assembly to reaffirm that the struggle against apartheid justifies the granting of political, material and other assistance by United Nations to those taking part in that struggle;
8. Invites those countries which are collaborating with South Africa in the political, economic, cultural, military and other fields to terminate such relations, since apartheid constitutes a crime against humanity;
9. Suggests that the General Assembly of the United Nations should refer for consideration to the International Court of Justice the question of whether a State which pursues a policy of apartheid and denies human rights, as does South Africa, may lawfully continue to hold a place in the international community, in view of the provisions of the Charter of the United Nations, more particularly Chapter II, Article 6;
10. Appeals once again to all States which have not yet done so to ratify the International Convention on the Suppression and Punishment of the Crime of Apartheid;
11. Invites every Member State of the United Nations to make observations on the interim report, and on the draft statutes of the International Penal Tribunal, as envisaged in document E/CN.4/1426, so as to enable the Ad Hoc Working Group to continue its study;
12. Demands that the South African authorities should grant captured freedom fighters the status of prisoners of war and treat them as such, more particularly by applying to them the Third Geneva Convention relative to the Treatment of Prisoners and the Additional Protocols thereto;

13. Stresses once again that the economic sanctions should be applied to South Africa in order to compel it to abandon its policy of apartheid and that the oil embargo should be considered and observed by all States as a consequence of the compulsory arms embargo;

14. Adopts the conclusions and recommendations of the Ad Hoc Working Group of Experts;

15. Decides to renew the mandate of Ad Hoc Working Group of Experts, composed of the following members acting in a personal capacity: Mr. Kéba M'Baye (Senegal), Chairman/Rapporteur; Mr. Branimir Janković (Yugoslavia); Mr. Annan Arkyn Cato (Ghana); Mr. Humberto Díaz-Casanueva (Chile); Mr. Mulka Govinda Reddy (India) and Mr. Felix Ermacora (Austria);

16. Decides that the Ad Hoc Working Group of Experts should continue to examine policies and practices which violate human rights in South Africa and Namibia;

17. Decides that the Ad Hoc Working Group of Experts should examine in particular the report of the Secretary-General on apartheid as a collective form of slavery 14/ and the report on child labour in South Africa submitted to the Working Group on Slavery at its sixth session by the Anti-Slavery Society for the Protection of Human Rights 15/ and to propose in due course such measures as the Group deems appropriate;

18. Further decides that the Group should study all ways and means that the Commission might use or suggest for the purposes of active participation in the struggle waged by the international community against apartheid;

19. Requests the Group to submit a report on its findings to the Commission at its thirty-ninth session at the latest and to submit a progress report to the Commission at its thirty-eighth session;

20. Also requests the Group, in co-operation with the Special Committee against Apartheid, to investigate the conditions of imprisonment and the state of health of persons captured at Kassinga and imprisoned at the Hardap Dam Camp, near Marienthal, in the south of Namibia;

21. Also requests the Group, in co-operation with the Special Committee against Apartheid, to study the effects of the policy of apartheid on black women and children in South Africa, in conformity with General Assembly resolutions 35/206 G and N of 16 December 1980;

22. Decides that the Group should continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or any other serious violation of human rights and to bring the results of those inquiries to the attention of the Commission on Human Rights;

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14/ E/CN.4/Sub.2/449.

15/ See E/CN.4/Sub.2/447, paras. 28-30.

23. Decides that the Group should continue to bring immediately to the attention of the Chairman of the Commission on Human Rights, so that he may take whatever action he deems appropriate, particularly serious violations or any violations calling for urgent action, when it learns of such violations during its inquiries;

24. Authorizes the Ad Hoc Working Group of Experts to participate in conferences, symposia, seminars or other events connected with the action against apartheid, more particularly those organized under the auspices of the Special Committee against Apartheid;

25. Requests the Secretary-General to provide every assistance and the resources required to enable the Ad Hoc Working Group of Experts to discharge its responsibilities in accordance with its terms of reference;

26. Requests the Economic and Social Council to transmit this resolution to the General Assembly, the Security Council and the Special Committee against Apartheid.

6 (XXXVII). Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid 16/

The Commission on Human Rights,

Recalling its resolutions 7 (XXXIV) of 22 February 1978, 10 (XXXV) of 5 March 1979 and 13 (XXXVI) of 26 February 1980,

Recalling its resolution 7 (XXXIV) in which it called on States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to submit, in accordance with article VII of the Convention, their first report not later than two years after becoming parties to the Convention and their periodic reports at two-year intervals,

Having considered the report 17/ of the Group of Three members of the Commission appointed under article IX of the International Convention on the Suppression and Punishment of the Crime of Apartheid,

Reaffirming its conviction that wider ratification of, or accession to, the Convention will contribute significantly to the eradication of the crime of apartheid,

1. Takes note with appreciation of the report of the Group of Three and in particular the recommendations contained in it;

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16/ Adopted at the 1611th meeting, on 23 February 1981, by 30 votes to none, with 11 abstentions. See chap. XV.

17/ E/CN.4/1417.

2. Appeals once again to those States that have not yet done so to ratify or to accede to the International Convention on the Suppression and Punishment of the Crime of Apartheid without delay;

3. Commends those States parties that have submitted their reports, and in particular those that have submitted their second reports, and appeals to those States parties that have not yet done so to submit their reports as soon as possible;

4. Reiterates its recommendation that States parties should take into consideration when submitting their reports, the guidelines laid down by the Group of Three in 1978 for the submission of reports;

5. Requests the Secretary-General to invite the States parties to submit their views and comments on the interim study 18/ prepared by the Ad Hoc Working Group of Experts in accordance with Commission resolution 12 (XXXVI) on the ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid;

6. Decides that the Group of Three appointed in accordance with article IX of the Convention should meet for a period of no more than five days before the thirty-eighth session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

7 (XXXVII). Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination 19/

The Commission on Human Rights,

Recalling that in its resolution 3057 (XXVIII) of 2 November 1973, the General Assembly adopted a Programme for the Decade for Action to Combat Racism and Racial Discrimination,

Recalling also General Assembly resolution 34/24, of 15 November 1979, which deals with the programme of activities for the second half of the Decade,

Recalling further its resolution 14 (XXXVI) of 26 February 1980,

Taking note of the fact that, in conformity with General Assembly resolutions 33/99 of 16 December 1978 and 34/24 of 15 November 1979, regional seminars have been held at the level of the Economic Commission for Europe and the Economic Commission for Africa in 1979 and 1980 respectively,

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18/ E/CN.4/1426.

19/ Adopted at the 1611th meeting, on 23 February 1981, by 32 votes to none, with 8 abstentions. See chap. XVIII.

Taking note of the Round-table of university professors and directors of race relations institutions held at Geneva from 5 to 9 November 1979 within the context of the Decade for Action to Combat Racism and Racial Discrimination and in accordance with General Assembly resolution 33/99 of 16 December 1978,

Taking into account that violations of human rights, denial of the right of peoples under colonial or foreign domination and occupation to self-determination and independence, as well as economic and political oppression, social injustice and cultural contempt, are among the root causes of discrimination,

Mindful of the recommendations contained in the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session, 20/

1. Takes note of resolutions 3 (XXXIII) and 4 (XXXIII) of the Sub-Commission;
2. Expresses its satisfaction at the reports of the seminars and the round-table held in 1979 and 1980 within the context of the Decade for Action to Combat Racism and Racial Discrimination; 21/
3. Welcomes the note 22/ containing the arrangements made for the convening of a seminar to study the formulation of effective measures to prevent transnational corporations and other established interests from collaborating with the racist régime in South Africa;
4. Takes note of the note of the Secretary-General contained in document E/CN.4/1447 and requests him to expedite consultations with all the bodies referred to in resolution 14 C (XXXVI) of the Commission on Human Rights of 26 February 1980, such as the Commission on Transnational Corporations, the Special Committee Against Apartheid, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee on the Exercise of the Inalienable Rights of the Palestinian People and the United Nations Council for Namibia with a view to determining modalities under which the study referred to in paragraph 18 of the programme of activities should be carried out, and to submit specific proposals as regards the preparation of the study and the outline thereof;
5. Welcomes General Assembly resolution 35/33 of 14 November 1980, in which the General Assembly decided to hold in 1983 a second world conference to combat racism and racial discrimination;

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20/ E/CN.4/1413 and Corr.1.

21/ Seminar on recourse procedures available to victims of racial discrimination, and activities to be undertaken at the regional level (ST/HR/SER.A/3); Round-table of university professors and directors of race relations institutions on the teaching of problems of racial discrimination (ST/HR/SER.A/5); and, Seminar on political, economic, cultural and other factors underlying situations leading to racism, including a survey of the increase or decline of racism and racial discrimination (ST/HR/SER.A/7).

22/ E/CN.4/1431.

6. Urges all States to create social and other conditions which would exclude the emergence of all forms of racial discrimination, or combat them where they already exist;

7. Invites all States to establish adequate, efficient and easily accessible recourse procedures with a view to guaranteeing to victims of acts of racial discrimination the application of legal provisions relating to the substance of the law in penal, civil or administrative matters alike;

8. Calls upon all States to ensure that complaints of racial discrimination are dealt with expeditiously and that victims of racial discrimination receive full and immediate compensation, commensurate with the injury sustained;

9. Recommends that all States adopt adequate measures to ensure the widest possible dissemination of information and teaching designed to suppress human rights violations and racial discrimination. In this context, special effort should be made to promote the ideals of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and other relevant international instruments;

10. Requests international organizations, organs and bodies of the United Nations system, such as the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Institute for Training and Research and the United Nations University to intensify their activities aimed at teaching and publicizing material concerning the problems of racial discrimination in general and apartheid in particular.

8 (XXXVII). The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in South Africa 23/ 24/

The Commission on Human Rights,

Reaffirming that any political, military, economic and other forms of assistance given to the colonial and racist régime in South Africa strengthen that régime and obstructed the efforts aimed at the elimination of colonialism, apartheid and racial discrimination in South Africa and Namibia,

Recognizing that utmost priority must be accorded to international action to ensure the full implementation of the international instruments as well as resolutions of the United Nations for the eradication of racism and apartheid and for the liberation of the people of southern Africa from the racist and colonial régime,

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23/ Adopted at the 1611th meeting, on 23 February 1981, by 30 votes to 4, with 6 abstentions. See chap. V.

24/ A statement of the financial implications of this resolution appears in annex III.

Recalling General Assembly resolutions 3382 (XXX) of 10 November 1975, 31/33 of 30 November 1976 and 33/23 of 29 November 1978, and 35/32 of 14 November 1980,

Recalling further General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974, containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order, resolution 3281 (XXIX) of 12 December 1974, containing the Charter of Economic Rights and Duties of States, resolution 3171 (XXVIII) of 17 December 1973 relating to permanent sovereignty over natural resources of both developing countries and territories under colonial and foreign domination or subjected to the apartheid régime and resolution 3362 (S-VII) of 16 September 1975,

Bearing in mind its resolutions 7 (XXXIII) of 4 March 1977, 6 (XXXIV) of 22 February 1978, 9 (XXXV) of 5 March 1979 and 11 (XXXVI) of 26 February 1980,

Taking note of resolution 2 (XXXIII) and the relevant parts of resolution 8 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the revised report 25/ prepared by Mr. Ahmed Khalifa, Special Rapporteur of the Sub-Commission on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa which contains a general provisional list of banks, transnational corporations and other organizations giving assistance to the racist and colonial régime in South Africa,

Deeply concerned at the fact that foreign interests continue to support and give all forms of assistance, including the delivery of nuclear supplies and equipment, to the racist régime of South Africa, enabling it to acquire nuclear weapon capability,

Conscious of the continuing need to mobilize world public opinion against the political, military, economic and other forms of assistance given to the racist régime in South Africa,

1. Expresses its appreciation to the Special Rapporteur for his report containing the general provisional list of banks, transnational corporations and other organizations assisting the racist régime in South Africa;
2. Expresses also its full support for the international conference on sanctions against South Africa to be organized by the United Nations in co-operation with the Organization of African Unity scheduled to be held in Paris in May 1981;
3. Affirms the inalienable right of the oppressed peoples of South Africa and Namibia to self-determination, independence and the enjoyment of the natural resources of their territories;

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25/ E/CN.4/Sub.2/425 and Corr. 1-3 and Add. 1-7.

4. Requests all States which have not yet done so to take effective measures to end all forms of collaboration and assistance, including military and nuclear supplies and equipment, to the racist régime which uses such assistance to repress the people of South Africa and Namibia and their national liberation movements as well as commit acts of aggression against neighbouring independent African States;

5. Calls upon the Governments of the countries in which the banks, transnational corporations and other organizations named and listed in the revised report are based, to take effective action to put an end to their trading, manufacturing and investing activities in South Africa and Namibia;

6. Calls upon all States, relevant specialized agencies, non-governmental and other organizations to continue to give wide publicity to the report of the Special Rapporteur;

7. Welcomes the decision of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to mandate Mr. Ahmed Khalifa, Special Rapporteur, to continue to update the list and submit through the Sub-Commission the revised report to the Commission;

8. Decides to consider at its thirty-eighth session the revised report, within the framework of its item on adverse consequences for the enjoyment of human rights, of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa.

9 (XXXVII). Question of human rights in Chile 26/

The Commission on Human Rights,

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

Recalling its resolution 11 (XXXV), of 6 March 1979, which decided to appoint a Special Rapporteur on the situation of human rights in Chile,

Deploring that the Chilean authorities continue to refuse to co-operate with the Special Rapporteur and that they have failed to take concrete steps as outlined in its resolution 21 (XXXVI) of 29 February 1980,

Deeply concerned at the conclusions of the Special Rapporteur that the situation of the human rights in Chile has not improved but has, on the contrary, deteriorated,

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26/ Adopted at the 1617th meeting, on 26 February 1981, by a roll-call vote of 22 to 4, with 17 abstentions. See chap. III.

Considering that the total lack of popular participation in the preparation of the new constitution and the restrictions imposed, under the state of emergency, on the freedoms of assembly, association, expression and information, do not enable the result of the plebiscite on the text of the constitution to be regarded as an authentic expression of the Chilean people's will,

Expressing deep concern that the whereabouts of the numerous persons who have disappeared are still unknown and that the Chilean authorities continue to ignore the repeated appeal of the international community reflected in various resolutions of the General Assembly and other international organs and have failed to take urgent and effective measures to investigate and clarify the fate of such persons,

Bearing in mind that the General Assembly, through resolution 35/188 of 15 December 1980, requested the Commission at its thirty-seventh session to study thoroughly the report of the Special Rapporteur and concluded on the basis of this report that its continued vigilance in respect of the human rights situation in Chile is warranted and consequently invited the Commission to extend the mandate of the Special Rapporteur for another year,

Convinced of the need for the Commission to give special attention to the situation of human rights in Chile by maintaining the mandate of the Special Rapporteur until the Chilean authorities have taken concrete steps for the full restoration of human rights and fundamental freedoms,

1. Commends the Special Rapporteur for his report on the situation of human rights in Chile, prepared in accordance with resolution 21 (XXXVI) of the Commission 27/ of 29 February 1980;
2. Reiterates its indignation at the persistence and further deterioration of the human rights situation in Chile, as conclusively stated in the report, in particular concerning:
  - (a) The alteration of their traditional democratic legal system and its institutions by imposing a new constitution and reinforcing legislation restricting the exercise of human rights and fundamental freedoms, creating repressive State bodies and increasing the powers of the security agencies;
  - (b) The continuation of the state of emergency, the increase in the number of detentions often followed by disappearances, banishments and cases of torture, ill-treatment and unexplained deaths, as well as the persecution and intimidation of persons and institutions engaged in trade union and academic activities and the Catholic Church;
  - (c) The limitations of economic, social and cultural rights, in particular trade union rights and the right to education, as well as the extreme poverty and lack of protection, together with the threat to indigenous populations of losing their social and cultural identity.

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27/ A/35/522 and E/CN.4/1428.

3. Once more strongly urges the Chilean authorities to respect and promote human rights in accordance with their obligations under various international instruments and, in particular, to take the following concrete steps:

(a) Put an end to the state of emergency, under which continued human rights violations occur and restore the democratic institutions and constitutional safeguards formerly enjoyed by the Chilean people;

(b) Ensure an immediate end to torture and other forms of inhuman or degrading treatment and prosecute and punish those responsible for such practices;

(c) Restore the full enjoyment and exercise of civil and political rights, allowing the participation of the people in the administration of public affairs and fully respecting the freedom of expression, information, assembly and association, including trade union and academic freedoms;

(d) Ensure the judiciary the employ of its powers, enabling it to fulfil thoroughly and without restrictions its duty to protect detainees, in particular under habeas corpus and amparo;

(e) Allow Chilean citizens freely to enter and leave and to live in the country, and restore Chilean nationality to persons who have been deprived of it for political reasons;

(f) Respect the economic, social and cultural rights of the population in general, and of the indigenous population in particular;

(g) Abandon the practice of banishments applied to their own nationals, a practice which amounts to forced exile and which often results in the disintegration of families.

4. Expresses its deep concern at the lack of information on the numerous persons who have disappeared, which continues to be a gross and flagrant violation of human rights;

5. Once more urges the Chilean authorities to investigate and clarify the fate of persons who have disappeared for political reasons, to inform relatives of the outcome and to institute criminal proceedings against those responsible for such disappearances;

6. Calls upon the Chilean judiciary to employ fully and without restrictions its power under habeas corpus and amparo in order to protect individuals from arbitrary arrest and detention thereby preventing cases of disappearances, torture and other inhuman or degrading treatment;

7. Again urges the Chilean authorities to co-operate fully with the Special Rapporteur;

8. Concludes, on the basis of the report of the Special Rapporteur, that its continued vigilance in respect of the human rights situation in Chile is warranted;

9. Decides to extend the mandate of the Special Rapporteur for another year and requests him to report on further developments in the situation of human rights in Chile to the General Assembly at its thirty-sixth session and to the Commission on Human Rights at its thirty-eighth session;

10. Recommends to the Economic and Social Council to make arrangements for the provision of adequate financial resources and staff for the implementation of the present resolution;

11. Decides to consider at its thirty-eighth session as a matter of high priority the question of human rights in Chile.

10 (XXXVII). Question of enforced or involuntary disappearances 28/

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, which requested the Commission on Human Rights to consider the question of disappeared persons with a view to making appropriate recommendations, and all other United Nations resolutions concerning missing or disappeared persons,

Recalling its resolution 20 (XXXVI), of 29 February 1980, whereby it decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons,

Recalling resolution 35/193, of 15 December 1980, in which the General Assembly welcomed that decision,

Recalling resolution 18 (XXXIII), of 11 September 1980, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Considering the need to observe United Nations standards and practice regarding the receipt of communications, their transmittal to the Governments concerned and their evaluation,

Taking note of the report of the Working Group, 29/

1. Expresses its appreciation to the Working Group for the work done and to those Governments which have co-operated with it;

2. Notes that the Working Group has not always obtained from governmental authorities the full co-operation warranted by its strictly humanitarian objectives and its working methods based on discretion;

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28/ Adopted at the 1617th meeting, on 26 February 1981, without a vote.  
See chap. VIII.

29/ E/CN.4/1435 and Add.1.

3. Decides to extend for one year the term of the Working Group's mandate, as laid down in Commission resolution 20 (XXXVI) of 29 February 1980;

4. Requests the Working Group to submit to the Commission, at its thirty-eighth session, a report on its work together with its conclusions and recommendations, and to bear in mind the obligation to discharge its mandate with discretion, so as inter alia to protect persons providing information or to limit the dissemination of information provided by Governments;

5. Renews its request to the Secretary-General to appeal to all Governments to co-operate in a spirit of complete confidence with the Working Group;

6. Further requests the Secretary-General to continue to provide the Working Group with all necessary assistance, in particular the staff and resources it requires to perform its functions in an effective and expeditious manner, and if necessary to make the necessary arrangements to ensure the continuity of the Secretariat's work;

7. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue studying the most effective means for eliminating enforced or involuntary disappearances of persons, with a view to making general recommendations to the Commission at its thirty-eighth session;

8. Decides to consider this question at its thirty-eighth session under a sub-item of the agenda entitled "Question of missing and disappeared persons".

11 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 30/

The Commission on Human Rights,

Recalling its resolution 29 (XXXVI) of 11 March 1980 which, inter alia, recommends that the people of Kampuchea be granted their fundamental freedoms and human rights including the right to decide their own future,

Recalling also its condemnation of all violations of human rights which have occurred in Kampuchea,

Recalling further General Assembly resolutions 34/22 of 14 November 1979 and 35/6 of 22 October 1980 which called for the total withdrawal of foreign forces from Kampuchea,

Recalling in particular that General Assembly resolution 35/6 calls for the convening of an international conference to discuss, inter alia, the total withdrawal of foreign forces from Kampuchea and measures by the United Nations to ensure law and order and the observance of fundamental principles of human rights in Kampuchea,

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30/ Adopted at the 1630th meeting on 6 March 1981, by a roll-call vote of 26 to 9, with 6 abstentions. See chap. VII.

Taking into account resolution 24 (XXXIII) of the Sub-Commission on Prevention of Discrimination and the Protection of Minorities of 12 September 1980 which recommends that the Commission on Human Rights should keep the situation of human rights in Kampuchea under continuing review and consider inviting the United Nations Secretary-General to appoint a Special Representative,

Noting with appreciation the Review of the Situation of Human Rights in Kampuchea by Mr. Abdelwahab Bouhdiba, 31/

1. Reiterates its condemnation of the gross and flagrant violations of human rights which have occurred as well as the gross and flagrant violations of human rights which continue to occur in Kampuchea;

2. Affirms that the primary violation of human rights in Kampuchea at present is the persistence of foreign occupation which prevents the people of Kampuchea from exercising their right to self-determination;

3. Calls on the parties to the present conflict in Kampuchea to cease all hostilities forthwith and for the immediate and unconditional withdrawal of foreign forces from Kampuchea in order to allow the people of Kampuchea to exercise their fundamental freedoms and human rights including the right to decide their own future through free and fair elections without outside interference, subversion or coercion;

4. Further calls upon all parties concerned to join in the search for a comprehensive solution to the Kampuchean problems through a United Nations-sponsored international conference in accordance with General Assembly resolution 35/6 of 22 October 1980;

5. Requests the United Nations Secretary-General to appoint a Special Representative to assist him in the implementation of General Assembly resolution 35/6;

6. Requests the Sub-Commission on Prevention of Discrimination and the Protection of Minorities to review, at its thirty-fourth session, any further material on the human rights situation in Kampuchea which becomes available and to submit it with appropriate observations and recommendations to the Commission at its thirty-eighth session;

7. Recommends that the Economic and Social Council consider the situation in Kampuchea at its first regular session in 1981 with a view to ensuring the full enjoyment of the fundamental human rights and freedoms, including the right to self-determination, of the Kampuchean people;

8. Decides to keep the situation in Kampuchea under review as a matter of priority at its thirty-eighth session under the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation."

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31/ See E/CN.4/1437.

12 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation - Denial to the people of Western Sahara of its right to self-determination and other fundamental human rights, as a result of the occupation of its territory by Morocco 32/

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments relating to human rights,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in resolution 1514 (XV) of 14 December 1960,

Conscious of its responsibility to promote and encourage observance of the human rights and fundamental freedoms of all,

Bearing in mind the profound concern of the United Nations, the Organization of African Unity and the non-aligned countries regarding the decolonization of Western Sahara and the right of the people of that Territory to self-determination and independence,

Considering the relevant resolutions of the General Assembly on the question of Western Sahara, and more particularly resolution 35/19 of 11 November 1980,

Taking note of the decision on the question of Western Sahara adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its seventeenth ordinary session held at Freetown, Sierra Leone, from 1 to 4 July 1980, 33/ and also of the conclusions of the fourth session of the Ad hoc Committee of Heads of State and Government of the Organization of African Unity held at Freetown, Sierra Leone, from 9 to 12 September 1980,

Recalling the importance of the reports prepared by the Special Rapporteurs of the Sub-Commission on Prevention of Discrimination and Protection of Minorities concerning, respectively, "The right to self-determination - The historical and current development on the basis of United Nations instruments" 34/ and the "The right to self-determination - Implementation of United Nations resolutions", 35/ relating to the right of peoples under colonial and alien domination to self-determination,

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32/ Adopted at the 1630th meeting, on 6 March 1981, by a roll-call vote of 26 to 5, with 11 abstentions. See chap. VII.

33/ A/35/463, annex II, decision AHG/DEC 118 (XVII).

34/ United Nations publication, Sales No. E.80.XIV.3.

35/ United Nations publication, Sales No. E.79.XIV.5.

Recalling also resolution 4 (XXXVI), of 15 February 1980, adopted by the Commission on Human Rights at its thirty-sixth session,

1. Emphasizes the determination of the United Nations to co-operate fully with the Organization of African Unity with a view to enabling the people of Western Sahara to exercise its right to self-determination and independence, in accordance with the relevant resolutions of the United Nations and the Organization of African Unity;

2. Deplores the continuance of the occupation of Western Sahara by Morocco, which is preventing the people of that Territory from exercising its right to self-determination and independence and other fundamental human rights;

3. Decides to follow closely the developments in this situation in the light of the recommendations of the Organization of African Unity and the General Assembly of the United Nations, and to consider the question of Western Sahara within the framework of the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" at its thirty-eighth session, as a matter of high priority.

13 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation

The situation in Afghanistan 36/

The Commission on Human Rights,

Bearing in mind that one of the fundamental purposes of the United Nations set forth in the Charter of the United Nations is to develop friendly relations among the nations based on respect for the principle of equal rights and self-determination of peoples,

Recalling its resolution 3 (XXXVI) of 14 February 1980,

Further recalling resolution ES-6/2 of 14 January 1980, adopted by the General Assembly at its sixth emergency special session,

Also recalling General Assembly resolution 35/37 of 20 November 1980 on the situation in Afghanistan which, inter alia, reaffirmed the right of the Afghan people to determine their own form of Government and to choose their economic, political and social system free from outside intervention, subversion, coercion, or constraints of any kind whatsoever, and which called for the immediate withdrawal of foreign troops from Afghanistan,

Recalling further General Assembly resolution 35/35 B of 14 November 1980 and resolution 26 (XXXIII) of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities of 12 September 1980,

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36/ Adopted at the 1630th meeting, on 6 March 1981, by a roll-call vote of 31 to 8, with 3 abstentions. See chap. VII.

Taking note of the resolution on the situation in Afghanistan adopted at two successive sessions of the Islamic Conference of Foreign Ministers held at Islamabad in January and May 1980 and at the Third Islamic Summit Conference held at Taif (Saudi Arabia) in January 1981,

Also noting the relevant part of the Declaration adopted by the Ministerial Conference of Non-aligned countries held in New Delhi from 9 to 13 February 1981, which, while noting with grave concern the situation in South West Asia and agreeing that it carried dangerous consequences for the peace and stability of the region and agreeing further that the continuation of the situation poses serious implications for international peace and security, called, inter alia, for a political settlement on the basis of the withdrawal of foreign troops and full respect for the independence, sovereignty, territorial integrity, and non-aligned status of Afghanistan, and strict observance of the principle of non-intervention and non-interference,

Reaffirming the purposes and principles of the Charter of the United Nations and the obligation of all States to refrain in their international relations from the threat or use of force against the sovereignty, territorial integrity and political independence of any State,

Reaffirming further the inalienable rights of all people to determine their own form of government and to choose their own economic political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever,

Gravely concerned at the continued foreign armed intervention in Afghanistan in contravention of the above principles and its serious implications for international peace and security,

Deeply concerned at the increasing outflow of refugees from Afghanistan,

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

1. Reaffirms its most profound concern that the people of Afghanistan continue to be denied their right to self-determination and to determine their own form of Government and to choose their economic, political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever;
2. Calls for the immediate withdrawal of the foreign troops from Afghanistan;
3. Further calls for a political settlement of the situation in Afghanistan on the basis of the withdrawal of foreign troops and full respect for the independence, sovereignty, territorial integrity and non-aligned status of Afghanistan and strict observance of the principle of non-intervention and non-interference;
4. Affirms the right of the Afghan refugees to return to their homes in safety and honour;
5. Urges all concerned to work towards a settlement which would ensure that the Afghan people would determine their destiny free from outside interference and which would enable the Afghan refugees to return to their homes;

6. Further urges all concerned to co-operate with the Secretary-General and his Special Representative in their efforts to resolve the situation in Afghanistan;

7. Appeals to all States and national and international organizations to extend humanitarian relief assistance, with a view to alleviating the hardship of Afghan refugees, in co-ordination with the United Nations High Commissioner for Refugees;

8. Decides to consider this matter at its thirty-eighth session with high priority under the item entitled "Right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

14 (XXXVII). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation 37/

The Commission on Human Rights,

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments relating to human rights,

Recalling General Assembly resolution 1514 (XV) of 14 December 1960 containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and resolution 35/119 of 11 December 1980,

Recalling further General Assembly resolutions 2649 (XXV) of 30 November 1970, 2955 (XXVII) of 12 December 1972, 3070 (XXVIII) of 30 November 1973, 3236 (XXIX) of 22 November 1974, 3246 (XXIX) of 29 November 1974, 3382 (XXX) of 10 November 1975, 33/24 of 29 November 1978 and 35/35 of 14 November 1980,

Recalling also its resolutions 3 (XXXI) of 11 February 1975, 9 (XXXII) of 5 March 1976, 3 (XXXIV) of 14 February 1978 and 2 (XXXV) and 3 (XXXV) of 21 February 1979, and 5 (XXXVI) of 15 February 1980,

Reaffirming once again the importance of the effective realization of the right of peoples to self-determination, national sovereignty and territorial integrity and of the speedy granting of independence to colonial countries and peoples as imperative for the enjoyment of human rights,

Reiterating its profound indignation at the continued and flagrant violations of human rights of the peoples still under colonial and foreign domination and alien subjugation or foreign occupation, the perpetuation of the racist minority régime in South Africa, its illegal occupation of Namibia and persistent attempts to dismember the territory of Namibia, and the denial of the inalienable national rights of the Palestinian people,

1. Calls upon all States to implement fully and faithfully the resolutions of the United Nations concerning the exercise of the right to self-determination by peoples under colonial or alien domination and foreign occupation;

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37/ Adopted at the 1630th meeting, on 6 March 1981, by a roll-call vote of 31 to 8, with 3 abstentions. See chap. VII.

2. Reaffirms once more the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, including armed struggle;

3. Reaffirms the inalienable right of the peoples of Namibia, South Africa and the Palestinian people and of all peoples under alien and colonial domination, to self-determination, national independence, territorial integrity, national unity and sovereignty without external interference;

4. Strongly condemns the ever-increasing massacres of innocent and defenceless people, including women and children, by the racist minority régime of southern Africa in its desperate attempts to suppress the legitimate demands of the people;

5. Condemns South Africa's wanton acts of criminal aggression and flagrant violations of the territorial integrity of the frontline States through military attacks by land and air with the sole aim of destabilizing and weakening these States in their resolve and determination to give their support to the liberation struggle in southern Africa, and requests that some help should be given to the frontline States to buttress their determination;

6. Condemns also the expansionist policy of Israel, and its practices in the region as well as the continuous aggression against the civilian Arab population, in particular the Palestinians, and the destruction of their villages and camps, which constitute serious obstacles to the achievement of self-determination and independence by the Palestinian people;

7. Reaffirms once again that the practice of using mercenaries against national liberation movements and sovereign States constitutes a criminal act and that the mercenaries themselves are criminals, and calls upon Governments to enact legislation declaring the recruitment, financing and training of mercenaries in their territory, and their transit through it, to be punishable offences and prohibiting their nationals from serving as mercenaries, and to report on such legislation to the Secretary-General;

8. Welcomes with satisfaction the convening of the first session of the Ad Hoc Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

9. Condemns in particular the policy of those States which, in disregard of United Nations resolutions, continue to maintain political, economic, military and other relations with the racist régime in southern Africa, thus supporting, protecting and encouraging them to persist in their suppression of the aspirations of peoples for self-determination and independence;

10. Demands once more the immediate and unconditional release of all people detained or imprisoned as a result of their struggle for self-determination and independence, full respect for their fundamental rights and the observance of article 5 of the Universal Declaration of Human Rights, under which no one shall be subjected to torture or to cruel, inhuman or degrading treatment;

11. Condemns the sentencing to death, by the South African courts, of freedom fighters of the African National Congress and the South West Africa People's Organization and calls on the South African Government to reprove the sentences in the name of humanitarian considerations;

12. Decides to continue to give the question "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" priority consideration at its thirty-eighth session.

15 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

Assistance to the Central African Republic 38/

The Commission on Human Rights,

Recalling General Assembly resolution 35/87 of 5 December 1980 on assistance for the reconstruction, rehabilitation and development of the Central African Republic,

Considering the development measures to be studied by the United Nations agencies concerned in order to give effect to General Assembly resolution 35/87, and the need to take due account of human rights in the adoption and application of those measures,

Noting with satisfaction that human rights and fundamental freedoms have been restored in the Central African Republic in spite of that country's economic and financial difficulties,

Noting with satisfaction the interest displayed by the Government of the Central African Republic in co-operation by the United Nations to ensure the effective exercise of fundamental rights by citizens,

Welcoming with satisfaction the efforts exerted by the Government and people of the Central African Republic for reconstruction, rehabilitation and development,

1. Requests the Secretary-General to provide advisory services and other forms of appropriate assistance to help the Government of the Central African Republic to continue to guarantee the exercise of human rights and fundamental freedoms in that country;

2. Invites all States, specialized agencies and other United Nations organs, and also humanitarian and non-governmental organizations, to provide co-operation and assistance to the Central African Republic in the human rights field as well as in other fields;

3. Recommends the following draft decision for adoption by the Economic and Social Council:

[For the text see chap. I, sect. B, draft decision 5]

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38/ Adopted at the 1631st meeting on 9 March 1981, without a vote. See chap. XI.

16 (XXXVII). Status of the International Covenants on Human Rights 39/

The Commission on Human Rights,

Mindful that the International Covenants on Human Rights constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, form the heart of the International Bill of Human Rights,

Recalling its resolution 8 (XXXVI) of 21 February 1980 and General Assembly resolution 35/132 of 11 December 1980,

Recalling its resolution 24 (XXXVI) of 11 March 1980 and Economic and Social Council resolution 1980/30, of 2 May 1980, on development of public information activities in the field of human rights;

Having considered the report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights, 40/

Noting with appreciation that, following the appeals of the General Assembly and the Commission, more Member States have acceded to the International Covenants on Human Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in the implementation of the International Covenant on Economic, Social and Cultural Rights,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto, as reflected in its report,

1. Reaffirms the importance of the International Covenants on Human Rights as major parts of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;

2. Welcomes Economic and Social Council resolution 1980/24 of 2 May 1980 regarding the consideration of reports submitted under the International Covenant on Economic, Social and Cultural Rights;

3. Takes note of decision 1981/102 adopted by the Economic and Social Council on 6 February 1981 concerning review of the composition, organization and administrative arrangements of the sessional working group on the implementation of the International Covenant on Economic, Social and Cultural Rights, and expresses the hope that additional progress can be made in this regard at the first regular session of the Economic and Social Council in 1981 during which the matter will be kept under further review;

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39/ Adopted at the 1635th meeting, on 10 March 1981, without a vote. See chap. XIX.

40/ A/35/195.

4. Urges all States which have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as to consider acceding to the Optional Protocol thereto;

5. Invites the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant;

6. Appreciates that the Human Rights Committee continues to strive for uniform standards in the implementation of the provisions of the International Covenant on Civil and Political Rights and of the Optional Protocol thereto and emphasizes the importance of the strictest compliance by States parties with their obligations under the Covenant;

7. Further emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights;

8. Welcomes the measures already taken by the Secretary-General to improve the publicity for the work of the Human Rights Committee and encourages the Committee to continue its consideration of this question;

9. Takes note of paragraph 12 of resolution 35/132 of 11 December 1980 in which the General Assembly urges the Secretary-General to take all possible steps to ensure that the Division on Human Rights of the Secretariat is able to assist effectively the Human Rights Committee and the Economic and Social Council in the implementation of their respective functions under the International Covenants on Human Rights;

10. Encourages all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights and to distribute them and make them known as widely as possible in their territories;

11. Requests the Secretary-General to submit to the Commission on Human Rights at its thirty-eighth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in this report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights.

17 (XXXVII). Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session 41/

The Commission on Human Rights,

Taking note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session, 42/

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41/ Adopted at the 1635th meeting, on 10 March 1981, without a vote. See chap. XX.

42/ E/CN.4/1413 and Corr.1.

Expressing its satisfaction with the priority which has been accorded to consideration of the Sub-Commission's report at this session of the Commission,

Recalling the tasks assigned to the Sub-Commission by the Commission at its fifth session 43/ as well as Commission resolution 8 (XXIII) of 16 March 1967 and Economic and Social Council resolutions 1235 (XLII) of 16 June 1967 and 1503 (XLVIII) of 27 May 1970, on the mandate and terms of reference of the Sub-Commission,

Expressing its appreciation for the very valuable contribution of the Sub-Commission to the work of the Commission in the promotion and protection of human rights,

Taking into account that members of the Sub-Commission are elected as experts who serve in their individual capacity with particular capabilities which qualify them personally to serve,

Deeming it unsuitable, accordingly, that experts should be represented from time to time by alternates whose appointment is not necessarily governed by the same requirement of independent expertise,

1. Requests the Sub-Commission, in the performance of its tasks and duties, to bear in mind the tasks assigned to it by the Commission at its fifth session as well as by Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) of 16 June 1967 and 1503 (XLVIII) of 27 May 1970;

2. Invites the Sub-Commission to take note of the comments and suggestions made in the course of discussion, during this session of the Commission, under the item concerning the Sub-Commission's report;

3. Further requests 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 will 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;

4. Requests the Secretary-General to take appropriate action to draw to the attention of the members of the Commission, prior to the commencement of each session:

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43/ Official Records of the Economic and Social Council, Ninth Session, Supplement No. 10, (E/1371) paragraph 13: "(a) to undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities; and (b) to perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights".

(a) Those matters arising out of the Sub-Commission's report and not requiring prior approval of the Commission, on which the secretariat has already taken action; and

(b) Those matters outstanding, as indicated in the Sub-Commission's report, which the Commission will have to consider at its regular session, together with the material which will be relevant to the Commission's consideration of them;

5. Decides to allocate high priority to the annual consideration of the item on the report of the Sub-Commission, particularly to the recommendations contained therein;

6. Draws the attention of all States and all members of the Sub-Commission to the nature of the Sub-Commission's work as a body of individually qualified experts elected in their personal capacity and to the Commission's view, without prejudice to the operation of rule 13 of the rules of procedure of the functional commissions of the Economic and Social Council, that the practice of permitting alternates to represent members of the Sub-Commission might not on occasion be in keeping with the character of that body.

18 (XXXVII). The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law 44/

The Commission on Human Rights,

1. Recommends to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to appoint 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". The Special Rapporteur, in preparing her study, should take into account the doctrines and practices existing in various legal systems in the world and the relevant comments made by members of the Sub-Commission;

2. Requests the Secretary-General to give the Special Rapporteur all the assistance she may require in her work;

3. Requests the Special Rapporteur to submit her preliminary report to the Sub-Commission at its thirty-fifth session and her final report to the Sub-Commission at its thirty-sixth session.

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44/ Adopted at the 1635th meeting, on 10 March 1981, by 26 votes to none, with 9 abstentions. See chap. XX.

- 19 (XXXVII). The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law 45/

The Commission on Human Rights,

1. Recommends to the Economic and Social Council that it decide that the study prepared by Mrs. Erica-Irene A. Daes entitled "Study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law", 46/ should be printed and given the widest possible distribution, including in Arabic;
2. Endorses the recommendation on teaching and education on human rights contained in part one of the study; 47/
3. Decides to consider at its thirty-eighth session the question of setting further standards in this field.

- 20 (XXXVII). Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief 48/

The Committee on Human Rights,

Recalling General Assembly resolution 3267 (XXIX), of 10 December 1974, in which it requested the Commission on Human Rights to submit, through the Economic and Social Council, to the General Assembly a single draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief,

Bearing in mind that the General Assembly in its resolution 35/125 of 11 December 1980, urged the Commission on Human Rights to complete its work on the matter at its thirty-seventh session with a view to submitting to the General Assembly at its thirty-sixth session, through the Economic and Social Council, a single draft declaration,

Having decided by resolution 35 (XXXVI) of 12 March 1980, to continue at its thirty-seventh session, as a matter of highest priority, its work on the draft declaration and to complete the formulation of the declaration at that session,

Approving of the report of the Working Group on the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief,

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45/ Adopted at the 1635th meeting, on 10 March 1981, by 28 votes to 4, with 5 abstentions. See chap. XX.

46/ E/CN.4/Sub.2/432/Rev.1 and E/CN.4/Sub.2/432/Add.1-7.

47/ E/CN.4/Sub.2/432/Rev.1, para. 673, recommendation 1.

48/ Adopted at the 1636th meeting, on 10 March 1981, by 33 votes to none, with 5 abstentions. See chap. XVII.

1. Decides to adopt the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief, as contained in the annex to the present resolution;

2. Recommends the following draft resolution for adoption by the Economic and Social Council:

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

21 (XXXVII). Rights of persons belonging to national, ethnic, religious and linguistic minorities 49/

The Commission on Human Rights,

Recalling its resolutions 14 (XXXIV) of 6 March 1978, 21 (XXXV) of 14 March 1979 and 37 (XXXVI) of 12 March 1980,

Having taken cognizance of the report of the Working Group,

1. Decides to consider at its thirty-eighth session the item entitled "Rights of persons belonging to national, ethnic, religious and linguistic minorities";

2. Decides to establish at its thirty-eighth session an open-ended working group in order to continue consideration of the revised draft declaration proposed by Yugoslavia, 50/ taking into account all relevant documents.

22 (XXXVII). Rights of persons belonging to national, ethnic, religious and linguistic minorities 51/

The Commission on Human Rights,

Recalling Economic and Social Council resolution 1589 (L) of 21 May 1971 and resolution 8 (XXIV) of 18 August 1971, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the designation of Mr. Martínez Cobo as special rapporteur to carry out a study on the problem of discrimination against indigenous peoples,

Recalling further resolution 5 (XXXIII) of 10 September 1980, of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recognizing the great importance of the subject and the need to protect and promote the human rights of indigenous peoples, taking into account the wishes of the indigenous peoples themselves,

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49/ Adopted at the 1636th meeting, on 10 March 1981, without a vote. See chap. XXI.

50/ E/CN.4/Sub.2/L.734.

51/ Adopted at the 1636th meeting, on 11 March 1981, without a vote. See chap XXV.

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

1. Expresses its hope that the Sub-Commission at its thirty-fourth session will be in a position to consider the above-mentioned study and make recommendations to the Commission at its thirty-eighth session on the subject of the promotion and protection of the human rights of indigenous peoples;

2. Endorses therefore the Sub-Commission's request to the Secretary-General to provide all possible assistance to the special rapporteur so as to facilitate his work.

23 (XXXVII). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms 52/

The Commission on Human Rights,

In response to the request addressed to it by the General Assembly in its resolution 34/46 of 23 November 1979, and reiterated in resolution 35/174 of 15 December 1980,

Taking into account the concepts contained in General Assembly resolution 32/130, of 11 December 1980,

Bearing in mind the measures taken by the Economic and Social Council in its resolution 1979/36 of 10 May 1979,

Cognizant of the contribution which it can make to the ongoing work of the United Nations system as a result of its continuing analysis of alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms,

Noting with satisfaction the constructive exchange of views in the sessional Working Group on this item at its thirty-seventh session,

1. Notes that the report 53/ of the open-ended working group established during its thirty-seventh session contains a number of ideas which merit further study by the Commission;

2. Decides to continue, at its thirty-eighth session, its ongoing work on the over-all analysis with the view to further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;

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52/ Adopted at the 1636th meeting, on 10 March 1981, without a vote.  
See chap. IX.

53/ E/CN.4/L.1577.

3. Decides to establish at its thirty-eighth session an open-ended working group to continue the analysis referred to in paragraph 2 above and to make appropriate recommendations thereon to the Commission;

4. Requests the Secretary-General to place before the working group referred to in paragraph 3 above the report of the working group established with regard to the present item at its thirty-seventh session, together with any other information relevant to this item;

5. Requests the Secretary-General to bring the present resolution and the relevant chapter of its report on its thirty-seventh session to the attention of the General Assembly through the Economic and Social Council.

24 (XXXVII). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms - Development of public information activities in the field of human rights 54/

The Commission on Human Rights,

Recalling its resolutions 23 (XXXV), of 14 March 1979, and 24 (XXXVI) of 11 March 1980 as well as Economic and Social Council resolution 1980/30 of 2 May 1980 on the development of public information activities in the field of human rights,

Taking into account General Assembly resolutions 34/182 of 18 December 1979 and 35/201 of 16 December 1980 on questions relating to information,

Appreciative of the reports of the Secretary-General on measures taken to enhance public information activities in the field of human rights, 55/

Reaffirming its belief that progress in the promotion and protection of human rights is assisted by programmes of teaching, education and information in the field of human rights,

Noting that activities to improve publicity in the field of human rights are an essential part of the endeavour to fulfil the purposes of the United Nations as set out in Article 1, paragraph 3, of the Charter of the United Nations,

Recognizing that the United Nations system has a special responsibility under the Charter to be a centre for harmonizing actions towards these ends,

1. Requests all Governments to continue their consideration of action to facilitate publicity regarding United Nations activities in the field of human rights, with particular reference to the work of the Commission on Human Rights on the setting and implementation of human rights standards;

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54/ Adopted at the 1636th meeting, on 10 March 1981, without a vote.  
See chap. IX.

55/ E/CN.4/1368 and E/CN.4/1436.

2. Requests the Secretary-General to continue to implement the programmes referred to in his reports to the Commission on this subject and to keep the Commission informed thereon;

3. Invites the Secretary-General to consider ways and means of facilitating the stimulation of public interest in the promotion and protection of human rights and to report thereon to the Commission at its thirty-eighth session;

4. Recommends that the Secretary-General consider establishing small reference libraries containing material of scholarly and public interest in the field of human rights in United Nations offices, giving priority to such offices in developing countries;

5. Notes with appreciation the information contained in the report of the Secretary-General on the development of public information activities in the field of human rights 56/ concerning the proposed dissemination programme covering international instruments on human rights and requests the Secretary-General to report each year to the Commission on the implementation of this programme;

6. Decides to continue its consideration of this question at its thirty-eighth session under the item "Further promotion and encouragement of human rights and fundamental freedoms".

25 (XXXVII). Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment 57/

The Commission on Human Rights,

Having in mind General Assembly resolution 35/178 of 15 December 1980 by which the Commission was requested to complete as a matter of urgency, at its thirty-seventh session, the drafting of a convention on torture and other cruel inhuman or degrading treatment or punishment, and resolution 1980/32 of 2 May 1980 by which the Economic and Social Council authorized a meeting of an open-ended working group of the Commission on Human Rights for a period of one week prior to its thirty-seventh session to complete the work on a draft convention against torture and other cruel, inhuman or degrading treatment or punishment,

Recalling that such a draft convention has been discussed in a working group prior to and during the thirty-seventh session of the Commission but that it was not found possible to complete the work during that session,

Noting with satisfaction the progress made by the open-ended working group on the draft convention during the thirty-seventh session,

Desiring to make arrangements to expedite the work on the draft convention with a view to its early adoption,

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56/ E/CN.4/1436.

57/ Adopted at the 1636th meeting, on 10 March 1981, without a vote. See chap. VIII.

1. Recognizes that it is advisable to continue the work on the draft convention in a working group which should meet before the thirty-eighth session of the Commission;

2. Decides to accord high priority to the consideration of this question at its thirty-eighth session;

3. Recommends that the Economic and Social Council should adopt the following resolution:

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

26 (XXXVII). Question of a convention on the rights of the child <sup>58/</sup>

The Commission on Human Rights,

Having in mind the draft convention on the rights of the child submitted by Poland on 7 February 1978 <sup>59/</sup> and the amended version of the draft submitted on 5 October 1979, <sup>60/</sup>

Recalling General Assembly resolutions 33/166 of 20 December 1978 and 34/4 of 18 October 1979, as well as resolution 35/131 of 11 December 1980, by which the Assembly requested the Commission on Human Rights to continue to give high priority to the question of completing the draft convention on the rights of the child,

Recalling also its resolutions 20 (XXXIV) of 8 March 1978, 19 (XXXV) of 14 March 1979 and 36 (XXXVI) of 12 March 1980, as well as Economic and Social Council resolutions 1978/18 of 5 May 1978 and 1978/40 of 1 August 1978 and Council decision 1980/138 of 2 May 1980

Noting with satisfaction the considerable progress made by the open-ended working group during its one week of negotiations prior to the thirty-seventh session of the Commission,

Noting also a widespread interest in working out a truly comprehensive international convention on the rights of the child, displayed so far by the representatives of numerous countries and international organizations,

1. Decides to continue at its thirty-eighth session, as a matter of priority, its work on a draft convention on the rights of the child with a view to completing the elaboration of the convention at that session for transmission to the General Assembly through the Economic and Social Council;

2. Requests the Economic and Social Council to authorize a one-week session of an open-ended working group prior to the thirty-eighth session of the Commission on Human Rights to facilitate completion of the work on a draft convention on the rights of the child.

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<sup>58/</sup> Adopted at the 1636th meeting, on 10 March 1981, without a vote. See chap. XII.

<sup>59/</sup> Commission on Human Rights resolution 20 (XXXIV), annex.

<sup>60/</sup> E/CN.4/1349.

27 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

Question of hostage-taking 61/

The Commission on Human Rights,

Recalling the Universal Declaration of Human Rights which guarantees the right to life, liberty, and security of the person, freedom from torture or degrading treatment, freedom of movement, and protection from arbitrary detention,

Taking account of the International Convention against the Taking of Hostages which was adopted by consensus and opened for signature and ratification or accession by the General Assembly in its resolution 34/146 of 17 December 1979 and which recognizes that everyone has the right to life, liberty and security of the person, and that the taking of hostages is an offence of grave concern to the international community,

Asserting that the establishment and maintenance of an international environment in which human rights are respected and promoted requires that all States accord full protection to diplomatic personnel and their premises, in accordance with the Vienna Convention on Diplomatic Relations 62/ and the Vienna Convention on Consular Relations, 63/ the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 64/ and other relevant international agreements,

Noting especially General Assembly resolution 35/168 of 15 December 1980, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives",

Concerned by the increasing number of hostage-takings, including those involving diplomatic personnel,

Mindful of the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 65/ and the work being done on an international convention against torture and cruel, inhuman or degrading treatment or punishment,

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61/ Adopted at the 1637th meeting, on 11 March 1981, without a vote. See chap. XI.

62/ United Nations, Treaty Series, vol. 500, p. 96.

63/ Ibid., vol. 596, p. 262.

64/ General Assembly resolution 3166 (XXVIII), annex.

65/ General Assembly resolution 3452 (XXX), annex.

Recognizing that it is essential that the international community and the Member States of the United Nations take all necessary steps to prevent instances of hostage-taking and mistreatment,

Noting also other resolutions and decisions by various organs of the United Nations which have held that the taking of hostages is incompatible with the principles of the Charter of the United Nations and with the Universal Declaration of Human Rights,

1. Affirms that the taking of hostages constitutes a grave violation of human rights exposing the hostages to privation, hardship, anguish and danger to life and health;

2. Calls on all States to observe fully and unconditionally their international obligations to protect diplomatic and consular personnel and premises and to prevent the taking of hostages;

3. Resolves that the Commission on Human Rights will accord due consideration to violations of human rights occasioned by hostage-taking.

28 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 66/

The Commission on Human Rights,

Recalling that the Universal Declaration of Human Rights was adopted by the General Assembly with the purpose that every individual and organ of society, keeping the Declaration constantly in mind, shall strive by teaching and education to promote respect for the rights and freedoms contained therein,

Noting that the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the Covenants,

Bearing in mind its resolution 23 (XXXVI) of 29 February 1980 which, inter alia, appeals to all Governments to encourage and support individuals and organs of society to exercise their rights and responsibilities in the promotion of effective observance of human rights without prejudice to articles 29 and 30 of the Universal Declaration of Human Rights,

Noting the report on the subject prepared by Mrs. Erica-Irene A. Daes, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Profoundly concerned that there nevertheless remain in many parts of the world flagrant breaches of the right of individuals, groups and organs of society to promote the effective observance of human rights,

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66/ Adopted at the 1638th meeting on 11 March 1981, without a vote. See chap. XI.

Reaffirming its resolution 5 (XXXIII) of 28 February 1977 in which it decided to deal with violations of economic, social and cultural rights equally with those of civil and political rights,

1. Reiterates the right and responsibility of individuals and organs of society to strive for the promotion and observance of the rights recognized in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, without prejudice to articles 29 and 30 of the Universal Declaration of Human Rights and all other relevant international instruments;

2. Deplores, whenever it occurs, all harsh and punitive treatment accorded to individuals, groups or organs of society as a result of their efforts to enjoy civil and political rights as well as economic, social and cultural rights;

3. Reaffirms the right and responsibility of individuals, groups and organs of society to promote respect for human rights and fundamental freedoms should be in accordance with the relevant international instruments;

4. Requests therefore that the Sub-Commission on Prevention of Discrimination and Protection of Minorities study this subject without omitting the indivisibility and interdependence of civil and political rights as well as economic, social and cultural rights with a view to considering what further action may be desirable in this connection.

29 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 67/

The Commission on Human Rights,

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

Disturbed by the continuing scale and magnitude of the exoduses and displacements of populations in many regions of the world,

Noting with serious concern the continuing great distress of refugees and displaced persons in various regions of the world,

Noting the immense burden imposed on the first host countries and territories which receive the victims of these sudden and massive movements of population,

Taking into account General Assembly resolution 32/130 of 16 December 1977 and its resolution 4 (XXXIII) of 21 February 1977 which laid down essential obstacles to full realization of economic, social and cultural rights,

Recalling its resolution 30 (XXXVI) of 11 March 1980 which expressed concern at indications that such large exoduses of persons and groups are in many cases the result of violations of human rights,

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67/ Adopted at the 1638th meeting, on 11 March 1981, without a vote.  
See chap. XI.

Noting General Assembly resolution 35/196 of 15 December 1980 which requested the Commission at its thirty-seventh session to examine the report of the Secretary-General on this question, and on the basis of this report to make recommendations for further action,

1. Takes note of the report of the Secretary-General on the question of human rights and massive exoduses; 68/

2. Decides to appoint for a period of one year a special rapporteur to study the question of human rights and massive exoduses;

3. Invites the Chairman of the Commission to appoint an individual of recognized international standing as special rapporteur;

4. Considers that the special rapporteur in carrying out his study may seek and receive information mainly from United Nations agencies or departments concerned, with due regard to the terms of reference of the agency and department concerned, and governments, as well as specialized agencies, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council;

5. Urges all Governments to co-operate with, and assist, the special rapporteur in the preparation of his study;

6. Requests the Secretary-General to provide the special rapporteur with all necessary assistance, in particular staff and resources, in order to carry out his study;

7. Requests the special rapporteur to submit his study to the Commission at its thirty-eighth session, together with conclusions and recommendations.

30 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 69/

The Commission on Human Rights,

Recalling resolution 35/103 of 5 December 1980 of the General Assembly on assistance for the reconstruction, rehabilitation and development of Uganda,

Considering the necessity of implementing that resolution to take into due account the importance of assistance designed to help the Government of Uganda to restore human rights and fundamental freedoms,

Noting with satisfaction the efforts made by the Government of Uganda to restore in that country a democratic system respectful of human rights and fundamental freedoms,

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68/ E/CN.4/1440.

69/ Adopted at the 1638th meeting, on 11 March 1981, without a vote.  
See chap. XI.

Welcoming the dedication of the Government and people of Uganda to work towards reconstruction, rehabilitation and development of their country,

1. Requests the Secretary-General to provide advisory services and other forms of appropriate assistance to help the Government of Uganda in taking appropriate measures to continue to guarantee the enjoyment of human rights and fundamental freedoms;

2. Invites all States, specialized agencies and other United Nations organs, as well as humanitarian and non-governmental organizations to lend their support and assistance to the Government in Uganda in its efforts to guarantee the enjoyment of human rights and fundamental freedoms;

3. Recommends to the Economic and Social Council to adopt the following decisions:

[For the text, see chap. I, sect. 3, draft decision 12].

31 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 70/

The Commission on Human Rights,

Recalling its resolutions 15 (XXXV) of 13 March 1979 and 33 (XXXVI) of 11 March 1980 as well as decision 1980/137 of the Economic and Social Council of 2 May 1980, on the situation of human rights in Equatorial Guinea,

Taking note with appreciation of the report submitted by Professor Fernando Volio Jimenez, 71/ expert appointed by the Secretary-General in pursuance of resolution 33 (XXXVI) of the Commission,

Mindful of the contribution it can make to the co-ordination by the Economic and Social Council of assistance in human rights fields,

Aware of the efforts being made by the Government of Equatorial Guinea to ensure respect for human rights and fundamental freedoms in that country,

1. Decides to keep the situation of human rights in Equatorial Guinea under review at its thirty-eighth session;

2. Recommends the following draft resolution for adoption by the Economic and Social Council:

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

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70/ Adopted at the 1638th meeting, on 11 March 1981, without a vote. See chap. XI.

71/ E/CN.4/1439 and Add.1.

32 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 72/

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

Conscious of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

Noting that all Member States have an obligation to promote and protect human rights and to carry out responsibilities they have undertaken under various international human rights instruments,

Recalling that in its resolution 35/192 of 15 December 1980, the General Assembly stated its deep concern about the serious violations of human rights and fundamental freedoms in El Salvador and requested the Commission on Human Rights to examine, at its thirty-seventh session, the situation of human rights in that country,

Deeply disturbed by the continuing reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms in El Salvador,

Deeply alarmed by the armed clashes in El Salvador and by the climate of violence and insecurity prevailing in the country,

Mindful of the rules of international law, as contained in article 3 to the Geneva Convention of 12 August 1949, which are applicable to armed conflicts not of an international character and which requires the parties to the conflict to apply a minimum standard of protection of human rights and of humane treatment,

1. Expresses its deep concern at the grave violations of human rights and fundamental freedoms in El Salvador;

2. Deplores the murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms reported in El Salvador;

3. Calls upon all parties to bring about a peaceful settlement and to seek an end to acts of violence in order to end the loss of lives and the suffering of the people of El Salvador;

4. Recalls that in its resolution 35/192 of 15 December 1980 the General Assembly calls upon Governments to refrain from the supply of arms and other military assistance in the current circumstances;

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72/ Adopted at the 1638th meeting, on 11 March 1981, by 29 votes to 1, with 11 abstentions. See chap. XI.

5. Urges the Government of El Salvador to take the necessary steps to ensure full respect for human rights and fundamental freedoms in the country;

6. Emphasizes that the people of El Salvador have the right, as soon as appropriate conditions have been established, to establish a democratically elected Government, in an atmosphere free from intimidation and terror, and to determine their own political, economic and social future, free from outside interference;

7. Requests its Chairman to appoint, after consultations within the Bureau, a Special Representative of the Commission whose mandate will be:

(a) To investigate the reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms which have taken place in El Salvador, based on information from all relevant sources;

(b) To make recommendations as to what steps the Commission could take to help to secure the enjoyment of human rights and fundamental freedoms, including economic, social and cultural rights;

(c) To report on his findings to the Commission on Human Rights at its thirty-eighth session;

8. Requests the Secretary-General to give all necessary assistance to the Special Representative of the Commission;

9. Invites the Government of El Salvador as well as all other parties concerned to extend their co-operation to the Special Representative of the Commission;

10. Requests the Special Representative of the Commission to submit an interim report to the General Assembly at its thirty-sixth session;

11. Decides to continue the examination of the situation of human rights in El Salvador with high priority at its thirty-eighth session.

33 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

Situation of human rights in Guatemala 73/

The Commission on Human Rights,

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

Recalling its resolution 32 (XXXVI) of 11 March 1980,

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73/ Adopted at the 1639th meeting, on 11 March 1981, by 28 votes to 2, with 10 abstentions. See chap. XI.

Having noted the report of the Secretary-General on the situation of human rights in Guatemala, 74/

Having further noted the replies of the Government of Guatemala,

Expressing its profound concern at the deterioration in the situation of human rights and fundamental freedoms in Guatemala,

Desiring to be more fully informed about the human rights situation in Guatemala,

1. Requests the Secretary-General to continue his efforts to establish direct contacts with the Government of Guatemala on the human rights situation prevailing in that country and to collect information thereon from all relevant sources;

2. Further requests the Secretary-General to provide the Commission on Human Rights at its thirty-eighth session with a report of his contacts with the Government of Guatemala together with all information collected on the human rights situation in that country;

3. Also requests the Secretary-General to present to the General Assembly at its thirty-sixth session an interim report of his contacts with the Government of Guatemala;

4. Requests the Government of Guatemala to extend its co-operation to the Secretary-General;

5. Decides to keep the situation of human rights and fundamental freedoms in Guatemala under review as a priority item at its thirty-eighth session, on the basis of the report of the Secretary-General.

34 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

Situation of human rights in Bolivia 75/

The Commission on Human Rights,

Guided by the principles embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

Noting that all Member States have an obligation to respect and promote human rights in accordance with the responsibilities they have undertaken under various international instruments,

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74/ E/CN.4/1438.

75/ Adopted at the 1639th meeting, on 11 March 1981, by 29 votes to 3, with 8 abstentions. See chap. XI.

Taking note of General Assembly resolution 35/185 of 15 December 1980 which requested the Commission on Human Rights to accept the invitation by the Bolivian Government in order to study the human rights situation at first hand and to review at its thirty-seventh session the human rights situation in Bolivia,

Desiring to be more fully informed about the human rights situation in Bolivia,

1. Requests its Chairman to appoint, after consultations within the Bureau, a Special Envoy of the Commission whose mandate will be to make a thorough study of the human rights situation in Bolivia, based on such information as he may deem relevant, including such comments and materials as the Bolivian Government may wish to submit;

2. Requests the Special Envoy of the Commission to discharge his mandate with due regard for discretion and equity and to report on his findings to the Commission at its thirty-eighth session in a manner which would give the Bolivian Government adequate opportunity to comment in writing on the contents of the report;

3. Invites the Government of Bolivia to extend its co-operation to the Special Envoy of the Commission;

4. Requests the Secretary-General to give all necessary assistance to the Special Envoy of the Commission;

5. Decides to consider the report of the Special Envoy of the Commission at its thirty-eighth session.

35 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

The United Nations voluntary fund for victims of torture 76/

The Commission on Human Rights,

Recalling its resolution 13 (XXXIV) of 6 March 1978,

1. Invites the Economic and Social Council to recommend the General Assembly to redesignate the United Nations Trust Fund for Chile into a voluntary fund of the United Nations for victims of torture by adopting the following draft resolution:

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

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76/ Adopted at the 1639th meeting, on 11 March 1981, by 22 votes to 7, with 14 abstentions. See chap. XI.

36 (XXXVII). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights 77/

The Commission on Human Rights,

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

Considering also the Universal Declaration of Human Rights and the International Covenant on Economic Social and Cultural Rights, according to which the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created in which everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Recalling General Assembly resolutions 3201 (S-VI) and 3202 (S-VI) of 1 May 1974 containing the Declaration and the Programme of Action on the Establishment of a New International Economic Order and resolution 3281 (XXIX) of 12 December 1974 containing the Charter of Economic Rights and Duties of States, resolution 3362 (S-VII) of 16 September 1975, and resolution 35/56 of 5 December 1980 containing the International Development Strategy for the Third United Nations Development Decade,

Bearing in mind that the International Development Strategy for the Third United Nations Development Decade stated that "the ultimate aim of development is the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom",

Recalling also its resolutions 2 (XXXI) of 10 February 1975, 4 (XXXIII) of 21 February 1977, 4 and 5 (XXXV) of 2 March 1979, 6 and 7 (XXXVI) of 21 February 1980,

Taking into account General Assembly resolutions 32/130 of 16 December 1977, 34/46 of 23 November 1979, and 35/174 of 15 December 1980,

Reiterating that all human rights and fundamental freedoms are indivisible and interdependent and that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights,

Noting with interest that the Heads of State or Government of Non-Aligned Countries, at their Sixth Conference held at Havana from 3 to 9 September 1979, set as one of the essential objectives of the non-aligned movement the early

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77/ Adopted at the 1639th meeting, on 11 March 1981, by a roll-call vote of 40 to 1, with 2 abstentions. See chap. VI.

establishment of the New International Economic Order with a view to accelerating the development of developing countries, eliminating the inequality between developed and developing countries, and the eradication of poverty, hunger, sickness and illiteracy in the developing countries, and called on the United Nations to continue working towards the comprehensive achievement of human rights, in order to ensure the dignity of human beings,

Recalling that the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations,

Once again declaring that the denial of the right to self-determination of peoples, foreign occupation, colonialism, apartheid, racism and racial discrimination constitute an impediment to social and economic progress,

Emphasizing the importance for all countries to evolve appropriate socio-economic systems that are best suited to their own political, economic, social and cultural situations free from external influences and constraints that distort and prevent the achievements of the right to development,

Further underlining the importance of individual and collective self-reliance on the part of the developing countries as a means of accelerating their development and contributing to the achievement of the right to development,

Recognizing that international peace and security are essential elements for the full realization of the right to development,

1. Reiterates the need to create, at the national and international levels, conditions for the full promotion and protection of the human rights of individuals and peoples;

2. Reaffirms its profound conviction that all human rights and fundamental freedoms are indivisible and interdependent, and that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights;

3. Expresses its deep concern with the present situation in the attainment of the aims and objectives of the Declaration and Programme of Action for the Establishment of a New International Economic Order and the consequent adverse effects on the full achievement of human rights, including on the right to development;

4. Reaffirms that all nations have an inalienable right to pursue freely their economic and social development and to exercise full and complete sovereignty over all their natural resources without prejudice to any commitments arising out of the indispensable international solidarity and economic co-operation;

5. Once again reiterates the need to ensure the realization of work, education, health and proper nourishment through the adoption of national and international measures, as a necessity for the full enjoyment of human rights;

6. Reaffirms that the denial of the right to self-determination of peoples, foreign occupation, colonialism, apartheid, racism and racial discrimination are serious impediments to economic and social progress;

7. Takes note of the conclusions and recommendations of the Seminar on the Effects of the Existing Unjust International Economic Order on the Economies of the Developing Countries and the Obstacle that this Represents for the Implementation of Human Rights and Fundamental Freedoms held in Geneva from 30 June to 11 July 1980; 78/

8. Takes note also of the first part of the study prepared by the Secretary-General on the regional and national dimensions of the right to development as a human right, 79/ in pursuance of the pertinent resolutions of this Commission, and urges the Secretary-General to complete the whole study as soon as possible before the thirty-eighth session of the Commission on Human Rights;

9. Requests the Secretary-General to hold at the Headquarters of the United Nations within the framework of the advisory service programme the seminar on the relations that exist between human rights, peace and development to be held in August 1981 as decided by General Assembly resolution 35/174 of 15 December 1980 and to give priority in its programme to the items mentioned in the annex to the present resolution;

10. Decides to establish a working group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographic distribution, to study the scope and contents of the right to development and the most effective means to ensure the realization, in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights;

11. Requests the working group to hold three meetings in Geneva, the first in the month of July 1981, the second towards the end of 1981, for a period of two weeks, and the third meeting for one week before the beginning of the thirty-eighth session of the Commission on Human Rights;

12. Also requests the working group to take into account especially the observations of Governments and specialized organizations on this subject, including the opinions expressed in the debate on this item, the report and the study prepared by the Secretary-General, 80/ the conclusions and recommendations of the seminar on the effects of the existing unjust international economic order on the economies of the developing countries held in Geneva in 1980, 81/ as well as the results of the seminar to be held in 1981 in New York on relations that exist between human rights, peace and development, and the conclusions and recommendations to be presented by the Special Rapporteur on the new international economic order and the promotion of human rights as decided by Commission resolution 18 (XXXVI) of 29 February 1980;

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78/ ST/HR/SER.A/8.

79/ E/CN.4/1421.

80/ E/CN.4/1334 and E/CN.4/1421.

81/ ST/HR/SER.A/8.

13. Requests the group to submit to the Commission at its thirty-eighth session a report based on the above-mentioned work with concrete proposals for implementation of the right to development and for a draft international instrument on this subject;

14. Requests the Secretary-General to provide all necessary assistance to the working group;

15. Decides to consider this question with high priority at its thirty-eighth session, with a view to adopting concrete measures on the basis of the recommendations of the working group;

16. Decides also to review at its thirty-eighth session, the need for the working group to continue its activities.

#### Annex

Priority items to be considered at the seminar on relations that exist between human rights, peace and development:

- (a) The relationship between human rights, peace and development;
- (b) Consideration of the impact of the arms race in the realization of peace and the right to development;
- (c) Analysis of concrete measures to be adopted for the implementation of the full enjoyment of human rights, particularly of peace and the right to development.

37 (XXXVII). Measures to improve the situation and ensure the human rights and dignity of all migrant workers 82/

#### The Commission on Human Rights,

Convinced of the need to establish international co-operation by resolving international problems of an economic, social, intellectual or humanitarian nature by developing and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Recalling the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights,

Stressing the importance of the contribution made by migrant workers to the development of the host countries,

Concerned however, by the fact that the situation of migrant workers is becoming more serious in certain regions, owing to current political and economic circumstances and for social and cultural reasons,

Conscious of the need for further efforts to ensure the protection of the rights and the improvement of the living conditions of all migrant workers and their families,

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82/ Adopted at the 1640th meeting, on 12 March 1981, by 34 votes to none, with 6 abstentions. See chap. XIII.

Bearing in mind that the family is the natural and fundamental unit of society and is entitled to protection by society and the State and that, in that context, the families of migrant workers are also entitled to appropriate protection,

Recalling resolution 34/172 of 17 December 1979, in which the General Assembly decided to create, at its thirty-fifth session, a working group open to all Member States to elaborate an international convention on the protection of the rights of all migrant workers and their families,

Further recalling resolution 35/198 of 15 December 1980, in which the General Assembly noted with satisfaction that the working group had been able to commence its work during the thirty-fifth session in accordance with its terms of reference,

Noting with satisfaction that the General Assembly decided that this working group would hold an intersessional meeting of two weeks' duration in New York in May 1981, immediately after the first regular session of the Economic and Social Council, to enable it to continue its work in order to discharge its mandate to the best of its ability,

1. Welcomes the fact that the working group has begun its work with a view to the elaboration of an international convention on the protection of the rights of all migrant workers and their families, thus making substantial progress in the quest for the protection of the human rights of this population group;

2. Expresses the hope that the General Assembly will complete the elaboration of this convention at its thirty-sixth session;

3. Decides to give careful consideration to the progress achieved in that regard at its thirty-eighth session under the item entitled "Measures to improve the situation and ensure the human rights and dignity of all migrant workers".

38 (XXXVII). Human rights and scientific and technological developments 83/

The Commission on Human Rights,

Noting that scientific and technological progress is one of the major factors in the development of human society,

Reaffirming the great 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 General Assembly in its resolution 3384 (XXX), of 10 November 1975,

Considering that the implementation of that Declaration would contribute to the strengthening of international peace, the security and economic and social development of peoples, and international co-operation in the field of human rights,

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83/ Adopted at the 1640th meeting, on 12 March 1981, by a roll-call vote of 28 to 1, with 13 abstentions. See chap. XIV.

Mindful of the relevant provisions of the Declaration on Social Progress and Development,

Seriously concerned that the results of scientific and technological progress could be used to disrupt international peace and security and social progress, crush national liberation movements and intensify the arms race, to the detriment of human rights and fundamental freedoms and the dignity of the human person,

Recognizing that the establishment of the new international economic order calls in particular for a substantial contribution to be made by science and technology to economic and social progress,

Aware that the exchange and transfer of scientific and technological knowledge represent one of the main means of accelerating the economic development of developing countries,

1. Stresses the importance of the implementation by all States of the provisions of the above-mentioned Declaration, in the interests of peace and the well-being of mankind, and to promote human rights and fundamental freedoms under conditions of scientific and technological progress;

2. Calls upon all States to make full use of the results of scientific and technological progress to ensure the greatest possible satisfaction of human material and spiritual needs;

3. Instructs the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake a study of the use of the results of scientific and technological progress for the realization of the rights to work and to development;

4. Requests the Secretary-General to provide appropriate assistance in the preparation of that study;

5. Decides to examine the study at its thirty-ninth session, under the item entitled "Human rights and scientific and technological developments".

39 (XXXVII). The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service

The role of youth in the promotion and protection of human rights 84/

The Commission on Human Rights,

Recalling that the Charter of the United Nations expresses the determination to save succeeding generations from the scourge of war and to promote social progress and development,

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84/ Adopted at the 1640th meeting, on 12 March 1981, without a vote. See chap. XVI.

Noting that the United Nations is called upon to promote, among other things, better standards of living, full employment of the population and favourable conditions for economic and social progress and development,

Bearing in mind that young people constitute a substantial proportion of the world's population and play an important part in all fields of human activity, and that the future belongs to them,

Drawing attention to the particular importance of promoting in every way the large-scale participation of young people in socially-useful activities to further the economic and social development of their country and safeguard economic, social, cultural, political and civil rights,

Reaffirming the need to educate young people in the ideals of peace and mutual understanding among nations, respect for human rights and fundamental freedoms and dedication to the aims of social progress and development,

Convinced that young people can make a valuable contribution to the economic and social development of their country, to international co-operation and to efforts to establish a new international economic order,

Considering that States should first of all take action at the national level to create conditions that enable young people to play an effective and active role in the economic and social development of their country,

Welcoming the designation of 1985 by the General Assembly of the United Nations as International Youth Year with the slogan "Participation, development, peace",

1. Emphasizes the important role of young people in the promotion of their country's economic and social development, especially in the efforts to overcome such obstacles to social and economic development as colonialism and neo-colonialism, all forms of racial discrimination, racism and apartheid, foreign domination and occupation, aggression and threats to national sovereignty, national unity and territorial integrity, and denial of the right of peoples to self-determination and the exercise of full sovereignty over their natural wealth and resources;

2. Calls upon States Members to take the necessary action to encourage and ensure the active participation of young people in the formulation and implementation of programmes for the economic and social development of their countries and in the efforts to surmount obstacles to that development;

3. Decides to consider at its thirty-eighth session the question of the role of youth in the promotion of the social and economic progress of peoples.

40 (XXXVII). The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service

The question of conscientious objection to military service 85/

The Commission on Human Rights,

Recalling General Assembly resolution 33/165 of 20 December 1978,

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85/ Adopted at the 1640th meeting, on 12 March 1981, by 25 votes to 3, with 12 abstentions. See chap. XVI.

Recalling its resolution 38 (XXXVI) of 12 March 1980,

Noting the important role youth may play in the furtherance of peace and the promotion of human rights,

Aware of the need for a better understanding of the circumstances under which military service may be objected to on the grounds of conscience,

1. Welcomes the replies of Governments in response to the Secretary-General's requests for information on national legislation and other measures and practices relating to conscientious objection to military service and alternative service;

2. Requests the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the question of conscientious objection to military service in general, and in particular the implementation of General Assembly resolution 33/165 of 20 December 1978, with a view to making recommendations to the Commission on Human Rights.

#### B. Decisions

##### 1 (XXXVII). Organization of work 86/

(a) The Commission decided to set up informal open-ended working groups for the consideration of agenda items 10 (a), 11, 14, 19 and 24.

(b) The Commission also decided to invite the following persons to participate in its meetings:

- (i) In connection with item 5: Mr. Abdoulaye Dieye, Special Rapporteur of the Commission on the situation of human rights in Chile;
- (ii) In connection with item 6: Mr. Branimir Janković, Vice-Chairman/Rapporteur of the Ad Hoc Working Group of Experts on violations of human rights in southern Africa;
- (iii) In connection with item 10 (b): Viscount Colville, Acting Chairman-Rapporteur of the Working Group on enforced or involuntary disappearances (Commission resolution 20 (XXXVI));
- (iv) In connection with item 13: Professor Fernando Volio Jiménez, Expert on Equatorial Guinea;
- (v) In connection with item 13 (b): Mr. Benjamin Whitaker, Chairman of the Sub-Commission Working Group on Communications established in accordance with Economic and Social Council resolution 1503 (XLVIII);
- (vi) In connection with item 13 (b): representatives of States in respect of which situations are being considered under Economic and Social Council resolution 1503 (XLVIII);

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86/ Adopted at the 1583rd meeting, on 3 February 1981. See chapter XXIX.

- (vii) In connection with item 23: Mrs. Erica-Irene A. Daes, Special Rapporteur of the Sub-Commission for the study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights.

2 (XXXVII). Invitation to the President of the General Assembly at its thirty-fifth session 87/

The Commission decided to invite Baron Rudiger von Wechman, President of the General Assembly at its thirty-fifth session, to address the Commission at its thirty-seventh session.

3 (XXXVII). Other invitations 88/

(a) The Commission decided to invite Mr. Akporode B. Clark, Chairman of the United Nations Special Committee against Apartheid, to address the Commission at its thirty-seventh session.

(b) The Commission also decided, in connection with the International Year for Disabled Persons, to invite Ms. Z.L. N'Kanza, Executive Secretary, International Year for Disabled Persons, to address the Commission at its thirty-seventh session.

4 (XXXVII). General decision concerning the establishment of a working group of the Commission to examine situations referred to the Commission under Economic and Social Council resolution 1503 (XLVIII) and situations which the Commission decided to keep under review 89/

The Commission decides, subject to the approval of the Economic and Social Council, to set up a working group composed of five of its members to meet for one week prior to its thirty-eighth session to examine such particular situations as might be referred to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fourth session under Economic and Social Council resolution 1503 (XLVIII) and those situations which the Commission has decided to keep under review.

5 (XXXVII). Question of human rights in Cyprus 90/

The Commission decided that the debate under item 13 (a) entitled "Question of Human Rights in Cyprus" be postponed to the next session of the Commission, with due priority at that session, it being understood that action required by previous resolutions of the Commission on this subject continue to remain operative including the request to the Secretary-General to provide a report to the Commission regarding their implementation.

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87/ Adopted at the 1583rd meeting, on 3 February 1981. See chapter XXIX.

88/ Ibid.

89/ Adopted at the 1629th meeting, on 6 March 1981, without a vote.

90/ Adopted at the 1631st meeting, on 9 March 1981, without a vote.

- 6 (XXXVII). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms 91/

The Commission, mindful of the request addressed to it in General Assembly resolution 35/175, bearing in mind the discussions held in the Working Group on the item entitled "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms" at the thirty-sixth session, decided to inform the General Assembly, through the Economic and Social Council, that the Commission on Human Rights has not reached a decision on the establishment of a United Nations High Commissioner for Human Rights at its thirty-seventh session.

- 7 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories 92/

The Commission decided to take no decision on the draft resolutions and decision contained in documents E/CN.4/L.1607, E/CN.4/L.1609, E/CN.4/L.1610 and E/CN.4/L.1611.

- 8 (XXXVII). Advisory services in the field of human rights 93/

The Commission decided to take note of the report of the Secretary-General entitled Advisory services in the field of human rights (E/CN.4/1445).

- 9 (XXXVII). Review of the draft medium-term plan for the period 1984-1989 94/

The Commission decided to take note of the review of the draft medium-term plan for the period 1984-1989 (E/CN.4/1424), and to invite the Secretariat to bear in mind when finalizing the plan, the observations made in the Commission.

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91/ Adopted at the 1636th meeting, on 10 March 1981, by 25 votes to none, with 16 abstentions. See chap. IX.

92/ Adopted at the 1639th meeting, on 11 March 1981, by a roll-call vote of 24 to 16, with 3 abstentions. See chap. XI.

93/ Adopted at the 1640th meeting, on 12 March 1981, without a vote. See chap. XXIII.

94/ Adopted at the 1640th meeting, on 12 March 1981, without a vote. See chap. X.

10 (XXXVII). Periodic reports on human rights 95/

The Commission, noting General Assembly resolution 35/209 of 17 December 1980, decided to discontinue its consideration of the item "Periodic reports on human rights" and to recommend to the Economic and Social Council that it terminate the periodic reporting system established by Council resolution 1074 C (XXXIX).

11 (XXXVII). Meeting services for the Commission on Human Rights 96/

The Commission, in view of its heavy schedule of work and the need to meet the requirements of its sessional working groups during its thirty-eighth session, recommends to the Economic and Social Council that it authorize the same three additional hours of meeting services per day during the Commission's thirty-eighth session.

12 (XXXVII). Draft provisional agenda for the thirty-eighth session 97/

The Commission took note of the draft provisional agenda for the thirty-eighth session.

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95/ Adopted at the 1642nd meeting, on 13 March 1981. See chap. XXIX.

96/ Ibid.

97/ Adopted at the 1642nd meeting, on 13 March 1981. See chap. XXVI.

## XXIX. ORGANIZATION OF THE THIRTY-SEVENTH SESSION

### A. Opening and duration of the session

443. The Commission on Human Rights held its thirty-seventh session at the United Nations Office at Geneva from 2 February to 13 March 1981.

444. The session was opened (1582nd meeting) by Mr. Waleed M. Sadi (Jordan), Chairman of the Commission at its thirty-sixth session, who made a statement in the course of which he welcomed the following members of the Commission elected for a three-year term by the Economic and Social Council on 1 May 1980 (Council decision 1980/121 of 1 May 1980) - Australia, Brazil, Fiji, France, Ghana, Jordan, Mexico, Philippines, Poland, Senegal, Uganda, United States of America, Yugoslavia and Zaire - and informed the Commission on his intersessional activities. The Director-General of the United Nations Office at Geneva welcomed the participants on behalf of the Secretary-General. The Director of the Division of Human Rights then made a statement.

### B. Attendance

445. The session was attended by representatives of 43 States members of the Commission, by observers from other States members of the United Nations, by observers from non-member States and by representatives of specialized agencies, regional intergovernmental organizations, national liberation movements and non-governmental organizations. An attendance list is given in annex I below.

### C. Election of officers

446. At its 1582nd and 1583rd meetings, on 2 and 3 February 1981, the Commission elected the following officers by acclamation:

Chairman:	Mr. Carlos Calero-Rodrigues	(Brazil)
Vice-Chairmen: <sup>1/</sup>	Mr. O.L. Davis	(Australia)
	Mr. Jose D. Ingles	(Philippines)
	Mr. Ivan Toševski	(Yugoslavia)
Rapporteur:	Mr. Ali Benbouchta	(Morocco)

### D. Agenda

447. The Commission had before it the provisional agenda for the thirty-seventh session (E/CN.4/1414/Rev.1) drawn up, in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, on the basis of the draft provisional agenda considered by the Commission at its thirty-sixth session in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII).

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<sup>1/</sup> The Vice-Chairmen are listed in the English alphabetical order of the names of the countries they represent.

448. At its 1582nd meeting the Commission considered and adopted the provisional agenda. The agenda, as adopted, is given in annex II below.

#### E. Organization of work

449. At its 1583rd and 1584th meetings, the Commission considered the organization of its work. Bearing in mind the respective priority of the various items and the availability of the relevant documentation, the Commission accepted a recommendation by its officers to the effect that the following items should be considered jointly: items 6, 7, 17 and 21; items 8 and 22. It was also agreed that members could address themselves to item 9 when considering item 4. The Commission further agreed to consider the items on its agenda in the following order: 4; 25; 23; 6; 7; 17 and 21; 10 and 10 (b); 9; 8 and 22; 5; 13; 15; 16; 18; 12; 26; 28; 29 and 30.

450. At its 1583rd meeting the Commission decided to establish informal open-ended working groups for the consideration of items 10 (a), 11, 14, 19 and 24.

451. The Commission also decided (for the text of the decision see chap. XXVIII, sect. B, decision 1 (XXXVII)) to issue the following invitations:

(a) In connection with item 5, Mr. Abdoulaye Dièye, Special Rapporteur of the Commission on the situation of human rights in Chile (Commission resolution 21 (XXXVI) of 29 February 1980);

(b) In connection with item 6, Professor Branimir Jankovic, Vice-Chairman/Rapporteur of the Ad Hoc Working Group of Experts on violations of human rights in southern Africa (Commission resolution 12 (XXXV) of 6 March 1979);

(c) In connection with item 10 (b), Viscount Colville, Acting Chairman-Rapporteur of the Working Group on enforced or involuntary disappearances (Commission resolution 20 (XXXVI) of 29 February 1980);

(d) In connection with item 13, Professor Fernando Volio Jiménez, Expert on Equatorial Guinea (Commission resolution 33 (XXXVI) of 11 March 1980);

(e) In connection with item 13 (b), Mr. Benjamin Whitaker, Chairman-Rapporteur of the Sub-Commission Working Group on communications established in accordance with Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970;

(f) In connection with item 13 (b), representatives of those States in respect of which situations are considered under Economic and Social Council resolution 1503 (XLVIII);

(g) In connection with item 23, Mrs. Erica-Irene A. Daes, Special Rapporteur of the Sub-Commission for the study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights (Sub-Commission resolution 6 (XXXIII) of 10 September 1980).

#### F. Meetings, resolutions and documentation

452. The Commission held 61 meetings (1582nd to 1642nd meetings).

453. At its 1583rd meeting, in considering the organization of its work, the Chairman drew the Commission's attention to Economic and Social Council decision 1980/133 of 2 May 1980 by which the Council decided that summary records would be reintroduced for the Commission, commencing with the thirty-seventh session.

454. The resolutions and decisions adopted by the Commission at its thirty-seventh session are contained in chapter XXVIII of the present report. Draft resolutions and decisions for action by the Economic and Social Council and other matters of concern to the Council are set out in chapter I.

455. Annex III contains statements of the administrative and financial implications of certain decisions.

456. Annex IV contains a list of documents submitted for the Commission's consideration.

457. The working documents of the thirty-seventh session are contained in document E/CN.4/1474.

458. At its 1583rd meeting on 3 February 1981, the Commission extended an invitation to Mr. Akporode Clark, Chairman of the United Nations Special Committee against Apartheid, to address the Commission at its thirty-seventh session (for the text of the decision see chap. XXVIII, sect. B, decision 3 (XXXVII)). The Chairman of the Special Committee against Apartheid addressed the Commission at its 1583rd meeting on 3 February 1981.

459. At the 1583rd meeting, the Commission extended an invitation to Baron Rudiger von Wechmar, President of the General Assembly at its thirty-fifth session to address the Commission at its thirty-seventh session (for the text of the decision see chap. XXVIII, sect. B, decision 2 (XXXVII)). The President of the General Assembly addressed the Commission at its 1584th meeting on 3 February 1981.

460. At its 1583rd meeting, the Commission extended an invitation to Ms. Z.L. N'Kanza, Executive Secretary, International Year for Disabled Persons, to address the Commission at its thirty-seventh session (for the text of the decision see chap. XXVIII, sect. B, decision 3 (XXXVII)). The Executive Secretary, International Year for Disabled Persons, addressed the Commission at its 1610th meeting on 20 February 1981.

G. Other matters

461. At its 1591st meeting, on 9 February 1981, the Chairman of the Commission, on behalf of the Commission, made an appeal for the immediate release of Mr. Hisham El-Mouheisen, the Jordanian Chargé d'Affaires, kidnapped on Friday, 6 February 1981, by armed elements in Beirut.

462. At its 1617th meeting, on 26 February 1981, the Chairman of the Commission, on behalf of the Commission, made an appeal calling for the immediate release of Hermann Diez de la Sol Korsatko (Consul of Austria), Antonio Amparo Fernandez (Consul of El Salvador) and Gabriel Biurrun (Consul of Uruguay) who were kidnapped on 19 February 1981 by armed elements in the Basque region of Spain.

463. At its 1629th (closed) meeting, on 6 March 1981, the Chairman made an urgent humanitarian appeal to the hijackers of a Pakistan International Airline plane in Kabul airport to refrain from further bloodshed and to release the hostages forthwith.

464. At its 1642nd meeting, on 13 March 1981, the Commission decided to discontinue its consideration of the item "Periodic reports on human rights" and to recommend to the Economic and Social Council that it terminate the periodic reporting system established by Council resolution 1074 C (XXXIX). (For the text of the decision, see chap. XXVIII, sect. B, decision 10 (XXXVII).)

465. At the same meeting, the Commission decided to recommend to the Economic and Social Council that it authorize three additional hours of meeting services per day during the Commission's thirty-eighth session. (For the text of the decision, see chap. XXVIII, sect. B, decision 11 (XXXVII).)

ANNEXES

Annex I

ATTENDANCE

Members

Algeria

Mr. Anisse Salah-Bey, Mr. Mohamed Bergham,\* Mrs. Hania Semichi,\*\*  
Mrs. Fatma-Zohra Ksentini,\*\* Mr. Reda Bendisari,\*\* Mr. Benkelai\*\*

Argentina

Mr. Gabriel Martínez, Mr. Atilio Molteni,\* Mr. Victor Beauge,\*  
Mr. Alberto Daverede,\*\* Mr. Juan A. Cornejo,\*\* Mr. Fernando Goldaracena,\*\*  
Mr. Roberto López Delgado,\*\* Mr. Jorge I. Bullo Perea,\*\*  
Mr. Raúl Fernández Schoo,\*\* Mr. Pedro Villagra Delgado,\*\* Mr. Juan Sola,\*\*  
Mr. Juan Facundo Gomensoro,\*\* Mr. Jorge Pereira,\*\* Mrs. Norma Nascimbene\*\*

Australia

Mr. O. L. Davis, Mr. C. L. Lamb,\* Ms. P. Wells,\* Ms. E. Feller\*

Benin

Mr. Henri Amoussou Kpakpa, Mr. Abiodoun Georges Whannou\*

Brazil

Mr. Carlos Calero Rodrigues, Mr. Luis Antonio Jardim Gagliardi,\*  
Mr. Gilberto Vergne Saboia,\* Mr. Renato Xavier,\* Mr. Enio Cordeiro\*

Bulgaria

Mr. Ivan Garvalov, Mr. Nikola Stoimenov,\* Ms. Roumiana Dermendjieva\*\*

Burundi

Mr. TERENCE Sanze, Mr. Athanase Nikoyagize,\* Mr. Benoît Seburyamo,\*  
Mr. Tharcisse Ntakibirora,\* Mr. Audace Bitabuzi,\* Mr. Nestor Ndamama\*

Byelorussian Soviet Socialist Republic

Mr. Lev I. Maksimov, Mr. Vladimir V. Grekov,\* Mr. Stanislav S. Ogurtsov,\*  
Mr. Serguei N. Chilovitch\*\*

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\* Alternate

\*\* Adviser

## Canada

Mr. Yvon Beaulne, Mr. Richard McKinnon,\* Mrs. Julie Loranger,\*\*  
Mr. Jacques Gaudreau,\*\* Mr. Roderick Bell,\*\* Mr. David Malone,\*\*  
Mr. Pierre Giguère,\*\* Mrs. Francine Fournier,\*\* Mr. Kenneth Norman,\*\*  
Mr. George McCurdy,\*\* Mr. Nicholas Krischanowsky,\*\* Mr. Alfred Brien\*\*

## Costa Rica

Mr. Luis A. Varela Quirós, Mrs. Marta E. Odio Benito\*

## Cuba

Mr. Luis Solá Vila, Mr. Frank Ortiz Rodríguez,\* Mrs. María A. Flores,\*  
Mr. Julio Heredia Pérez,\* Mrs. Alis Chacón Reyes\*\*

## Cyprus

Mr. Andreas Ch. Pouyouros, Mr. Michael Pissas,\* Mr. Andrestinos Papadopoulos\*

## Denmark

Mr. Niels Boel, Mr. Eigil Pedersen,\* Mr. Niels K. Dyrland,\*\*  
Ms. Aase Moltke-Leth,\*\* Ms. Marie-Louise Laursen\*\*

## Ethiopia

Mr. Tadesse Terrefe, Miss Kongit Sinegiorgis,\* Mr. Feseha Masresha\*

## Fiji

Mr. Narsi B. Raniga, Mr. Ross I.V. Ligairi\*

## France

Mr. Jean-Claude Soyer, Mr. Jacques Le Blanc,\* Mr. Louis Giustetti,\*  
Mr. Jean-Claude Cousseran,\*\* Miss Sylvaine Carta,\*\* Miss Christine Chanet,\*\*  
Mr. Régis de Gouttes,\*\* Mr. Roland Kessous,\*\* Miss Elisabeth Ponroy,\*\*  
Mr. Guy Piole,\*\* Mr. Jean-François Danon,\*\* Mr. Antoine Lissowski,\*\*  
Mr. Claude Jolif\*\*

## Germany, Federal Republic of

Mr. Gerhard Jahn, Mr. Ulrich Sahn,\* Mr. Norbert Lang,\* Mr. Henning Wegener,\*\*  
Mr. Wiprecht von Treskow,\*\* Mr. Karl Borchard,\*\* Mr. Dietrich Lincke,\*\*  
Mr. Horst-Wolfram Kerll\*\*

## Ghana

Mr. Jonas K. D. Foli

## Greece

Mr. Anestis Papastefanou, Mr. Constantin Ivraakis,\* Mr. Emmanuel Roucouas,\*  
Mr. Paul Apostolides,\*\* Miss Ioanna Manganara,\*\* Miss Liana Vourakis\*\*

India

Mr. A. A. Rahim, Mr. A. P. Venkateswaran,\* Mr. T. C. A. Rengachari,\*\*  
Mr. A. S. Das\*\*

Iraq

Mr. Munther Ahmed Al-Mutlak, Mr. Habib Al-Qaysi,\* Mr. Basil Youssif,\*  
Mr. Karim Jabbar Al-Ani\*

Jordan

Mr. Ghaleb Z. Barakat, Mr. Waleed M. Sadi,\* Mr. Tarek Madi,\*\*  
Mr. Khalil Abdel-Rahim,\*\* Mr. Ahmed Al-Mufleh\*\*

Mexico

Mr. Luis Padilla Nervo, Mr. Antonio González de León,\*  
Miss Orpha Garrido Ruiz\*\*

Mongolia

Mr. Dugersurengiin Erdembileg, Mrs. Boldyn Navchaa,\*  
Mr. Dorjsurengiin Khurelbaatar\*

Morocco

Mr. Ali Skalli, Mr. El Ghali Benhima,\* Mr. M'Hamed Ammor,\* Mr. Hassan El Oufir,\*  
Mr. Ali Benbouchta,\* Mr. Ali Bojji,\* Mr. Ali Atmani,\* Mr. Abbès Berrada,\*  
Mr. Abdeslam Ziadi\*

Netherlands

Mr. Max van der Stoel, Mr. Herman Burgers,\* Mr. Roelof R. Smit,\*  
Mr. Jaap A. Walkate,\*\* Mr. Toine F. van Dongen,\*\* Mr. Julian J. E. Schutte,\*\*  
Mr. Ian M. de Jong,\*\* Mr. Cees Roels\*\*

Nigeria

Mr. Olu Adeniji, Mr. M. B. Brimah,\* Mr. A. A. Akinleye,\* Miss O. O. Obafemi,\*  
Mr. J. O. Coker,\* Mr. O. A. Owoaje,\* Mr. B. Owoseni\*

Pakistan

Mr. Agha Hilaly, Mr. Mansur Ahmad,\* Mr. Munir Akram,\*\* Mr. Salman Bashir\*\*

Panama

Mr. Octavio Ferrer A., Mr. Luis E. Martínez Crus\*

Peru

Miss Rosa Esther Silva y Silva, Mrs. Carmen Silva de Arana\*

Philippines

Mr. Jose D. Ingles, Ms. Julia L. Palarca,\* Mr. Calixto V. Espejo\*\*

Poland

Mr. Adam Łopatka, Mr. Bogdan Russin,\* Mr. Włodzimierz Kalinowski,\*  
Mr. Tadeusz Strojwas\*

Portugal

Mr. Angelo Almeida Ribeiro, Mr. António Martins da Cruz,\* Miss Manuela Franco\*\*

Senegal

Mr. Kéba M'Baye, Mr. Alioune Sène,\* Mr. Abdoulaye Dièye,\*  
Mr. Ousmane Tanor Dieng,\* Mr. Samba Mbodj,\* Mr. Mouhamed El Moustapha Diagne,\*  
Mr. Seydou Diop\*

Syrian Arab Republic

Mr. Dia-Allah El-Fattal, Mr. Ahmad Saker,\* Mr. M. Jalal Al-Baroudi,\*  
Mr. Muhsen Sayadi,\*\* Mr. Abdul-Majid Sabbagh,\*\* Mr. Antanios Hanna\*\*

Uganda

Mr. Olara Otunnu, Mr. Christopher Twesigye\*

Union of Soviet Socialist Republics

Mr. V. A. Zorin, Mr. V. N. Sofinsky,\* Mr. D. V. Bykov,\* Mr. K. F. Gutsenko,\*  
Mr. V. V. Lochtchinin,\* Mr. S. V. Chernichenko,\* Mr. K. L. Kelin,\*\*  
Mr. G. P. Antonov,\*\* Mr. A. S. Sokolov,\*\* Mr. K. G. Guevorguian,\*\*  
Mr. S. B. Nikiforov,\*\* Mr. V. N. Poliakov\*\*

United Kingdom of Great Britain and  
Northern Ireland

Viscount Colville of Culross, Mr. P. H. R. Marshall,\* Mr. R. C. Fursland,\*  
Mr. C. W. Long,\* Mrs. K. Colvin,\* Mr. D. R. Snoxell,\* Mr. M. G. Hilson\*

United States of America

Mr. Michael Novak, Mr. Richard Schifter,\* Mr. Gerald B. Helman,\*  
Mr. Warren Hewitt,\* Mr. Stephen R. Bond,\*\* Mr. Patrick J. Flood,\*\*  
Mr. Thomas A. Johnson,\*\* Mr. John W. MacDonald Jr.,\*\* Mr. Frank Sieverts,\*\*  
Mr. L. Bonker,\*\* Miss Heidi August,\*\* Mr. Fariborz S. Fatemi\*\*

Uruguay

Mr. Carlos Giambruno, Mr. Luis A. Carresse,\* Mr. Carlos A. Nadal Ríos,\*  
Mrs. Elsa Borges de Stella\*

Yugoslavia

Mr. Ivan Toševski, Mr. Marko Vrhunec,\* Miss Zaga Ilić,\*\* Mr. Dragan Mateljak,\*\*  
Mrs. Gordana Diklić-Trajković,\*\* Mrs. Marija Djordjević,\*\* Mr. Željko Jerkić,\*\*  
Mr. Silvo Devetak\*\*

Zaire

Mr. Bagbeni Adeito Nzengeya, Mr. N'Kongo Dontoni Bwanda,\*  
Mr. Moyila Ngonda Bempu\*\*

Zambia

Mr. Chama L. C. Mubanga-Chipoya

States Members of the United Nations represented by observers

Afghanistan, Austria, Bangladesh, Belgium, Bolivia, Central African Republic, China, Colombia, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Finland, German Democratic Republic, Guatemala, Hungary, Indonesia, Iran, Ireland, Israel, Italy, Japan, Kuwait, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, New Zealand, Nicaragua, Norway, Oman, Paraguay, Qatar, Romania, Somalia, Spain, Sudan, Sweden, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, United Arab Emirates, Venezuela, Viet Nam, Yemen

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.

Regional intergovernmental organizations

Council of Europe, League of Arab States, Organization of African Unity, Organization of American States

National liberation movements

African National Congress, Palestine Liberation Organization, Pan Africanist Congress of Azania, South West Africa People's Organization

Non-governmental organizations in consultative status

Category I

International Alliance of Women - Equal Rights, Equal Responsibilities, International Confederation of Free Trade Unions, International Council of Women, International Council on Social Welfare, International Federation of Business and Professional Women, International Youth and Student Movement for the United Nations, Inter-Parliamentary Union, Women's International Democratic Federation, World Confederation of Labour, World Federation of Trade Unions, World Muslim Congress.

Category II

Afro-Asian People's Solidarity Organization, All-India Women's Conference, Amnesty International, Anti-Slavery Society for the Protection of Human Rights, Arab Lawyers Union, Association for the Study of the World Refugee Problem, Baha'i International Community, Caritas Internationalis, Christian Democratic World Union, Commission of the Churches on International Affairs, Friends World Committee for Consultation, International Association for Religious Freedom, International Association of Democratic Lawyers, International Association of Penal Law, International Catholic Child Bureau, International Catholic Migration Commission, International Commission of Jurists, International Committee of the Red Cross, International Co-operation for Socio-Economic Development, International Council of Jewish Women, International Federation of Human Rights, International Federation of University Women, International Federation of Women Lawyers, International Indian Treaty Council, International Law Association, International League for Human Rights, International Movement for Fraternal Union among Races and Peoples, International Social Service, International Union for Child Welfare, Pan-Pacific and South-East Asia Women's Association, International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students, Union of Arab Jurists, Women's International League for Peace and Freedom, Women's International Zionist Organization, World Association of World Federalists, World Jewish Congress, World Union of Catholic Women's Organizations, World Young Women's Christian Association.

Roster

European Union of Women, International Association for the Defence of Religious Liberty, International Humanist and Ethical Union, International League for the Rights and Liberation of Peoples, International Peace Bureau, International Union of Students, Minority Rights Group, Movement against Racism and for Friendship between People, Natural Resources Defense Council, World Association for the School as an Instrument of Peace, World Council of Indigenous Peoples, World Organization of Former Students of Catholic Teaching, World Peace Council, World Student Christian Federation.

Annex II

AGENDA

1. Election of officers
2. Adoption of the agenda
3. Organization of the work of the session
4. Question of the violation of human rights in the occupied Arab territories, including Palestine
5. Question of human rights in Chile
6. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts
7. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist regimes in southern Africa
8. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:
  - (a) Problems related to the right to enjoy an adequate standard of living; the right to development
  - (b) The effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms
9. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation
10. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:
  - (a) Torture and other cruel, inhuman or degrading treatment or punishment
  - (b) Question of missing and disappeared persons
11. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms
12. Review of the draft medium-term plan for the period 1984-1989

13. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:
  - (a) Question of human rights in Cyprus
  - (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-sixth session
14. Question of a convention on the rights of the child
15. Measures to improve the situation and ensure the human rights and dignity of all migrant workers
16. Human rights and scientific and technological developments
17. Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid
18. The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service
19. Draft declaration on the elimination of all forms of intolerance and of discrimination based on religion or belief
20. Periodic reports on human rights
  - (a) Periodic reports on freedom of information
  - (b) Periodic reports on civil and political rights and question of the right of everyone to leave any country, including his own, and to return to his country (Economic and Social Council resolution 1788 (LIV))
21. (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination
  - (b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination
22. Status of the International Covenants on Human Rights
23. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session
24. Rights of persons belonging to national, ethnic, religious and linguistic minorities

25. Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred
26. Advisory services in the field of human rights
27. Communications concerning human rights
28. Election of members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities
29. Draft provisional agenda for the thirty-eighth session of the Commission
30. Report to the Economic and Social Council on the thirty-seventh session of the Commission.

Annex III

FINANCIAL IMPLICATIONS OF RESOLUTIONS AND DECISIONS ADOPTED  
BY THE COMMISSION AT ITS THIRTY-SEVENTH SESSION

1. In the course of its thirty-seventh session, the Commission adopted 13 resolutions and 1 decision that have financial implications. The Secretary-General, in compliance with regulation 13.1 of the Financial Regulations of the United Nations and rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, submitted statements on the administrative and financial implications of the proposals.
  
2. If the Economic and Social Council approves the proposals contained in the report of the Commission, the Secretary-General would request from the General Assembly at its thirty-sixth session any additional resources needed to implement the proposals in 1981, 1982 and 1983. These financial implications are summarized as follows:

SUMMARY TABLE, BY SECTION, OF FINANCIAL IMPLICATIONS OF RESOLUTIONS AND  
DECISIONS ADOPTED BY THE COMMISSION AT ITS THIRTY-SEVENTH SESSION  
(1981 - 1982 - 1983)

Resolution or decision	Section 23 Human rights			Section 29B Conference servicing costs			TOTAL (US dollars)
	1981 (United States dollars)	1982	1983	1981 (United States dollars)	1982	1983	
Resolution 5 (XXXVII)	51 100	121 100	17 500	59 859	363 810	315 912	929 281
Resolution 8 (XXXVII)	2 240	-	-	-	-	-	2 240
Resolution 9 (XXXVII)	108 450	28 150	-	328 273	161 184	-	626 057
Resolution 10 (XXXVII)	197 800	48 500	-	476 000	-	-	722 300 <sup>*/</sup>
Resolution 18 (XXXVII)	-	-	1 850	-	151 260	-	153 110
Resolution 19 (XXXVII)	-	-	-	122 900	-	-	122 900
Resolution 24 (XXXVII)	(42 100)	-	-	-	-	-	(42 100) <sup>**/</sup>
Resolution 25 (XXXVII)	-	-	-	-	34 953	-	34 953
Resolution 26 (XXXVII)	-	-	-	-	35 408	-	35 408
Resolution 29 (XXXVII)	30 000	-	-	-	-	-	30 000
Resolution 32 (XXXVII)	34 400	2 500	-	-	-	-	36 900
Resolution 34 (XXXVII)	35 100	2 500	-	-	-	-	37 600
Resolution 36 (XXXVII)	125 800	44 400	-	297 964	57 380	-	525 544
Decision 11 (XXXVII)	-	-	-	-	136 508	-	136 508
	584 890	247 150	19 350	1 284 996	940 503	315 912	3 392 801

<sup>\*/</sup> Not included are computer services costs which would amount to \$45,900 (\$44,100 for 1981 and \$1,800 for 1982), to be financed partly under Section 28 G (Electronic Data Processing and Information System Division) (United Nations' share of ICC Geneva cost) and partly under Section 28H (Division of Administration, Geneva - Electronic Data Processing Unit).

<sup>\*\*/</sup> Not included under Section 23 (Human rights), as final decision as to the section in which printing requirements would arise will be made after consultations with the Department of Public Information.

Resolution 5 (XXXVII). Violations of human rights in southern Africa:  
report of the Ad Hoc Working Group of Experts

3. Under the terms of paragraph 15 of resolution 5 (XXXVII), the Commission on Human Rights decided to renew the mandate of the Ad Hoc Working Group of Experts. The following activities are requested of the Working Group:
4. By paragraph 19, the Group is requested to report to the Commission at its thirty-ninth session and to submit an interim report on its activities to the Commission at its thirty-eighth session. By paragraph 16, the Commission decided that the Group should continue to study the policies and practices which violate human rights in South Africa and Namibia; by paragraph 17, the Working Group is requested to examine the report of the Secretary-General on apartheid as a collective form of slavery and the report on child labour in South Africa presented to the Working Group on Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at the Group's sixth session and to propose appropriate measures that should be adopted with regard to this question. By paragraph 11, the Commission authorized the Working Group to continue its study on the draft statute of an international penal tribunal, as envisaged in document E/CN.4/1426, taking into account observations received from Member States. The Group is required to study those measures which the Commission might invoke to increase the effectiveness of its participation in the struggle against apartheid waged by the international community.
5. By paragraph 20, the Working Group is requested to undertake an investigation, with the co-operation of the Special Committee against Apartheid, on the conditions of detention and the state of health of those persons captured at Kassinga and detained at Hardap Dam Camp in Namibia.
6. By paragraph 21, the Working Group is requested to undertake a study on the effects of the policy of apartheid on black women and children in South Africa, taking into account General Assembly resolutions 35/206 G and 35/206 N.
7. By paragraph 22, the Working Group is requested to continue to institute inquiries in respect of any person suspected of being guilty of the crime of apartheid in Namibia or of any other serious violation of human rights and to bring such violations to the attention of the Commission on Human Rights.
8. By paragraph 24, the Working Group is authorized to participate in the programme of activities (conferences, meetings and seminars) of the Special Committee against Apartheid.
9. For the purpose of determining the financial implications of paragraphs 11, 15, 16, 17, 19, 20, 21, 22 and 24 of the resolution, the following assumptions have been made:
  - (a) The Ad Hoc Working Group, composed of 6 experts, would meet for one week in London in July 1981 to organize and plan its work in relation to the terms of its mandate and to gather information relevant to its mandate;
  - (b) In January 1982, the Ad Hoc Working Group would meet in Geneva for 2 weeks to consider and adopt its progress report for submission to the Commission at its thirty-eighth session;

(c) In July/August 1982, the Ad Hoc Working Group, accompanied by substantive administrative and conference servicing staff of the secretariat, would carry out a field mission for a total duration of approximately 4 weeks, and visit Geneva, Luanda, Maputo, Dar-es-Salaam and London for the purpose of hearing testimony and gathering first-hand information on matters falling within its mandate;

(d) In January 1983, the Ad Hoc Working Group would meet again in Geneva for a period of 2 weeks to consider and adopt its final report for submission to the Commission at its thirty-ninth session.

10. In the course of its previous mandate, the Ad Hoc Working Group of Experts undertook an investigation into the situation of human rights in South Africa and Namibia and for this purpose, the Division of Human Rights, as in previous years, provided the full-time services of one professional officer and one general service staff member. In the second part of its two-year mandate, the Commission requested the Group to undertake studies that were additional to its terms of reference. For the purpose of undertaking these additional studies, temporary assistance resources from the Division of Human Rights had to be provided. Based on the foregoing, and taking into account the additional requests made in the resolution, it is estimated that the services afforded to the Working Group would have to be supplemented to absorb the additional services that would be required. The additional requests are estimated at approximately 200 items of information (testimony transcripts, reports, including press reports, articles, letters, etc. from a variety of sources) of varying size which will have to be examined per month and processed on a daily basis for submission to the Working Group.

11. On the above assumptions, the relevant costs under Section 23 (Human Rights) are estimated at \$51,100 for 1981, \$121,100 for 1982 and \$17,500 for 1983, as reflected in the attached summary. The related conference servicing costs, to be financed under Section 29 B (Conference Service, Geneva) calculated on a full-cost basis, would amount to \$739,581 consisting of \$59,859 for 1981, \$363,810 for 1982 and \$315,912 for 1983.

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	<u>1981</u>	<u>1982</u>	<u>1983</u>
	(US dollars)		
I. Meeting in London, July 1981 (1 week)			
Travel and subsistence of 6 members of the Group			
(a) Travel	10,400	-	-
(b) Subsistence	9,600	-	-
Travel and subsistence of staff of the Division of Human Rights:			
(a) Travel for 4 staff members	1,700	-	-
(b) Subsistence			
Principal Secretary	1		
Assistant Secretary	1		
Secretaries	2		
	3,700	-	-
General operating expenses			
Rental of conference facilities, rooms and office space, local transportation and communications	<u>6,200</u>	-	-
Subtotal I	<u>31,600</u>	-	-

	<u>1981</u>	<u>1982</u>	<u>1983</u>
	(US dollars)		
II. Meeting in Geneva, January 1982 (2 weeks)			
Travel and subsistence for 6 members of the Group			
(a) Travel	-	7,000	-
(b) Subsistence	-	<u>10,500</u>	-
Subtotal II		17,500	
III. Field Mission to Africa, July/August 1982 (Geneva/Luanda/Maputo/Dar-es-Salaam/London) (4 weeks)			
Travel and subsistence for 6 members of the Group			
(a) Travel	-	23,000	-
(b) Subsistence	-	21,500	-
Travel and subsistence of staff of the Division of Human Rights:			
(a) Travel for 5 staff members	-	12,500	-
(b) Subsistence			
Principal Secretary 1			
Assistant Secretary 1			
Administrative and			
Finance Officer 1			
Secretaries 2	-	11,100	-
General operating expenses			
Rental of conference rooms and office space, local transportation and communications	-	<u>14,500</u>	-
Subtotal III		82,600	
IV. Meeting in Geneva, January 1983 (2 weeks)			
Travel and subsistence of 6 members of the Group			
(a) Travel	-	-	7,000
(b) Subsistence	-	-	<u>10,500</u>
Subtotal IV			17,500

	<u>1981</u> (US dollars)	<u>1982</u>	<u>1983</u>
V. Other requirements			
(a) Consultancy services to provide special expertise in obtaining current information on human rights in southern Africa	12,000	12,000	-
(b) Travel and subsistence of a member of the Working Group to participate in conferences, meetings and seminars against <u>apartheid</u> , in particular those organized under the auspices of the Special Committee against <u>Apartheid</u> , as well as those organized in the context of the Decade for Action to Combat Racism and Racial Discrimination (calculated on a notional basis for a period of 5 working days for 6 visits)			
Travel and subsistence (6 x \$2,500)	7,500	7,500	-
(c) Running expenses (subscriptions to newspapers and periodicals)	<u>-</u>	<u>1,500</u>	<u>-</u>
TOTAL	19,500	21,000	<u>-</u>

SUMMARY

	<u>1981</u> (US dollars)	<u>1982</u>	<u>1983</u>
I. Meeting in London, July 1981 (1 week)	31 600	-	-
II. Meeting in Geneva, January 1982 (2 weeks)	-	17 500	-
III. Field Mission to Africa, July/August 1982 (4 weeks)	-	82 600	-
IV. Meeting in Geneva, January 1983 (2 weeks)	-	-	17 500
V. Other requirements	<u>19 500</u>	<u>21 000</u>	<u>-</u>
Total	51 100	121 100	17 500

Resolution 8 (XXXVII). The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in South Africa

12. By paragraph 7 of resolution 8 (XXXVII), the Commission requests the Sub-Commission to mandate Mr. Ahmed Khalifa, Special Rapporteur, to continue to update the general provisional list of banks, transnational corporations and other organizations giving assistance to the colonial and racist régime in South Africa and submit, through the Sub-Commission, the revised report to the Commission.

13. On the basis of the foregoing, the relevant costs are estimated as follows:

Human Rights  
(Section 23)

	<u>1981</u> (US dollars)
- 1 round-trip (Cairo/Geneva/Cairo) by economy class of Special Rapporteur for consultations with Division of Human Rights, and subsistence for 10 working days .....	<u>2 240</u>
	2 240

Resolution 9 (XXXVII). Question of Human Rights in Chile

14. Under paragraph 9 of resolution 9 (XXXVII), the Commission on Human Rights decided to extend the mandate of the Special Rapporteur for another year and requests him to report on further developments in the situation of human rights in Chile to the General Assembly at its thirty-sixth session and to the Commission on Human Rights at its thirty-eighth session. Under paragraph 10, the Commission recommended that the Economic and Social Council should make arrangements for the provision of adequate financial resources and staff for the implementation of the resolution.

15. For the purpose of determining the financial implications of the resolution, the Special Rapporteur would require the necessary arrangements to be made to permit him to gather information relevant to his mandate. The Special Rapporteur would conduct hearings of persons having knowledge and experience of the situation of human rights in Chile; in the event that the Government of Chile extends its co-operation, the Special Rapporteur would visit that country for this purpose and to collect information.

16. The Special Rapporteur would require an ongoing system of recording information received by him or otherwise brought to his attention.

17. The Special Rapporteur would conduct consultations periodically to review the information with the purpose of establishing the facts upon which his report to the General Assembly and to the Commission on Human Rights would be based. The Special Rapporteur envisages that such consultations would take place at Geneva at the end of May 1981 for a period of 5 working days. The Special Rapporteur would undertake a mission to Chile during the summer of 1981 for a period of 10 working days for the purpose of collecting information on the spot. Immediately after the mission, he would spend 5 working days in New York or Geneva for the purpose of gathering further information. Should the mission to Chile not take place, the Special Rapporteur would visit New York during the summer of 1981 for a period of 7 working days, for the purpose of hearing testimony and collecting information. The Special Rapporteur would also visit Geneva during September 1981 for a period of 10 working days. The Special Rapporteur would spend 10 working days in New York at the time of the submission of his report to the General Assembly at its thirty-sixth session. He would then visit Geneva for a period of 10 working days during January 1982 for the purpose of hearing testimony, receiving other evidence and finalizing his report to the Commission on Human Rights at its thirty-eighth session. The Special Rapporteur would visit Geneva during February/March 1982 for a period of 5 working days for the purpose of presenting his report to the Commission on Human Rights at its thirty-eighth session. The Special Rapporteur would intend to conduct hearings either at Geneva, New York or elsewhere.

18. It is estimated that an average of 190 pieces of information (reports, including press reports, articles, letters, etc.) of varying size would have to be examined per month, and a synthesis of them prepared for the Special Rapporteur. This would necessitate the recruitment, on a temporary assistance basis, of a junior professional staff member and a secretary for the purpose of assisting the Special Rapporteur in the gathering of information, compilation of materials and preparation of his report.

19. On the basis of the foregoing, the estimated costs under Section 23 (Human Rights) would amount to \$108,450 for 1981 and \$28,150 for 1982. The related conference servicing costs to be financed under Section 29 B (Conference Service Geneva), calculated on a full-cost basis, would amount to \$328,273 for 1981 and \$161,184 for 1982.

1981                      1982  
(US dollars)

Human Rights  
(Section 23)

I.	Meeting in Geneva, May 1981 (5 working days)		
	Travel and subsistence of Special Rapporteur		
	(a) Travel	1 400	-
	(b) Subsistence	800	-
	Travel and subsistence of witnesses		
	(a) Travel	6 600	-
	(b) Subsistence	2 000	-
		<u>10 800</u>	
	Subtotal I	10 800	
II.	Field mission to Chile: 10 working days, plus 5 working days in New York or Geneva summer 1981 (total 15 working days)		
	Travel and subsistence of Special Rapporteur		
	(a) Travel	5 800	-
	(b) Subsistence	1 800	-
	Travel and subsistence of staff of Division of Human Rights		
	Principal secretary    1		
	Substantive officer    1		
	Secretary                1		
	(a) Travel	9 600	-
	(b) Subsistence	4 100	-
	Travel and subsistence of witnesses		
	(a) Travel	2 100	-
	(b) Subsistence	900	-
	General expenses		
	Local transportation and communications; air freight for equipment and documentation; rental of equipment; miscellaneous expenses	5 000	-

II.	(continued)	<u>1981</u>	<u>1982</u>
		(US dollars)	
	Local staff		
	Staff who may be provided by other United Nations Offices in Latin America without charge		
	Administrative officer		
	Bilingual secretaries		
	Typist		
	Subtotal II	<u>29 300</u>	-
III.	In the event that the field mission to Chile does not materialize:		
	Meeting in New York end June 1981 (7 working days)		
	Travel and subsistence of Special Rapporteur		
	(a) Travel	2 800	-
	(b) Subsistence	1 400	-
	Travel and subsistence of staff of Division of Human Rights		
	Substantive officer      1		
	Secretary                      1		
	(a) Travel	2 000	-
	(b) Subsistence	2 000	-
	Travel and subsistence of witnesses		
	(a) Travel	3 000	-
	(b) Subsistence	<u>1 000</u>	-
	Subtotal III	12 200	-
IV.	Meeting in Geneva, September 1981 (10 working days)		
	Travel and subsistence of Special Rapporteur		
	(a) Travel	1 400	-
	(b) Subsistence	1 750	-

IV. (continued)	<u>1981</u>	<u>1982</u>
	(US dollars)	
Travel and subsistence of witnesses		
(a) Travel	6 600	-
(b) Subsistence	<u>3 200</u>	-
Subtotal IV	12 950	-
V. Travel and subsistence of Special Rapporteur to Headquarters New York, at thirty-sixth session of General Assembly (10 working days)		
(a) Travel	2 800	-
(b) Subsistence	<u>1 600</u>	-
Subtotal V	4 400	-
VI. Meeting in Geneva, January 1982 (10 working days)		
Travel and subsistence of Special Rapporteur		
(a) Travel	-	1 400
(b) Subsistence	-	1 750
Travel and subsistence of witnesses		
(a) Travel	-	6 600
(b) Subsistence	-	<u>3 200</u>
Subtotal VI	-	12 950
VII. Travel of Special Rapporteur to Geneva to thirty-eighth session of Commission on Human Rights (5 working days)		
(a) Travel	-	1 400
(b) Subsistence	-	<u>800</u>
Subtotal VII	-	2 200
VIII. Supplementary staff to service Special Rapporteur		
(a) Temporary assistance for gathering information, compiling materials and preparing the report (P-2 staff member for 9 months)	25 700	7 300

VIII. (continued)	<u>1981</u>	<u>1982</u>
	(US dollars)	
(b) Secretariat assistance (1 G-4 staff member for 9 months)	<u>19 300</u>	<u>5 500</u>
Subtotal VIII	45 000	12 800
IX. Overtime	1 000	-
X. Press clippings and other related services required on a yearly subscription basis, including statistical services	5 000	200

SUMMARY

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(Section 23)

Special Rapporteur on the situation of  
Human Rights in Chile

I. Meeting in Geneva, May 1981 (5 working days)	10 800	-
II. Field Mission to Chile: 10 working days plus 5 working days in New York or Geneva, summer 1981 (15 working days)	29 300	-
III. In the event mission to Chile does not materialize: meeting in New York, June 1981 (7 working days)	(12 200) <sup>a/</sup>	-
IV. Meeting in Geneva, September 1981 (10 working days)	12 950	-
V. Travel and subsistence of Special Rapporteur of Working Group for mission to Headquarters, New York, at thirty-sixth session of General Assembly (10 working days)	4 400	-
VI. Meeting in Geneva, January 1982 (10 working days)	-	12 950
VII. Travel of Special Rapporteur to Geneva to thirty-eighth session on Commission of Human Rights (5 working days)	-	2 200
VIII. Supplementary staff to service Special Rapporteur	45 000	12 800

<sup>a/</sup> Not included in over-all total of costs.

	<u>1981</u>	<u>1982</u>
	(US dollars)	
IX. Overtime	1 000	-
X. Press clippings and other related services required on a yearly subscription basis, including statistical services	<u>5 000</u>	<u>200</u>
Total	108 450	28 150

Resolution 10 (XXXVII). Question of enforced or involuntary disappearances

20. Under paragraphs 3 and 4 of resolution 10 (XXXVII), the Commission on Human Rights decides to extend the term of the Working Group's mandate, as laid down in Commission resolution 20 (XXXVI), and to request the Working Group to submit to the Commission, at its thirty-eighth session, a report on its work together with its conclusions and recommendations. Under paragraph 6 the Commission further requests the Secretary-General to continue to provide the Working Group with all necessary assistance, in particular the staff and resources they require to perform their functions in an effective and expeditious manner, and make the necessary arrangements to ensure the continuity of the Secretariat's work.

21. Under resolution 20 (XXXVI), paragraph 1, the Commission decided to establish a Working Group consisting of five of its members to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. The Commission also decided, in paragraph 3, that the Working Group, in carrying out its mandate should seek and receive information from Governments, intergovernmental organizations, humanitarian organizations and other reliable sources. Under paragraph 6 of that resolution the Working Group was invited, in establishing its working methods, to bear in mind the need to be able to respond effectively to information that comes before it and to carry out its work with discretion.

22. Without prejudice to the future decisions of the Group, the Secretary-General was required to present the financial and administrative implications of the resolution prior to its adoption by the Commission. The following estimates have been prepared by the Secretary-General with a view to enabling him, in accordance with paragraph 6 of the resolution, to respond to any requests by the Group for the assistance it requires in order to perform its functions in an effective and expeditious manner. In preparing these financial implications, the Secretary-General based himself on experience with the working methods and needs of the Working Group established under resolution 20 (XXXVI) and on the volume of information which is likely to be before the Group.

23. The Secretary-General envisaged that the Group might wish to hold the following meetings:

Meeting to review methods of work and examine available information -  
May/June 1981, Geneva, 5 working days;

Meeting to receive and examine information - August/September 1981, Geneva,  
10 working days;

Meeting to examine further information and prepare report to the Commission on Human Rights at its thirty-eighth session - December 1981, Geneva, 10 working days.

24. The possibility for the Group to have direct contacts with Governments will be maintained, and for this purpose provision is made for an estimated five separate round-trips for a member of the Group accompanied by a substantive officer.

25. Supplementary staff to service the Group, to be provided on the basis of temporary assistance, would, on the basis of experience, require one professional officer (P-3) to provide basic services for the Group's activities, to assist in the preparation of meetings of the Group and to enable the Group to submit a report on its work to the Commission's thirty-eighth session, as called for in paragraph 4 of the resolution.

26. Also, on the basis of experience, three professional officers (P-2/P-1) assisted by two General Service clerk/typists, will be required in order to carry out initial screening and classification of information to analyse and prepare the information in usable form for the Group, and to maintain correspondence with those involved in the procedure.

27. In making the above estimate the Secretary-General has foreseen the use of computer services as an indispensable means to reduce staff and costs.

28. On the basis of the foregoing, the estimated cost under Section 23 would amount to \$197,800 for 1981 and \$48,500 for 1982, including a total of \$10,800 (\$9,100 for 1981 and \$1,700 for 1982) for the rental of visual display units to computer terminals. These cost estimates are reflected in the summary below. Further, the computer services costs would amount to \$45,900 (\$44,100 for 1981 and \$1,800 for 1982), to be financed partly under Section 28 G (Electronic Data Processing and Information System Division - United Nations' share of ICC Geneva cost), and partly under Section 28 H (Division of Administration, Geneva - Electronic Data Processing Unit). The related conference servicing costs which would be incurred in 1981 are calculated on a full-cost basis and would amount to \$476,000, to be financed under Section 29 B (Conference service, Geneva).

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(Section 23)

1981      1982  
(US dollars)

Working Group on Enforced or Involuntary Disappearances

I. Meeting in Geneva, May/June 1981 (5 working days)

Travel and subsistence of experts

(a) Travel	5 400	-
(b) Subsistence	<u>4 400</u>	<u>-</u>
Subtotal	9 800	-

II. Meeting in Geneva (or New York)  
August/September 1981 (10 working days)

Travel and subsistence of Group

(a) Travel	5 400	-
(b) Subsistence	<u>8 800</u>	<u>-</u>
Subtotal	14 200	-

III. Meeting in Geneva (or New York)  
December 1981 (10 working days)

Travel and subsistence of Group

(a) Travel	5 400	-
(b) Subsistence	<u>8 800</u>	<u>-</u>
Subtotal	14 200	-

IV. 5 separate round-trips for member of Group  
accompanied by substantive officer for  
establishment of direct contacts (calculated  
on a notional basis for a period of 5 working  
days for each visit)

Travel cost of Group - 5 x \$2,500	12 500	2 500
Travel cost of staff - 5 x \$2,300	<u>11 500</u>	<u>2 300</u>
Subtotal	24 000	4 800

1981                      1982  
(US dollars)

V. Supplementary staff to service Group  
(temporary assistance including common staff costs - July 1981 to February 1982)

1 staff member at the P-3 level	27 100	9 000
3 staff members at the P-2/P-1 level	66 200	22 000
2 staff members at the General Service level	<u>33 200</u>	<u>11 000</u>
Subtotal	126 500	42 000

VI. Rental of 2 visual display units to computer terminals and installation of co-axial cable	<u>9 100</u>	<u>1 700</u>
Total	<u>197 800</u>	<u>48 500</u>

Resolution 18 (XXXVII). The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law

29. In paragraph 1 of its resolution 18 (XXXVII), the Commission recommended to the Economic and Social Council that it authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities 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." The Special Rapporteur, in preparing her study, should take into account the doctrines and practices existing in various legal systems in the world and the relevant comments made by members of the Sub-Commission.

30. In paragraph 2, the Commission requested the Secretary-General to give the Special Rapporteur all the assistance she may require in her work.

31. In paragraph 3, it requested the Special Rapporteur to submit her preliminary report to the Sub-Commission at its thirty-fifth session and her final report to the Sub-Commission at its thirty-sixth session.

32. Prior to presenting her final report to the Sub-Commission at its thirty-sixth session, the Special Rapporteur would undertake one trip to Geneva in 1983 for a period of 10 working days to undertake consultations with the Division of Human Rights. The relevant travel and subsistence costs under Section 23 (Human rights) are estimated at \$1,850. Conference servicing costs for the translation of the report into French, Russian and Spanish and reproduction in those languages and in English (approximately 500 pages), to be financed under Section 29 B (Conference Service, Geneva), calculated on a full-cost basis, would amount to \$151,260 for 1982.

Resolution 19 (XXXVII). The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law

33. In paragraph 1 of its resolution 19 (XXXVII), the Commission recommended to the Economic and Social Council that it decide that the study prepared by Mrs. Erica-Irene A. Daes entitled "Study on the individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights - A contribution to the freedom of the individual under law", should be printed and given the widest possible distribution, including in Arabic.

34. In paragraph 2 it endorsed the recommendation on teaching and education on human rights contained in part one of the study.

35. Costs for 1981 under Section 29 B (Conference Service, Geneva), for the editing and printing of the report in English, French, Russian and Spanish, calculated on a full-cost basis, would amount to \$76,315. In addition, translation of the report into Arabic and printing in Arabic would amount to \$46,585.

Resolution 24 (XXXVII). Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission: alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms - Development of public information activities in the field of human rights

36. In paragraph 2 of its resolution 24 (XXXVII), the Commission requested the Secretary-General to continue to implement the programmes referred to in his reports to the Commission (E/CN.4/1368 and E/CN.4/1436) and to keep the Commission informed thereon. In paragraph 5 the resolution noted with appreciation the information contained in the report of the Secretary-General on the development of public information activities in the field of human rights (E/CN.4/1436) concerning the proposed dissemination programme covering international instruments on human rights and requested the Secretary-General to report each year to the Commission on the implementation of this programme.

37. Financial implications of the resolution arise in relation to the proposed dissemination programme outlined in chapter I.A., paragraph 5, of the report of the Secretary-General (*ibid.*): that the pamphlet entitled The International Bill of Human Rights be reprinted in the six official languages in which it now exists and that, in addition, versions be published in six to eight, or possibly more, non-official languages, chosen so as to ensure the maximum dissemination.

38. The costs of reprinting the above-mentioned publication in various languages are estimated as follows:

<u>Language</u>	<u>No. of copies</u>	<u>Estimated price</u> (US dollars)
English	20 000	9 800
French	10 000	6 400
Spanish	10 000	6 400
Arabic	10 000	7 500
Russian	5 000	4 000
Chinese	5 000	4 000
Other languages	10 000	4 000

39. The above estimated costs would amount to \$42,100 in 1981.

Resolution 25 (XXXVII). Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular: torture and other cruel, inhuman or degrading treatment or punishment

40. Under the terms of paragraph 3 of resolution 25 (XXXVII), the Commission recommended that the Economic and Social Council should adopt a resolution which would authorize a meeting of an open-ended working group for a period of one week prior to the thirty-eighth session of the Commission on Human Rights to complete the work on a draft convention against torture.

41. The related conference servicing costs which would be incurred in 1982 are calculated, on a full-cost basis, at \$34,953 under Section 29 B (Conference Service, Geneva).

Resolution 26 (XXXVII). Question of a convention on the rights of the child

42. In paragraph 2 of resolution 26 (XXXVII), the Commission requested the Economic and Social Council to authorize a one-week session of an open-ended working group prior to the thirty-eighth session of the Commission on Human Rights to facilitate completion of the work on a draft convention on the rights of the child.

43. The related conference servicing costs which would be incurred in 1982 are calculated, on a full-cost basis, at \$35,408 under Section 29 B (Conference Service, Geneva).

Resolution 29 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

44. Under the terms of paragraph 2 of resolution 29 (XXXVII), the Commission decided to appoint for a period of one year a special rapporteur to study the question of human rights and massive exoduses. In paragraph 3, the Commission invited the Chairman of the Commission to appoint an individual of recognized

international standing as special rapporteur. In paragraph 6, the Commission requested the Secretary-General to provide the special rapporteur with all necessary assistance, in particular staff and resources, in order to carry out his study. In paragraph 7, the Commission further requested the special rapporteur to submit his study to the Commission at its thirty-eighth session, together with conclusions and recommendations.

45. For the purpose of determining the financial implications of the resolution the following assumptions have been made:

<u>Human Rights</u> (Section 23)	<u>1981</u> (US dollars)
I. 2 round-trips to New York of special rapporteur in 1981 for consultations with United Nations agencies or departments concerned (total time: 15 working days)	
Travel and subsistence of special rapporteur	3 700
II. 4 months of temporary assistance at the P-3 level	18 000
3 months of temporary assistance at the General Services level	<u>8 300</u>
	<u>30 000</u>

Resolution 32 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories

46. Under the terms of paragraph 7 of resolution 32 (XXXVII) the Commission requested its Chairman to appoint, after consultations within the Bureau, a Special Representative of the Commission whose mandate would be: to investigate the reports about murders, abductions, disappearances, terrorist acts and all grave violations of human rights and fundamental freedoms which have taken place in El Salvador; to make recommendations as to how the full restoration of the enjoyment of human rights and fundamental freedoms could be secured, including economic, social and cultural rights, and to report on his findings to the Commission on Human Rights at its thirty-eighth session. In paragraph 10, it requested the Special Representative to submit an interim report to the General Assembly at its thirty-sixth session.

47. For the purposes of determining the financial implications of the resolution, the following assumptions have been made:

(a) In May/June 1981, for a period of 5 working days, the Special Representative would undertake a trip to Geneva for the purpose of holding consultations with the Division of Human Rights and to organize and plan his work in relation to his mandate;

(b) In July/August 1981, for a period of 10 working days, the Special Representative, accompanied by 2 staff members from the Division of Human Rights, would carry out a mission to El Salvador for the purpose of collecting information on the spot;

(c) In September/October 1981, for a period of 5 working days, the Special Representative would travel to Geneva in order to finalize his report to the Commission on Human Rights at its thirty-eighth session;

(d) In February/March 1982, for a period of 5 working days, the Special Representative would travel to Geneva to present his report to the Commission on Human Rights at its thirty-eighth session.

48. On the above assumptions, the relevant costs under Section 23 (Human Rights) are estimated at \$34,400 for 1981, and \$2,500 for 1982.

<u>Human Rights</u> (Section 23)	<u>1981</u> (US dollars)	<u>1982</u>
I. 1 round-trip to Geneva of Special Representative in May/June 1981 for consultations with Division of Human Rights (5 working days)		
Travel and subsistence of Special Representative	2 500	-
II. Field mission to El-Salvador of Special Representative in July/August 1981 (10 working days)		
(a) Travel and subsistence of Special Representative	3 000	-
(b) Travel and subsistence of 2 staff members from Division of Human Rights (10 working days)	5 400	-
(c) General operating expenses: local transportation, communications, rental of office facilities, air freight for equipment	3 000	-
III. 1 round-trip to Geneva of Special Representative in September/October 1981 to finalize his report (5 working days)		
Travel and subsistence of Special Representative	2 500	-
IV. 1 round-trip to Geneva of Special Representative in February/March 1982 to present his report to the thirty-eighth session of the Commission on Human Rights	-	2 500
V. 4 months of temporary assistance at the P-3 level	<u>18 000</u>	<u>-</u>
	<u>34 400</u>	<u>2 500</u>

Resolution 34 (XXXVII). Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories - Situation of human rights in Bolivia

49. Under the terms of paragraph 1 of resolution 34 (XXXVII), the Commission requested its Chairman to appoint, after consultations with the Bureau, a Special Envoy of the Commission whose mandate would be to make a thorough study of the human rights situation in Bolivia, based on such information as he may deem relevant, including such comments and materials as the Bolivian Government may wish to submit. In paragraph 2, the Commission requested the Special Envoy of the Commission to discharge his mandate with due regard for discretion and equity and to report on his findings to the Commission at its thirty-eighth session in a manner which would give the Bolivian Government adequate opportunity to comment in writing on the contents of the report. In paragraph 4, the Commission further requested the Secretary-General to give all necessary assistance to the Special Envoy of the Commission.

50. For the purpose of determining the financial implications of the resolution, the following assumptions have been made:

(a) In May/June 1981, for a period of 5 working days, the Special Envoy would undertake a trip to Geneva for the purpose of holding consultations with the Division of Human Rights and to organize and plan his work in relation to his mandate;

(b) In July/August 1981, for a period of 10 working days, the Special Envoy, accompanied by two staff members from the Division of Human Rights, would carry out a mission to Bolivia for the purpose of collecting information on the spot;

(c) In September/October 1981, for a period of 5 working days, the Special Envoy would travel to Geneva in order to finalize his report to the Commission on Human Rights at its thirty-eighth session;

(d) In February/March 1982, for a period of 5 working days, the Special Envoy would travel to Geneva to present his report to the Commission on Human Rights at its thirty-eighth session.

51. On the above assumptions, the relevant costs under Section 23 (Human Rights) are estimated at \$35,100 for 1981, and \$2,500 for 1982.

	<u>1981</u>	<u>1982</u>
	(US dollars)	
I. 1 round-trip to Geneva of Special Envoy in May/June 1981 for consultations with Division of Human Rights (5 working days)		
Travel and subsistence of Special Envoy	2 500	-

	<u>1981</u> (US dollars)	<u>1982</u>
II. Field mission to Bolivia of Special Envoy in July/August 1981 (10 working days)		
(a) Travel and subsistence of Special Envoy	3 000	-
(b) Travel and subsistence of 2 staff members from the Division of Human Rights (10 working days)	6 100	-
(c) General operating expenses: local transportation, communications, rental of office facilities, air freight for equipment	3 000	-
III. 1 round-trip to Geneva of Special Envoy in September/October 1981 to finalize his report (5 working days)		
Travel and subsistence of Special Envoy	2 500	-
IV. 1 round-trip to Geneva of Special Envoy in February/March 1982 to present his report to the thirty-eighth session of the Commission on Human Rights	-	2 500
V. 4 months of temporary assistance at P-3 level	<u>18 000</u>	<u>-</u>
	35 100	2 500

Resolution 36 (XXXVII). Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights

52. Under the terms of paragraph 9 of resolution 36 (XXXVII), the Commission requested the Secretary-General to hold at the Headquarters of the United Nations within the framework of the advisory services programme the seminar on the relations that exist between human rights, peace and development to be held in August 1981 as decided by the General Assembly in resolution 35/174 of 15 December 1980 and to give priority in its programme to the items mentioned in the annex to the present resolution. In paragraph 10, the Commission decided to establish a working group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographic distribution, to study the scope and contents of the right to development and the most effective means to ensure the realization, in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of these human rights. In paragraph 11, the Commission requested the working group to hold three meetings in Geneva, the first to be held in the month of July 1981, the second to take place towards the end of

1981 for a period of two weeks and the third to start one week before the beginning of the thirty-eighth session of the Commission on Human Rights. In paragraph 14, the Commission further requested the Secretary-General to provide all necessary assistance to the working group.

53. For the purpose of determining the financial implications of the resolutions, the following assumptions have been made.

	<u>1981</u>	<u>1982</u>
	(US dollars)	
I. Seminar to be held at Headquarters, New York <u>b/</u> (10 working days)		
Travel and subsistence of 32 participants		
(a) Travel		
(b) Subsistence		
Travel and subsistence of staff of the Division of Human Rights		
(Four substantive officers)		
(Two secretaries)		
(a) Travel		
(b) Subsistence		
II. Meeting of Working Group of 15 governmental experts, (Geneva, July 1981), 5 working days		
Travel and subsistence of experts		
(a) Travel	31 300	-
(b) Subsistence	13 100	-
III. Meeting of working group of 15 governmental experts, (Geneva, November 1981) 10 working days		
Travel and subsistence of experts		
(a) Travel	31 300	-
(b) Subsistence	23 000	-

b/ It should be recalled that on the basis of General Assembly resolution 35/174 an amount of \$112,200 was redeployed under Section 24 for the organization of the seminar. Costing was based on Geneva.

	<u>1981</u>	<u>1982</u>
	(US dollars)	
IV. Meeting of working group of 15 governmental experts (Geneva, January 1982), 5 working days		
(a) Travel	-	31 300
(b) Subsistence	-	13 100
V. Six months of temporary assistance at the P-3 level	<u>27 100</u>	<u>-</u>
	125 800	44 400

54. On the basis of the foregoing, the estimated costs under Section 23 (Human Rights) would amount to \$125,800 for 1981 and \$44,400 for 1982. The related conference servicing costs to be financed under Section 29 B (Conference Service, Geneva) calculated on a full-cost basis, would amount to \$297,964 for 1981 and \$57,388 for 1982.

Decision 11 (XXXVII). Meetings services for the Commission on Human Rights

55. The Commission on Human Rights, in view of its heavy schedule of work and the need to meet the requirements of its sessional working groups during its thirty-eighth session, recommended to the Economic and Social Council that it authorize three hours of additional meeting service per day during the Commission's thirty-eighth session. Conference servicing costs to be financed under Section 29 B (Conference Service, Geneva), calculated on a full-cost basis, would amount to \$136,508 for 1982.

Annex IV

LIST OF DOCUMENTS ISSUED FOR THE THIRTY-SEVENTH SESSION  
OF THE COMMISSION

<u>Documents issued in the general series</u>		<u>Agenda item</u>
E/CN.4/1409	Note by the Secretariat	10 (a)
E/CN.4/1410	Note by the Secretary-General	13
E/CN.4/1411	Communication dated 30 August 1980 from the Minister of Foreign Affairs and Information of the Republic of South Africa, the Hon. R.F. Botha, M.P., addressed to the Director of the Division of Human Rights	13
E/CN.4/1412	Communication dated 8 September 1980 from the Permanent Mission of Democratic Kampuchea addressed to the Director of the Division of Human Rights	13
E/CN.4/1413 and Corr.1	Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-third session	23
E/CN.4/1414/Rev.1	Provisional agenda: note by the Secretary-General	2
E/CN.4/1414/Rev.1/ Add.1	Annotations to the provisional agenda prepared by the Secretary-General	2
E/CN.4/1415	Note by the Secretary-General	17
E/CN.4/1415/Add.1-6, Add.7/Rev.1 and Add.8 and 9	Reports submitted by States parties under article VII of the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u>	17
E/CN.4/1416	Note by the Secretary-General	17
E/CN.4/1417	Report of the Group of Three established under the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u>	17
E/CN.4/1418 and Add.1	Note by the Secretary-General	4
E/CN.4/1419 and Add.1-5	Report of the Secretary-General	18

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E/CN.4/1420	Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of <u>Apartheid</u> and colonialism: note by the Secretary-General	13
E/CN.4/1421	The regional and national dimensions of the right to development as a human right: study by the Secretary-General	8
E/CN.4/1422 and Add.1	Report of the Secretary-General	4
E/CN.4/1423	Note by the Secretary-General	4
E/CN.4/1424	Note by the Secretary-General	12
E/CN.4/1425	Report prepared by the Secretary-General pursuant to paragraph 8 of the Commission on Human Rights resolution 4 (XXXV)	8
E/CN.4/1426	Study on ways and means of insuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of <u>Apartheid</u> , including the establishment of the international jurisdiction envisaged by the Convention.	17
E/CN.4/1427	Draft international convention against torture and other cruel, inhuman or degrading treatment or punishment: proposals of preamble and final provisions submitted by the Government of Sweden	10 (a)
E/CN.4/1428	Report prepared by the Special Rapporteur on the situation of human rights in Chile in accordance with resolution 21 (XXXVI) of the Commission	5
E/CN.4/1429 and Corr.1	Report of the <u>Ad Hoc</u> Working Group of Experts prepared in accordance with resolutions 12 (XXXV), 9 (XXXVI) and 12 (XXXVI) of the Commission on Human Rights and resolutions 1979/39 and 1980/33 of the Economic and Social Council	6
E/CN.4/1430	Study of action taken to implement the recommendations made by the <u>Ad Hoc</u> Working Group of Experts since its establishment (1967), prepared in accordance with paragraph 15 of resolution 12 (XXXV) of the Commission	6

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E/CN.4/1431	Note by the Chairman of the Commission at its thirty-sixth session prepared in accordance with resolution 14 B (XXXVI) of the Commission	21 (b)
E/CN.4/1432	Note by the Secretary-General	9
E/CN.4/1433	Report prepared by the Secretary-General pursuant to paragraph 8 of resolution 1979/36 of the Economic and Social Council	11
E/CN.4/1434 and Add.1 and 2	Report by the Secretary-General prepared in accordance with resolution 18 (XXXIII) of the Sub-Commission on Prevention of Discrimination and Protection of Minorities	10 (b)
E/CN.4/1435 and Add.1	Report of the Working Group on enforced or involuntary disappearances	10 (b)
E/CN.4/1436	Development of public information activities in the field of human rights: Report of the Secretary-General	11
E/CN.4/1437	The situation of human rights in Kampuchea: Note by the Secretariat	13
E/CN.4/1438	The situation of human rights in Guatemala: Report of the Secretary-General	13
E/CN.4/1439	Report of Mr. Fernando Volio Jiménez, Expert, appointed in accordance with resolution 33 (XXXVI) of the Commission on Human Rights, on the situation of human rights in Equatorial Guinea:	13
E/CN.4/1439/Add.1	<u>Idem</u> : Note by the Secretariat	13
E/CN.4/1440	Report of the Secretary-General submitted in accordance with paragraph 5 of resolution 30 (XXXVI) of the Commission on Human Rights	13
E/CN.4/1441	Situation of human rights in Bolivia: Note by the Secretariat	13
E/CN.4/1442	Report of the Secretary-General submitted pursuant to decision 13 (XXXVI) of the Commission on Human Rights	13 (a)
E/CN.4/1443 and Corr.1 and Add.1 and 2	Question of an intersessional role for the Bureau of the Commission on Human Rights and of the possible need for convening emergency sessions of the Commission: Report of the Secretary-General	11

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E/CN.4/1444	Report of the Secretary-General	22
E/CN.4/1445	Report of the Secretary-General	26
E/CN.4/1446 and Add.1-12	Note by the Secretary-General	28
E/CN.4/1447	Note by the Secretary-General prepared in accordance with resolution 14 C (XXXVI) of the Commission on Human Rights	21 (b)
E/CN.4/1448 and Add.1	Annual reports on racial discrimination submitted by the ILO and UNESCO in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI): note by the Secretary-General	21 (b)
E/CN.4/1449	Report by the Chairman of the Board of Trustees of the United Nations Trust Fund for Chile	5
E/CN.4/1450 and Corr.1	Information submitted in accordance with Economic and Social Council resolution 1159 (XLI) regarding co-operation with regional intergovernmental bodies concerned with human rights: note by the Secretary-General	11
E/CN.4/1451	Letter dated 5 January 1981 from the Deputy Permanent Representative of Democratic Kampuchea addressed to the Director of the Division of Human Rights	9 and 13
E/CN.4/1452	Letter dated 4 December 1980 from the Deputy Permanent Representative of Democratic Kampuchea addressed to the Director of the Division of Human Rights	9 and 13
E/CN.4/1453 and Corr.1	Information submitted in accordance with Economic and Social Council resolution 1159 (XLI) regarding co-operation with regional intergovernmental bodies concerned with human rights: note by the Secretary-General	11
E/CN.4/1454	Letter dated 30 January 1981 from the Chargé d'Affaires <u>ad interim</u> of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Director of the Division of Human Rights	9 and 13
E/CN.4/1455	Letter received on 2 February 1981 from the Chargé Chargé d'Affaires <u>ad interim</u> of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Director of the Division of Human Rights	9 and 13

<u>Documents issued in the general series</u> (continued)		<u>Agenda item</u>
E/CN.4/1456	Note by the Secretariat	4
E/CN.4/1457	Letter received on 4 February 1981 from the Chargé d'Affaires <u>ad interim</u> of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Chairman of the Commission on Human Rights	13
E/CN.4/1458	Seminar on relations that exist between human rights, peace and development: report by the Secretary-General	8
E/CN.4/1459	Note verbale dated 23 February 1981 from the Permanent Mission of Israel to the United Nations Office at Geneva addressed to the Division of Human Rights	8
E/CN.4/1460	Letter dated 6 February 1981 from the Head of the Delegation of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1461	Letter dated 9 February 1981 from the Chargé d'Affaires <u>ad interim</u> of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1462	Note verbale dated 10 February 1981 from the Permanent Mission of Algeria to the United Nations Office at Geneva addressed to the Division of Human Rights	9
E/CN.4/1463	Letter dated 16 February 1981 from the Head of the Delegation of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1464	Letter dated 17 February 1981 from the Chargé d'Affaires <u>ad interim</u> of the Permanent Mission of the Socialist Republic of Viet Nam addressed to the Director of the Division of Human Rights	9
E/CN.4/1465	Note verbale dated 13 February 1981 from the Permanent Mission of Chile to the United Nations Office at Geneva addressed to the Secretary-General	5
E/CN.4/1466	Letter dated 18 February 1981 from the Permanent Representative of Democratic Kampuchea addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	9 and 13

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E/CN.4/1467	Letter dated 24 February 1981 from the Head of the Delegation of the United States of America addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1468	Note verbale dated 2 March 1981 from the Permanent Mission of the Syrian Arab Republic to the United Nations Office at Geneva addressed to the Division of Human Rights	13
E/CN.4/1469	Note verbale dated 4 March 1981 from the Permanent Mission of the Hashemite Kingdom of Jordan addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1470	Note verbale dated 6 March 1981 from the Permanent Mission of the Syrian Arab Republic addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1471	Letter dated 25 February 1981 from the Permanent Representative of the Republic of Haiti to the United Nations in New York addressed to the Secretary-General	13
E/CN.4/1472 and Add.1	Note verbale dated 9 March 1981 from the Permanent Mission of the Syrian Arab Republic addressed to the Chairman of the Commission on Human Rights at its thirty-seventh session	13
E/CN.4/1473	Note verbale dated 10 March 1981 from the Permanent Mission of Israel addressed to the Division of Human Rights	13
E/CN.4/1474	Working documents of the thirty-seventh session of the Commission on Human Rights	
E/1981/25R E/CN.4/1475	Report of the Commission on Human Rights on its thirty-seventh session	
E/CN.4/INF.27 and Corr.1	Attendance at the thirty-seventh session of the Commission of Human Rights	
E/CN.4/SR.1583-1629 and 1629/Add.1 and 1630-1640 and 1642 a/	Summary records of the thirty-seventh session of the Commission of Human Rights	

a/ The summary records of the 1618th to 1622nd, 1624th to 1628th and the first part of the 1629th meetings, which were closed, were issued in restricted distribution. No summary records were prepared for the 1582nd and 1641st meetings.

<u>Documents issued in the limited series b/</u>		<u>Agenda item</u>
E/CN.4/L.1548	Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, German Democratic Republic, Mongolia and Poland: draft resolution	25
E/CN.4/L.1548/Rev.1	Bulgaria, Byelorussian Soviet Socialist Republic, Czechoslovakia, German Democratic Republic, Mongolia and Poland: revised draft resolution	25
E/CN.4/L.1549	Algeria, Argentina, Bulgaria, Cuba, Cyprus, Democratic Yemen, India, Iran, Iraq, Jordan, Kuwait, Libyan Arab Jamahiriya, Madagascar, Mongolia, Morocco, Nigeria, Pakistan, Qatar, Senegal, Syrian Arab Republic, Tunisia, Viet Nam, */ Yemen and Yugoslavia: draft resolution	4
E/CN.4/L.1550	Algeria, Bulgaria, Cuba, Cyprus, Iran, Iraq, Jordan, Kuwait, Libyan Arab Jamahiriya, Madagascar, Morocco, Nigeria, Pakistan, Qatar, Syrian Arab Republic, Tunisia, Yemen and Yugoslavia: draft resolution	9
E/CN.4/L.1551	Australia, Canada, Greece and Netherlands: amendment to draft resolution E/CN.4/L.1548	25
E/CN.4/L.1552	Question of enforced or involuntary disappearances - France: draft resolution	10 (b)
E/CN.4/L.1552/Rev.1	<u>Idem</u> : revised draft resolution	10 (b)
E/CN.4/L.1553	Algeria, Burundi, Egypt, Ethiopia, Ghana, India, Iraq, Libyan Arab Jamahiriya, Morocco, Nigeria, Pakistan, Philippines, Senegal, Syrian Arab Republic, Yemen, Yugoslavia, Uganda, Zaire and Zambia: draft resolution	6
E/CN.4/L.1554	Bulgaria, Burundi, Cuba, Egypt, Ethiopia, Libyan Arab Jamahiriya, Morocco, Nigeria, Senegal, Syrian Arab Republic, Uganda, Zaire and Zambia: draft resolution	17
E/CN.4/L.1555	Algeria, Burundi, Cuba, Cyprus, Egypt, Ethiopia, Ghana, India, Iraq, Libyan Arab Jamahiriya, Madagascar, Morocco, Nigeria, Pakistan, Senegal, Somalia, Syrian Arab Republic, Uganda, Yugoslavia and Zambia: draft resolution	6

b/ The sponsors listed here include those who became sponsors of the resolution or amendment subsequent to the issue of the document.

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E/CN.4/L.1556	Administrative and financial implications of draft resolution E/CN.4/L.1553: statement submitted by the Secretary-General in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council	6
E/CN.4/L.1557	Algeria, Burundi, Cuba, Ethiopia, Ghana, Libyan Arab Jamahiriya, Morocco, Nigeria, Senegal, Syrian Arab Republic, Uganda, Yemen Zaire and Zambia: draft resolution	21* (b)
E/CN.4/L.1558	Algeria, Burundi, Cuba, Ethiopia, Ghana, India, Libyan Arab Jamahiriya, Morocco, Nigeria, Senegal, Somalia, Syrian Arab Republic, Uganda, Yemen and Yugoslavia: draft resolution	7
E/CN.4/L.1559	Australia, Canada, Costa Rica, Fiji, France, Germany, Federal Republic of, Japan, Malaysia, Netherlands, Pakistan, Philippines, Singapore, Somalia, Sudan, Thailand, United Kingdom of Great Britain and Northern Ireland and Zaire: draft resolution	9
E/CN.4/L.1560 and Add.1-25	Draft report of the Commission on its thirty-seventh session	30
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