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

Human Rights in the administration of justice

Note by the Secretary-General

1. The Commission on Human Rights, at its forty-third session adopted resolution 1987/33 entitled "Human rights in the administration of justice". In that resolution, *inter alia*, a number of requests were made to the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Secretary-General. In addition, in paragraph 14 the Secretary-General was asked to report to the Commission at its forty-fourth session on the implementation of the resolution.
2. In resolution 1987/33, the Commission requested the Sub-Commission (a) to give urgent consideration to the issue of the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers, taking into account the report of its Special Rapporteur on that subject, with a view to making recommendations to the Commission at its forty-fourth session (para. 4); (b) taking into account Commission decision 1986/106, to give further attention to the question of a declaration against unacknowledged detention of persons, as well as to the question of states of siege or emergency, in accordance with decision 1986/104 (para. 5); (c) to give due attention to the various standards adopted in that field, in particular by the Fifth United Nations Congress on the Prevention of Crime and

the Treatment of Offenders, with a view to making recommendations to the Commission at its forty-fourth session on measures to be taken for their most effective application (para. 6).

3. In the same resolution, the Commission also requested the Sub-Commission, when carrying out its annual review of the human rights of persons subjected to any form of detention or imprisonment, to include in its consideration the work of the Human Rights Committee and the Committee on the Elimination of Racial Discrimination, the developments elsewhere in the human rights programme and the activities within the United Nations programme on crime prevention and control bearing upon the subject. In this regard the Secretary-General was requested to make available to the Sub-Commission succinct information on those matters (para. 7).

4. The above-mentioned requests of the Commission were brought to the attention of the Sub-Commission at its thirty-ninth session in the annotations to its provisional agenda (E/CN.4/Sub.2/1987/1/Add.1). The Secretariat submitted to the Sub-Commission a document containing the succinct information referred to in paragraph 3 above (E/CN.4/Sub.2/1987/14). The Sub-Commission's Working Group on Detention was also provided with the text of standards adopted by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders relating to human rights in the administration of justice, with a report on the discussions and recommendations of the Fifth Congress (E/CN.4/1190) and, at the Working Group's request, with the text of the Caracas Declaration adopted by the Sixth Congress on 5 September 1980.

5. At its thirty-ninth session, the Sub-Commission considered the issue of the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers under a separate sub-item of its agenda item on the administration of justice and the human rights of detainees. In that regard it adopted resolution 1987/23 in which it decided to consider at its next session the draft declaration on the subject (E/CN.4/Sub.2/1985/18/Add.5/Rev.1) proposed by the Special Rapporteur at a plenary meeting of the Sub-Commission and further decided that the said draft declaration be transmitted by the Secretary-General to Member States and to the Centre for Social Development and Humanitarian Affairs for their comments and suggestions, which should be sent to the Special Rapporteur.

6. In connection with the question of a declaration against unacknowledged detention of persons, it may be recalled that the Sub-Commission, at its thirty-eighth session in 1985, recommended to the Commission the adoption of a draft declaration on that subject. The Commission, however, decided (decision 1986/106) not to take action on that recommendation and invited the Sub-Commission to reconsider the question of a declaration against unacknowledged detention of persons, with a view to submitting a new text to the Commission at its forty-third session. This matter was dealt with at the Sub-Commission's thirty-ninth session by its Working Group on Detention and is reflected in the report of the Working Group (see E/CN.4/Sub.2/1987/15, para. 35).

7. In paragraph 10 of resolution 1987/33, the Commission requested the Secretary-General to invite the Human Rights Committee and regional human rights institutions established by regional human rights instruments to comment on possible areas of co-operation with human rights bodies of the

United Nations system in the field of human rights in the administration of justice. Pursuant to that paragraph, the respective bodies were contacted and the attention of the Commission will be drawn to any replies.

8. In paragraph 9 of resolution 1987/33, the Commission requested the Secretary-General to ensure close co-operation between the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs on matters relating to human rights in the administration of justice. In paragraph 11 of that resolution, the Commission invited the Secretary-General to establish a focal point within the Centre for Human Rights to monitor the aspects relating to human rights in the administration of justice within the various elements of the United Nations human rights programme, the programme on crime prevention and control, and the work of the specialized agencies, regional organizations and non-governmental organizations in consultative status, and to provide, as appropriate, advice on co-ordination and other relevant issues in the field.

9. Pursuant to these requests, the Centre for Human Rights has developed increasingly close co-operation with the Centre for Social Development and Humanitarian Affairs and in particular with the Crime Prevention and Criminal Justice Branch of that Centre. Special efforts have been made when resources permitted for staff from the Centre to take part in conferences or seminars, organized by the Crime Prevention and Criminal Justice Branch or non-governmental organizations in consultative status with the Economic and Social Council, on subjects relating to human rights in the administration of justice. Thus, a staff member from the Centre took part in the International Expert Meeting on United Nations and Law Enforcement held in Baden, Austria, from 16 to 19 November 1987. This meeting dealt in particular with the draft basic principles on the role of lawyers and draft procedures for the effective implementation of basic principles on the independence of the judiciary. Further, the Centre was represented at an international symposium organized by a number of non-governmental organizations in consultative status with the Council at Milan from 28 November to 1 December 1987, which dealt in particular with measures to implement the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Finally, the Research, Studies and Prevention of Discrimination Section of the Centre for Human Rights, which acts as the Centre's focal point in these matters, periodically informs the staff of the Centre in brief notes of developments in the field of human rights and the administration of justice within the regional organizations and elsewhere in the United Nations system.

10. In resolution 1987/33 (para. 12), the Commission also requested the Secretary-General to continue to assist Member States, at their request, in implementing standards relating to human rights in the administration of justice, in particular under the programme of advisory services. Information in this regard will be before the Commission at its forty-fourth session in the report of the Secretary-General on the implementation of the programme of advisory services and on the United Nations Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights (E/CN.4/1988/40). The Commission may wish to note that the Sub-Commission, at its thirty-ninth session, had before it two reports on the assistance various countries need to strengthen their legal institutions (E/CN.4/Sub.2/1985/24

and Add.1-2; E/CN.4/Sub.2/1987/7). These reports were prepared on the basis of requests by the Sub-Commission and were based on information from States as to their needs for assistance in strengthening their legal institutions. At its thirty-ninth session, the Sub-Commission adopted resolution 1987/28 with regard to this issue and, inter alia, drew attention to the possibility of resorting to the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights, subject to the approval of the Commission, for the purpose of realizing projects in the field of human rights, and more particularly legal institutions.