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DRAFT REPORT OF THE OPEN-ENDED WORKING GROUP ESTABLISHED UNDER
COMMISSION ON HUMAN RIGHTS RESOLUTION 1982/40

Chairman/Rapporteur: Mrs. L. Puri (India)

1. By its resolution 1982/40 the Commission on Human Rights decided to establish an open-ended working group to continue the ongoing work on the over-all analysis with a 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.
2. The Working Group met on 2, 9, 14, 17 and 25 February 1983. At its first meeting Mrs. L. Puri (India) was unanimously elected Chairman-Rapporteur.
3. The Working Group had before it the following documentation:
 - (a) The report of the Working Group established under Commission on Human Rights resolution 23 (XXXVII) (E/1982/12/Add.1, part B);
 - (b) The report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-fifth session (E/CN.4/1983/4);
 - (c) A report by the Secretary-General on the development of public information activities in the field of human rights (E/CN.4/1983/15).
4. The following working papers were submitted to the Working Group:
 - E/CN.4/1983/WG.3/WP.1 submitted by the Chairman
 - E/CN.4/1983/WG.3/WP.2 submitted by Japan
 - E/CN.4/1983/WG.3/WP.3 submitted by Bulgaria
 - E/CN.4/1983/WG.3/WP.4 submitted by France
 - E/CN.4/1983/WG.3/WP.5 submitted by Ukrainian SSR
 - E/CN.4/1983/WG.3/WP.6 submitted by Ireland

These working papers are annexed to the present report.

5. The Working Group first discussed its methods of work. In this respect reference was made to the approach which had been adopted in previous years and to some of the areas in which a degree of progress had been achieved. The Chairman submitted to the Working Group a list of relevant issues (E/CN.4/1983/WG.3/WP.1) which took account of the past work of the working group and of relevant General Assembly and Commission on Human Rights resolutions. She emphasized that the list was only indicative and did not imply any priority among the issues listed.

6. In the course of the discussion delegations made suggestions as to the issues to which the Working Group should address itself and the order in which the various matters should be discussed. The view was expressed by several speakers that, in view of the limited number of meetings available to the group, it would be preferable to focus on a few specific issues with respect to which it might be possible to achieve a consensus rather than engaging in lengthy theoretical debates on issues which would require far more time in order to arrive at any generally shared conclusions. In this view a step by step approach to issues should be adopted. Other speakers stated that a comprehensive review of the progress achieved to date and of the present position was required before progress could be made on specific issues. In this regard it was suggested that an in-depth discussion of fundamental issues could be undertaken and that this could focus on the three main elements referred to in the working group's mandate: (1) the over-all analysis; (2) further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; and (3) alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. It was said that decisions which may appear on the surface to be of a technical nature could in fact have far-reaching political consequences.

7. It was agreed by most speakers that the group should concentrate its efforts in a flexible manner, on the four structural issues listed by the Chairman: (a) a possible intersessional role for the Bureau; (b) the possibility of holding emergency sessions of the Commission; (c) the establishment of a post of High Commissioner for Human Rights; and (d) the possibility of redefining the Commission's terms of reference. This would not however preclude reference to other relevant matters.

8. A proposal was presented (E/CN.4/1983/WG.3/WP.2) for rescheduling the sessions of the Commission on Human Rights and of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The objective was said to be to achieve a more balanced calendar of meetings dealing with human rights issues over the course of the year. Most delegates agreed in principle with the proposal.

9. Some practical difficulties, however, were raised. Thus it was said that if the Sub-Commission met in February there would be insufficient time for delegates to consider its report in time for an April session of the Commission. Other speakers did not consider that this would be a problem. Several speakers noted further that the Commission should not appear to be advising the Economic and Social Council as to the timing of its own sessions. It was said in response that the

relevant suggestion was designed to draw attention to the possible implications of the proposal and not to interfere with the Council's prerogatives. Some doubt was expressed as to whether it would be convenient for Sub-Commission members to meet in February. One speaker noted that scheduling the Commission in April should not imply reducing its session from the existing six weeks.

10. Two working papers (E/CN.4/1983/WG.3/WP.4 and WP.6 and Rev.1) submitted to the working group contained proposals relating to an intersessional role for the Bureau of the Commission. Some speakers felt that an intersessional role for the Bureau would provide continuity between sessions of the Commission as well as facilitating a rapid response to emergency situations. Other speakers were of the view that even when the Commission was not in session there were other bodies dealing with human rights issues which were meeting over the course of each year. Two conceptions of the Bureau's possible intersessional role emerged during the discussions. The first view which was supported by several speakers favoured a basic organizational role for the Bureau dealing with issues such as organization of the Commission's work, and organizational matters arising under the resolutions and decisions of the Commission. In this regard mention was made of a possible role for the Bureau in monitoring the follow-up to Commission decisions such as those concerning the appointment of Special Rapporteurs' formulation of questionnaires to Governments and agencies, and the monitoring of the implementation of decisions taken on situations of systematic violations of human rights. A second view was that the role of the Bureau could develop into something more substantive so that full advantage could be taken of the considerable experience gained by the members of the Bureau as a result of working together during the sessions of the Commission. In this regard, mention was made of the possibility of entrusting the Bureau with intersessional responsibility for matters arising under the terms of reference of the Commission and with responsibility for responding to human rights problems arising in emergency situations.
11. However, there was a general feeling that the Commission could not delegate its substantive powers to the Bureau. In response to questions concerning the existing intersessional role of the Chairman and the Bureau the Representative of the Centre for Human Rights referred the working group to the relevant provisions of the Rules of Procedure of the Functional Commissions of the Economic and Social Council and to the recent practice of the Council and the Commission in this regard.
12. According to the proposal of some speakers the Bureau could meet three or four times a year according to a regular schedule. Other speakers, however, suggested that consideration be given to requesting the Bureau to meet for a few days immediately prior to the session of the Commission. It was noted that this procedure had been adopted with respect to the Commission's thirty-seventh session

(as authorized by Economic and Social Council decision 146 (LX)). Reference was also made by some delegates to the possibility of entrusting the task of the first phase of considering communications submitted in accordance with the procedures under Council resolution 728 F (XXVII) and 1503 (XLVIII) to the Bureau rather than to the Sub-Commission's working group. In this context it was also felt that the procedures established under Council resolutions 1235 (XLII) and 1503 (XLVIII) were not consistent with one another and that consideration should be given to revising the relevant procedures.

13. It was proposed by some speakers that decisions would be taken by the Bureau on the basis of consensus. Other speakers expressed doubts as to whether such an approach would work in practice. It was said that in the case of a real emergency it would be more appropriate to call an emergency meeting of the Commission rather than to convene the Bureau.

14. The possibility of redefining or supplementing the Commission's terms of reference was the subject of another working paper presented to the Working Group (E/CN.4/1983/WG.3/WP.3). According to one view the Commission's existing terms of reference had been adequate for its role in the past but required redefinition or supplementing in order to reflect new tasks and orientations which had emerged in recent years. Others felt that the existing terms of reference were sufficiently broad and flexible to cope with all contingencies. In response to a suggestion that it would be preferable to undertake a comprehensive review of the Commission's terms of reference rather than a piecemeal addition as seemed to be proposed in the working paper, the author of the paper indicated that it contained only some relevant elements and was not meant to be exhaustive. In the view of one delegate the proposals contained in the working paper related more to guiding concepts than to the Commission's terms of reference.

15. In connection with the proposed establishment of a post of High Commissioner for Human Rights the issue of the status of the Centre for Human Rights was raised and a question was asked as to the significance of the recent redesignation of the Division as a Centre and the upgrading of its head to the rank of Assistant Secretary-General and in particular, whether those changes had had substantive implications for the work and organization of the secretariat. In the view of one delegate the changes reflected primarily the importance of the work which the Centre was already performing.

16. A proposal to request the Sub-Commission once again to prepare a thorough first study on the subject of the High Commissioner for Human Rights was contained in a working paper (E/CN.4/1983/WG.3/WP.5) discussed by the Working Group. In support of the proposal it was said that the specific proposals contained in Sub-Commission resolution 1982/27 did not constitute an appropriate response to the Commission's earlier request for a thorough study. It was suggested that the arguments for and against the proposal should be analysed in depth. Other speakers expressed the view that the Sub-Commission had complied with the Commission's request and that the issue was now one for the Commission to discuss.
17. At the fourth meeting of the Working Group it was generally agreed that the Chairman should hold further informal negotiations with a view to submitting some specific proposals, based on the discussions, to the Working Group at its final meeting.