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REPORT OF THE WORKING GROUP ON A DRAFT DECLARATION ON THE RIGHT
AND RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY
TO PROMOTE AND PROTECT UNIVERSALLY RECOGNIZED HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS

Chairman-Rapporteur: Mr. Robert H. Robertson (Australia)

Introduction

1. In decision 1985/152, the Economic and Social Council approved decision 1985/112 of the Commission on Human Rights, which decided that the Open-ended Working Group established to draft a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms would meet for a period of one week immediately before the forty-second session of the Commission.

Election of officers

2. At its 2nd meeting, on 27 January 1986, the Working Group elected by acclamation, Mr. Robert H. Robertson (Australia) as its Chairman-Rapporteur.

Participation

3. The Working Group was open to all members of the Commission on Human Rights and was therefore composed as follows: Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Byelorussian SSR, Cameroon, China, Colombia, Congo, Costa Rica, Cyprus, Ethiopia, France, Gambia, German Democratic Republic, Germany, Federal Republic of, India, Ireland, Japan, Jordan, Kenya, Lesotho, Liberia, Mauritania, Mexico, Mozambique, Nicaragua, Norway, Peru, Philippines, Senegal, Spain, Sri Lanka, Syrian Arab Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela and Yugoslavia.

4. The following States, non-members of the Commission were represented at the Working Group as observers: Canada, Cuba, Egypt, Finland, Morocco, the Netherlands, Sweden and Switzerland.

5. The Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mrs. Erica-Irene A. Daes, attended the meetings of the Working Group upon the invitation of the Chairman of the Group. The representative of the International Labour Office also attended the meetings.

6. The following non-governmental organizations in consultative status with the Economic and Social Council also attended: Amnesty International, Baha'i International Community, Disabled Peoples' International, Four Directions Council, Human Rights Advocates, the International Commission of Jurists, the International League for Human Rights and the Women's International League for Peace and Freedom.

Pre-session documents

7. The Working Group had before it several pre-session documents as follows: provisional agenda (E/CN.4/1986/WG.6/L.1); note by the Secretary-General on the preparation of a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms (E/CN.4/1986/WG.2/L.2); report by the Secretary-General on the elements for a draft body of principles on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms, prepared in accordance with Commission resolution 1982/30 (E/CN.4/Sub.2/1982/12); the following documents transmitted by Sub-Commission resolution 1985/30: Draft Body of Principles and Guidelines on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Human Rights and Fundamental Freedoms

and an accompanying explanatory report by the Special Rapporteur (E/CN.4/Sub.2/1985/30 and Add.1), relevant summary records of the Sub-Commission at its thirty-eighth session (E/CN.4/Sub.2/1985/SR.34 and 35), a written statement by the World Association for the School as an Instrument of Peace (E/CN.4/Sub.2/1985/NGO/19) and comments by the International Labour Office (E/CN.4/1986/45). Also available to the Working Group was a note verbale dated 24 August 1984 from the Permanent Representative of the Netherlands to the United Nations Office at Geneva addressed to the Secretary-General on the status of the International Covenants on Human Rights (E/CN.4/1985/4).

Meetings of the Working Group

8. The pre-session Working Group held eight meetings from 27 to 30 January 1986. The Working Group held its 9th and 10th meetings during the session of the Commission on 7 and 12 March 1986. The first session was opened by Mr. Kurt Herndl, Assistant Secretary-General for Human Rights.

9. At the 2nd meeting, the Working Group adopted its agenda, contained in document E/CN.4/1986/WG.6/L.1.

10. At its 3rd, 4th, 5th, 6th and 7th meetings from 28 to 30 January, the Working Group conducted a general debate, in which the following members of the Commission made statements: Algeria, Australia, Austria, Bangladesh, Belgium, Brazil, Bulgaria, Byelorussian SSR, China, France, German Democratic Republic, India, Ireland, Japan, Norway, Peru, Spain, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America and Yugoslavia. Working papers were submitted by the USSR and Australia, being numbered E/CN.4/1986/WG.6/WP.3 and 4, respectively.

11. The following observers also made statements: Canada and Netherlands, submitting Working papers numbered E/CN.4/1986/WG.6/WP.2 and WP.1, respectively.

12. The Chairman of the Sub-Commission, Mrs. Erica-Irene A. Daes made an explanatory statement on the Sub-Commission's work on the issue and replied to some questions raised concerning the Draft Body of Principles and Guidelines on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Human Rights and Fundamental Freedoms, which she had presented to the Working Group (E/CN.4/Sub.2/1985/30 and Add.1).

13. The representative of the International Labour Office also made a statement.

14. The following non-governmental organizations also made statements: Amnesty International, Baha'i International Community, Four Directions Council, the International Commission of Jurists and the International League for Human Rights. Working papers were submitted by Four Directions Council and the International League for Human Rights, being numbered E/CN.4/1986/WG.6/CRP.1 and CRP.2, respectively.

15. At the end of the general debate, the Chairman/Rapporteur confirmed that it was his intention to propose a schematic outline of a draft declaration. This was presented to the Working Group at its 9th meeting (E/CN.4/1986/WG.6/WP.6).

16. In indicating the method of work he believed the Working Group should follow, the Chairman-Rapporteur emphasized that the contributions of all participants would have equal standing. It was agreed that the order of presentation of documents would not prejudice their consideration or the possibility of any participant submitting working documents or proposals.

17. At the 5th meeting, the Working Group observed a minute of silence in tribute to the victims of the accident at Cape Canaveral on 28 January 1986, and expressed its sympathy for the bereaved families, and the Government and people of the United States of America.

18. The 8th meeting was devoted to procedural matters.

19. At its 9th meeting, on 7 March 1986, the Working Group approved the Chairman/Rapporteur's note E/CN.4/1986/WG.6/WP.7 as amended, and decided that it should be regarded as part of its Report.

Note by the Chairman-Rapporteur of the Working Group

20. At its 7th meeting, the Working Group asked the Chairman/Rapporteur to prepare a narrative summary of the general debate conducted during the Group's first session. The debate is accordingly summarized consecutively in following paragraphs.

21. The Chairman outlined the objectives of the Working Group as set down in 1982/30 and proposed that work should begin with a general debate aimed at identifying the common ground. This would assist in the preparation of a schematic outline which could provide the basis of work at the next year's session. He outlined four characteristics to which the Declaration might conform:

- it should be a short, concise and practical instrument,
- it should not attempt to create new rights and responsibilities nor should it cut across interpretation of existing rights,
- it should reinforce relevant instruments, and
- it should be confined to the mandate.

22. Brazil said that while individuals could properly contribute to the promotion and protection of human rights, they could not protect human rights per se, that was the sphere of States. It provided an analysis of the draft body of principles set out in E/CN.4/Sub.2/1985/30, arguing that many were not relevant to the mandate and that those which were, should be reordered into five categories:

- affirmation of the right and definition of its contents,
- conditions and limitations,
- provisions related to information and education,
- protection to the exercise of the right, and
- basic measures to ensure exercise of the right.

It also considered that drafting of the preamble should be left until a later stage.

23. Austria argued that rights were claims which, if not claimed, were meaningless. It commented on the contribution a declaration could make to the protection of individuals claiming their own rights or the rights of others. It expresses its support for the characteristics outlined by the Chairman and referred to E/CN.4/Sub.2/1982/12 as containing useful elements for consideration in the debate.

24. Japan indicated its full support for the characteristics outlined by the Chairman. It also raised doubts about the appropriateness of using the draft body of principles as the basis for debate.

25. Netherlands warned that to rewrite in the declaration what was already in other human rights instruments was unnecessary, even dangerous. It considered that the draft body of principles did not distinguish sufficiently between actions taken by individuals to promote and protect their own rights and those taken to promote and protect the rights of others; the latter was the more important. It saw the task before the Working Group as the clarification of the position of persons who promote and protect human rights i.e. what they are entitled to do on the basis of established human rights. It agreed with both the Chairman's characteristics and Brazil's suggestion that the preamble be left for later consideration. It suggested a number of elements for inclusion in the declaration (refer E/CN.4/1986/WG.6/WP.1).

26. Norway agreed with the Chairman that the Working Group should not reinterpret established norms, but focus on the effective implementation of those norms. It was, however, aware that the discussion could not totally avoid touching upon new norms. Such a discussion should be welcomed only if it could effectively promote human rights. It expressed concern with the question of human rights duties and with extensive use of the concept of collective rights. It noted that prime responsibility for human rights implementation lay with Governments, but that also individuals and groups should be allowed to contribute to the implementation of human rights. It also expressed support for human rights education at various levels. It viewed the crucial point for the Working Group as the individual's right to act on his knowledge. The Working Group should explore and develop different techniques to protect this right. In ensuring this, it argued, rights and remedies were inseparable.

27. Bangladesh said that the Working Group needed to agree on a paper which could be circulated to capitals and would allow fuller participation in proceedings next year. It endorsed the Chairman's proposed characteristics of the declaration and indicated its view that the draft body of principles needed to be used judiciously.

28. The German Democratic Republic referred to its written statement to the Secretary-General on the questionnaire for the study on "The status of the individual and contemporary international law". It said that only he can be considered a subject of international law who directly bears rights and responsibilities under international law and participates in the elaboration and application of international law standards. Therefore, it argued, only States and, in a somewhat modified form, international intergovernmental organizations and national liberation movements can be a subject of international law. International legal provisions in the human rights field are only binding upon States parties to the relevant treaties. It said that the question of the individual must be seen in the context of principles such as the sovereign equality of States and non-interference in their internal affairs. It endorsed the Chairman's view that the declaration should be short with no elaboration of new standards, and it criticized the draft body of

principles as not recognizing established international principles in that they attempted to replace the rights and duties of States with those of individuals, groups and organs of society.

29. International Commission of Jurists described the problems before the Working Group as the failure to implement established rights and the lack of recognition by many Governments of their obligations. It considered the need was for law enforcement authorities to recognize that human rights activists worked for the disadvantaged, not to destabilize Governments. It said that it was the duty of States under international instruments to allow human rights activists to function. It supported the concept of a short declaration and indicated that its interpretation of the term "organs of society" concurred with that in the draft body of principles, i.e. that it referred to organs under State control.

30. Amnesty International said the need was for greater protection of the specific rights which make possible the work of human rights defenders, in particular those outlined in Articles 19 and 20 of the Universal Declaration, which, in practice, were not respected by many Governments. It also quoted from 1982/30 on the responsibility of States and the exercise of rights and freedoms. It noted the assurance of the Chairman of the Sub-Commission that the purpose of United Nations attention to rights and responsibilities was to protect more fully human rights defenders and not in any way to restrict the freedom of individuals by imposing heavier duties than those now required.

31. Australia expressed support for the comments by Brazil on the need both to limit the declaration to the essentials of the right to promote and protect human rights and to clarify and protect that right. It also agreed with the Netherlands that rewriting rights already set down was unnecessary and that action to protect one's own rights should be distinguished from action to protect the rights of others. It also agreed with the Netherlands on the overall task before the Working Group. It considered that the declaration should differentiate between rights, duties and responsibilities, but that it should also indicate their interdependence and where and on whom they fall. It said that the right to promote and protect must be the primary focus of the declaration and that it should cover protection of human rights activists. It argued for recognition of criticism as a positive force for progress in human rights, and of the value of establishing channels through which criticism and complaint can be constructively received. It outlined a number of specific rights and responsibilities for consideration by the Working Group (ref. E/CN.4/1986/WG.6/WP.4).

32. Byelorussian SSR said that the draft body of principles suffered shortcomings and could not be used as a basis for debate. It agreed with the Chairman that the Declaration should be concise and not duplicate other instruments. It argued that the Declaration should not support opposition of the individual to the State as it was the State which was responsible for the observation of human rights and for establishing conditions under which they could be implemented. The exceptions were in cases of colonial, racist or repressive régimes. It considered the Declaration should cover the rights of fighters for peace and those conditions under which freedoms can exist e.g. peace which enables the right to life. It said that the individual could not be a subject of international law and it contradicted contemporary practice and the United Nations Charter. It placed importance on dissemination of information but emphasized the need for information to be correct. Finally it indicated that consideration of the issues before the Working Group did not need to be rapid and that slower progress was often more reliable.

33. Algeria thought that the Declaration should be as concise as possible with due regard to the necessity of dealing with all the aspects of the problem. It raised the question of the definition as to what groups and what rights were to be included and argued that only groups and associations whose aim was the genuine promotion of human rights could be concerned by the Declaration. It considered that the Declaration should include all human rights, individual and collective, economic and political, and adopt a comprehensive approach, which underlines the interdependence and indivisibility of all human rights. It said that it would be dangerous to adopt an approach which set the individual and the various elements of society against the State which remains, except in some régimes as apartheid, the guarantee of justice, legality and national unity.

34. It said that the temptation to accord to the individual the prerogatives of States under international law should be resisted. It also considered the influence of external and international factors on human rights violations should be taken into account.

35. International League of Human Rights said that the deliberations of the Working Group were concerned with a particular aspect of freedom of expression that enabled individuals to understand clearly their legal entitlements and duties in society. It urged the Working Group not to exclude the possibility of articulating new standards and to address the needs of individuals and groups engaged in the defence of human rights.

36. Spain endorsed the characteristics proposed by the Chairman and argued that the language of the Declaration should be based on that contained in the human rights instruments.

37. Four Directions Council said that if there is a right to promote human rights there must be a right to defend oneself in international tribunals. It argued that the role of the individual as a presenter of human rights is distinct from that of States.

38. Peru endorsed the Chairman's proposed characteristics for the Declaration. It agreed with other delegations that the draft body of principles was too broad and, in particular, it endorsed the elaboration of Brazil. It also supported the consideration of the list of rights proposed by Australia.

39. France observed that the current challenge was to ensure effective implementation of internationally recognized human rights rather than to determine such rights. While States were the primary guarantors of human rights, individuals and groups had to have the means to enforce these rights taking due account of the prerogatives of States. This was the aim and meaning of the Working Group's mandate. It agreed with earlier speakers that rights already guaranteed should not be repeated. It outlined several areas upon which the draft Declaration should touch: the right of individuals or groups to be aware of their rights through direct distribution of information and education; the right of association and assembly to protect, disseminate and promote human rights; and the right to assert rights recognized in the instruments before national and international authorities. It considered it was particularly important that those defending human rights should receive special protection. It argued that while human rights sought to redress the disproportionate balance between the State and the individual, the exercise of human rights was subject to certain limits. These were set out in Article 29 of the Universal Declaration of Human Rights and reaffirmed in almost all subsequent international human rights instruments.

40. China indicated that the draft body of principles had shortcomings but could be used as one of the bases for discussion. It supported the Chairman's characteristics for the Declaration. It held that all established rights (civil, political, economic, social and cultural, individual and collective) should be given equal attention in deliberations. It said that the principles to be included in the Declaration should accord with internationally established law and it noted that there were a variety of views, based on different legal systems, on the relationship between rights and obligations.

41. Ireland considered the individual as the prime beneficiary of human rights and therefore that the right to promote and protect falls primarily on the individual. On the other hand responsibility for promoting and protecting rested with the State and this included safeguarding the right of the individual to promote and protect his own rights and those of others. It endorsed the Chairman's proposed characteristics.

42. Bulgaria regretted the Sub-Commission's lack of consideration of the draft body of principles. It endorsed the Chairman's characteristics concerning the size of the document to be elaborated. It argued that it should not encroach upon the principles of sovereignty of States, for only States, as subjects of international law, could protect human rights. It stated that individuals could not be a subject of international law and consequently cannot protect human rights. It therefore had difficulties with the use of the word "protect" with the right of individuals to promote human rights. It indicated that it agreed with the Algerian view that the Working Group should avoid giving individuals rights to agitate against their legitimate Governments, for in normal circumstances individuals seeking to protect and restore human rights should act in accordance with the relevant legislation of the State. Exceptions could be made only in abnormal circumstances, when the State authorities were engaged in gross and flagrant violations of human rights (such as apartheid, genocide etc.). It said that the Declaration should take into account collective as well as individual rights and it should be in accord with the concept of the indivisibility of civil and political, and economic, social and cultural rights.

43. International Labour Office directed the attention of the Working Group to documents E/CN.4/1986/45 and A/40/970, draft resolution 1, pages 9-11. It noted the Chairman's introductory comments, the support they had received and the general view that the mandate can be fulfilled by reinforcing existing rights.

44. Baha'i International Community said that the Declaration, as the first United Nations attempt to explore the link between human rights and responsibilities, was of particular importance. It considered that as the very purpose of man's existence was connected with the promotion of human rights, human rights were both a right and responsibility for all. It said that the Declaration should focus on the particular rights and responsibilities that were essential for the promotion and protection of human rights taken as a whole. The structure should consist of a statement on sources and bases for the rights and responsibilities and three sections devoted to specific rights to promote, specific responsibilities to promote and measures taken to implement.

45. Four Directions Council said that it thought in terms of human responsibilities rather than human rights. Therefore, it argued, a right could imply a State obligation and the right of one individual could imply responsibilities on the part of others. It considered the Working Group was intent on addressing only the negative i.e. freedom from State intervention.

It proposed a list of seven essential principles, emphasizing individuals' responsibility to refrain from participating in or contributing to gross violations of human rights (the Nuremburg Principle).

46. Belgium viewed the task of the Working Group as being to strengthen the responsibility to promote and protect human rights. It endorsed the Chairman's proposed characteristics of the Declaration.

47. The United Kingdom endorsed the Chairman's definition of the objective for the Group's work. It also endorsed the Chairman's characteristics of the Declaration, in particular that the Declaration should be concise and practical; that there should be no attempt to create new rights and responsibilities and that the text should reinforce existing relevant instruments. It accepted the Chairman's suggestions for the future organization of the work of the Group, particularly his view that the work should not proceed on the basis of a single text. It argued that consideration of the whole subject should be based firmly on the relevant provisions of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Other instruments and agreements could also provide convenient frameworks for consideration of a draft Declaration. The Working Group should not attempt to set up new standards, but should instead seek to interpret and propose means of protecting and implementing existing rights. It said the individual's right to promote human rights was meaningless if the State had no responsibility to guarantee the necessary conditions. It argued further that the responsibilities of States should be reaffirmed and that States should be called upon to recognize the competence of the Human Rights Committee to receive and consider States' communications under Article 41 of ICCPR.

48. Canada endorsed the Chairman's proposal regarding the characteristics of the declaration and put forward suggestions on the purposes of the Working Group and the essential elements of the draft to be submitted to the Commission. The Working Group is charged with identifying those specific rights and responsibilities which must be respected and acted upon if human rights in general are to be effectively protected and promoted. As such, it affords a significant opportunity to focus the attention of the United Nations and the international community on what must be done to give real and universal effect to the aspirations reflected in the International Bill of Human Rights.

49. The draft should support the greatest possible rights and freedoms for the individual, and agree to the limitation of this general freedom only to that degree which may be necessary to maintain an orderly, democratic society. The line between the rights of the individual and the powers of the State will be a proper matter for debate within society. As a fundamental prerequisite for such a debate, the individual should have a knowledge of his rights, and the right to assert these rights as guaranteed by Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which provides for freedom of opinion and expression. When the matter cannot be resolved by public or legislative debate, it should be determined by the courts, in accordance with Article 14 of the ICCPR. The primary locus of responsibilities and obligations should be on governments. These obligations should include the responsibility to respect fundamental international human rights and, moreover, to ensure that the appropriate facilities are in place to permit individuals and groups to know their rights and to assert and promote them. A society's needs in this regard include accurate information on the substance and scope of human rights and procedural mechanisms to permit

the assertion and realization of these rights. The draft should explicitly reflect such governmental responsibilities as direct corollaries of the right to know and the right to assert one's rights.

50. The Working Group cannot fail to address the problem of persecution suffered by individuals and groups for the sole reason that they have sought to promote internationally recognized human rights, a problem thoroughly attested to in the remarks of many previous speakers, particularly those representing non-governmental organizations dedicated to the cause of combatting this phenomenon. The draft should expressly declare the unacceptability of measures and practices designed to prejudice the right to promote and protect human rights.

51. The Canadian observer said that he would circulate a note on the basis, objectives and possible elements of a draft declaration and encouraged other participants to make their ideas available in written form for circulation. He concluded by noting that the schematic outline to be produced by the Chairman will play a vital role in distilling the ideas expressed and leading the Working Group into its next important phase.

52. The representative of the United States pointed out that the rationale for this Working Group is to assure international recognition of and protection for those individuals who seek to promote the enjoyment of fundamental, recognized human rights for themselves and for others. The inauguration of this Working Group is a timely response by the Human Rights Commission to the situation existing in many countries where individuals who seek to ensure the enjoyment of human rights for all have been persecuted by their governments. Such persecution has resulted in the harrassment, torture, imprisonment or death of men and women, who have attempted to do no more than assure the enjoyment for themselves and others of human rights which are universally recognized in the Universal Declaration and the Covenants. The declaation produced by the Working Group should reinforce the fundamental right of everyone to be informed about his rights and to seek the enjoyment of those rights for himself and others. The future declaration should state that the individual should not be subject to government interference and should be able to call attention freely to situations where his own or the rights of others are abused. The individual should have access to information, to the basic human rights instruments, to legislative bodies and to the courts. The new declaration should ensure the right of the individual to invite assistance from non-governmental organizations and his right to communicate with international organizations. It should state clearly that in exercising his rights the individual should only be subject to those limitations contained in Articles 29 and 30 of the Universal Declaration. The declaration should limit the proper role of States to the protection of universally recognized human rights and the creation of an environment in which the enjoyment of basic human rights can be fully realized.

53. The representative of the United States noted that the right of freedom of opinion and expression is guaranteed by the United States Constitution and is necessary for the protection of all other rights. This right is also included in the Universal Declaration which holds that the individual should be free to hold opinions, to express them freely and publicly, to receive and impart information and to do so in association with others without having to fear adverse government action through arbitrary arrest or detention or interference of any kind with his privacy, family name or correspondence.

54. India said that while it would be difficult to agree upon a schematic outline it hoped that a working paper could be prepared to guide subsequent

sessions of the Working Group. It interpreted the term "organs of society" as including cultural, social and political organizations, corporate and government bodies. It emphasized that economic, social and cultural as well as civil and political rights should be covered, to ensure that certain social and economic practices not result in institutionalized repression of the individual. It considered that the overall aim of the declaration was a better quality of life, therefore while freedom of religion and speech were important, they were not as relevant to the homeless, the hungry and the diseased. It considered that there should be equal emphasis on rights and responsibilities and although it was States which have to guarantee rights, the relationship of the State to the individual should not be considered to be necessarily antagonistic. In this regard it considered it was important to emphasize the responsibilities of individuals and organs as other instruments concentrated on those of States. It said the declaration should provide guidelines both instructive and exhortative and that it should eschew laying down new international standards.

55. Byelorussian SSR said that the draft body of principles suffered shortcomings and could not be used as a basis for debate. It agreed with the Chairman that the declaration should be concise and not duplicate other instruments. It argued that the declaration should not support opposition of the individual to the State as it was the State which was responsible for the observation of human rights and for establishing conditions under which they could be implemented. The exceptions were in cases of colonial, racist or repressive régimes. It considered the declaration should cover the rights of fighters for peace and those conditions under which freedoms can exist e.g. peace which enables the right to life. It said that the individual could not be a subject of international law as this contradicted contemporary international law practice and the United Nations Charter. Speaking on dissemination of information it emphasized the need for information to be objective and correct. It indicated that consideration of the issues before the Working Group did not need to be rapid and that slower progress was often more reliable. Finally it raised a procedural question and in accordance with the Rules of Procedure of the Functional Commission of the Economic and Social Council and its relevant resolution particularly Rules 75 and 76, insisted that non-governmental organizations may only deliver declarations in the Commission in Working Groups but not submit any official proposals on the matter of questions under consideration.

56. International League of Human Rights said that it had prepared a draft body of principles to assist Mrs. Daes. The basic concept had been the right to know and act upon one's rights and duties in the field of human rights. This had been the principle behind Article 7 of the CSCE Final Act. It argued that the right to act and the right to know were complementary and included the right to claim rights and freedoms set down in constitutional law and under the UDHR and the right to demand prompt and effective remedies through domestic and international bodies. It urged the Working Group to keep in mind the actual problems faced by those promoting and protecting human rights.

57. Yugoslavia said that the declaration needed to be universally acceptable. It considered that some questions needed further elucidation, e.g. relationship between the declaration and existing documents, the meaning of the notion "individuals, groups and organs of society" and the problem of which specific rights were being dealt with given that some are individual rights, others collective and some have priorities over others. It also said that the declaration must balance civil and political and economic, social and cultural rights as these were interdependent and of equal importance.

58. The representative of the USSR criticized the Sub-Commission for submitting a draft to the Commission on which work had not been completed. The draft should be based on existing agreements on human rights questions, General Assembly resolution 32/130 and the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States. He went on to say that he preferred to begin by talking about what ought not to go into the draft. It should not formulate some special new right of individuals, groups, etc. to promote human rights. There was already enough material on the subject in international treaties and resolutions by international organizations. The State established the conditions for promoting human rights within the limits of its authority. The protection and restoration of human rights were the prerogative of the State. In normal circumstances individuals seeking to protect and restore human rights should act in accordance with the law of the State. The only exceptions were cases in which the State authorities engaged in massive and gross violations of human rights (such as apartheid, genocide and so on).

59. Mrs. Daes, Chairman of the Sub-Commission and Special Rapporteur, raised the question that with many instruments relevant to this exercise why draft a declaration. She considered the answer was that it would be a source of inspiration and information to Governments, the judiciary, individuals and groups and a guide to interpretation of the relevant international instruments. She also felt that it would facilitate the work of human rights defenders and provide them with an additional safeguard. She further proposed that the title of the new draft declaration should be "Draft Declaration on the Protection of Human Rights Defenders". She also stated that human rights are of international concern. She said the declaration should not deal with duties of the individual, limitations or restrictions of rights. It should deal with rights, the violations thereof and new standards for effective protection. She said that in terms of the individual, responsibility is moral responsibility for respecting and protecting the rights of everyone. Legal responsibility belongs to States. In response to the question of domestic jurisdiction raised by the USSR, she considered the restriction provided for in Article 2, paragraph 7 of the Charter relating to domestic jurisdiction, should not be applied so as to prevent or restrict the international protection of universally recognized human rights and fundamental freedoms.

60. The representative of the USSR put forward some essential elements as a basis for work on the draft to be submitted to the Commission. The draft should first of all contain provisions on the need to give pride of place to efforts to combat massive and gross violations of human rights resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination and occupation, aggression and threats to national sovereignty, national unity and territorial integrity and refusal to recognize peoples' right of self-determination.

61. The draft should contain provisions on the establishment of a new economic order as an essential element in the effective promotion of human rights, on the indivisibility of human rights and the impossibility of exercising civil and political rights fully without exercising economic, social and cultural rights as well, and on the need to consider the contexts of the different societies in which human rights came into being. The draft should also include provisions to the effect that the maintenance of international peace and security was a fundamental condition for the exercise of the whole range of human rights, above all the rights to life and to development and that it was a matter of prime importance to introduce practical measures on disarmament in order to release substantial resources which could be used for purposes of social and economic development, and in

particular for the welfare of the developing countries. The draft should also refer to the need to refrain from using or distorting human rights questions as a means of interfering in the internal affairs of States. In order to promote human rights it was necessary that States should assume specific commitments under international treaties. In addition to considerations on the international conditions which could help to facilitate the promotion and protection of human rights, the draft should also contain material on the establishment of the necessary conditions within States.

62. The draft should stress that all organs of the State and officials were under an obligation to respect the individual and protect human rights and freedoms. The State was responsible for applying that principle through its legislation. It created conditions for ever-wider participation by citizens in the conduct of the affairs of State and society. Respect for the individual and protection of human rights and freedoms were also an obligation of public organizations recognized by the State and operating within the limits of its legislation. Every person was entitled to submit to organs of the State and public organizations proposals for the improvement of their work and to criticize their shortcomings. Officials were required to consider such proposals and submissions within the statutory period, to answer them and to take the necessary measures. Every person was entitled to be protected by the courts from infringements of his honour and dignity, life and health, personal freedom and property. All persons were entitled to complain about the activities of officials, organs of the State and public organizations. Such complaints had to be considered in accordance with the procedure and time limits laid down by law. It was unacceptable that there should be any discrimination on grounds of race, colour, sex, language, religion, origin, social and property status, type and nature of occupation, etc. Any kind of war propaganda, attempts to promote national, racial or religious hatred, or organizations and activities which encourage racial discrimination should be prohibited by law. Activities of that kind were unacceptable whoever engaged in them and whatever the pretext for them. Any limitations on rights and freedoms apart from those provided for by law as being necessary for the protection of State security, the social order, public health or morality and the rights and freedoms of others were inadmissible.

Adoption of the Report

63. At its 10th meeting, on 12 March 1986, the Working Group adopted its present report.