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DRAFT REPORT OF THE COMMISSION

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* E/CN.4/1995/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/1995/L.11 and addenda.

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1995/24. Rights of persons belonging to national or ethnic, religious and linguistic minorities

The Commission on Human Rights,

Recalling General Assembly resolution 47/135 of 18 December 1992, by which the Assembly adopted without a vote the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,

Taking note of General Assembly resolution 49/192 of 23 December 1994 in which the Assembly called upon the Commission on Human Rights to examine, as a matter of priority, ways and means to promote and protect effectively the rights of persons belonging to such minorities, as set out in the Declaration,

Aware of 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,

Conscious of the need to promote and protect effectively the rights of persons belonging to minorities, as set out in the Declaration,

Recalling its resolution 1994/22 of 1 March 1994 on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Noting resolution 1994/4 of 19 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission recommended the establishment of a working group of the Sub-Commission on minorities,

Noting with appreciation the working paper prepared by the Special Rapporteur of the Sub-Commission, Mr. Asbjorn Eide (E/CN.4/Sub.2/1994/36 and Corr.1) containing suggestions for a comprehensive programme for the prevention of discrimination and protection of minorities,

Taking note of the reports of the Secretary-General to the General Assembly (A/49/415 and Add.1-2) and the Commission (E/CN.4/1995/84),

Affirming that effective measures and the creation of favourable conditions for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, ensuring effective non-discrimination and equality for all, contribute to the prevention and peaceful solution of human rights problems and situations involving minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to political and social stability and peace and enrich the cultural heritage of society as a whole,

Taking note of positive initiatives by many countries to protect minorities and promote mutual understanding,

Concerned about the growing frequency and severity of disputes and conflicts concerning national or ethnic, religious and linguistic minorities in many countries, and their often tragic consequences,

Taking note of the work of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe,

Reaffirming the obligation of States, as stated in the Vienna Declaration and Programme of Action (A/CONF.157/23), to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law, in accordance with the Declaration,

1. Urges States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, including through the facilitation of their full participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of their country;

2. Urges States to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration;

3. Appeals to States which so wish to consider making bilateral and multilateral arrangements or agreements in order to protect the rights of persons belonging to national or ethnic, religious and linguistic minorities in their countries, in accordance with the Declaration;

4. Calls upon the Secretary-General to make available, at the request of Governments concerned, as part of the programme of advisory services and technical assistance of the Centre for Human Rights, qualified expertise on minority issues including the prevention and resolution of disputes to assist in existing or potential situations involving minorities;

5. Calls upon the High Commissioner for Human Rights to promote, within his mandate, the implementation of the Declaration and to continue to engage in a dialogue with Governments for that purpose;

6. Urges the relevant treaty bodies and special representatives, special rapporteurs and working groups of the Commission on Human Rights to continue to give due regard, within their respective mandates, to the Declaration;

7. Invites States, interested intergovernmental and non-governmental organizations, special representatives, special rapporteurs and working groups of the Commission on Human Rights to continue to submit, as appropriate, contributions as to how they promote and give effect to the Declaration;

8. Calls upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to examine, as a matter of priority, ways and means to promote and protect effectively the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration;

9. Decides to authorize the Sub-Commission to establish, initially for a three-year period, an inter-sessional working group consisting of five of its members, to meet each year for five working days in order to promote the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration, and in particular to:

(a) Review the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) Examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

(c) Recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

10. Requests the Sub-Commission to make available to the Commission on Human Rights the annual report of the working group;

11. Requests the Secretary-General to provide the working group, within existing resources of the United Nations, with all the necessary services and facilities to fulfil its mandate;

12. Calls upon States, intergovernmental organizations, United Nations bodies, specialized agencies and non-governmental organizations to participate actively in the work of the working group;

13. Requests the Secretary-General to submit to the Commission on Human Rights at its fifty-second session a report on the implementation of the present resolution;

14. Decides to continue consideration of this issue at its fifty-second session under the same agenda item;

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

"The Economic and Social Council,

Recalling Commission on Human Rights resolution 1995/24

of 3 March 1995,

1. Decides to authorize the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish an inter-sessional working group of the Sub-Commission, consisting of five of its members, which shall meet each year for five working days, initially for a three-year period, in order to promote the rights of persons belonging to national or ethnic, religious and linguistic minorities, as set out in the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and in particular to:

(a) Review the promotion and practical realization of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(b) Examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and Governments;

(c) Recommend further measures, as appropriate, for the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities;

2. Requests the Secretary-General to provide the working group, within the overall resources of the United Nations, with all the necessary services and facilities to fulfil its mandate."

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XX.]

1995/25. Traffic in women and girls

The Commission on Human Rights,

Reaffirming its faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women, enshrined in the Charter of the United Nations,

Reaffirming also the principles set forth in the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the Declaration on the Elimination of Violence against Women,

Recalling that in the Vienna Declaration and Programme of Action the World Conference on Human Rights affirmed the human rights of women and the girl child as an inalienable, integral and indivisible part of universal human rights,

Convinced of the need to eliminate all forms of sexual violence and sexual trafficking, which are violations of the human rights of women and girl children,

Condemning the illicit and clandestine movement across national and international borders of persons, largely from developing countries and some countries with economies in transition, with the ultimate goal of forcing women and girl children into sexually or economically oppressive and exploitative situations, for the profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption,

Noting the increasing number of women and girl children from developing countries and from some countries with economies in transition who are being victimized by traffickers, and acknowledging that the problem of trafficking also victimizes young boys,

Recalling its resolution 1994/45 of 4 March 1994, in which it called for the elimination of trafficking in women,

Aware of the decision of the Commission on Crime Prevention and Criminal Justice, in its resolution 3/2, to consider the international traffic in minors at its fourth session in the context of its discussion on the question of organized transnational crime,

Realizing the urgent need for the adoption of effective measures nationally, regionally and internationally to protect women and girl children from this nefarious traffic,

1. Expresses its grave concern at the worsening problem of trafficking, particularly the increasing syndication of the sex trade and the internationalization of the traffic in women and girl children;

2. Welcomes the Programme of Action of the International Conference on Population and Development, chapter I, resolution 1 (A/CONF.171/13, annex), held at Cairo from 5 to 13 September 1994, which, inter alia, called upon all Governments of both receiving countries and countries of origin to adopt effective sanctions against those who organize undocumented migration, exploit undocumented migrants or engage in trafficking in undocumented migrants, especially those who engage in any form of international traffic in women and children;

3. Encourages Governments, relevant bodies and specialized agencies of the United Nations system, intergovernmental organizations and non-governmental organizations to gather and share information relating to all aspects of trafficking in women and girl children, in order to facilitate the development of anti-trafficking measures;

4. Urges Governments to take appropriate measures to address the problem of trafficking in women and girl children and to ensure that the victims are provided with the necessary assistance, support, legal advice, protection, treatment and rehabilitation, and urges Governments to cooperate in this matter;

5. Calls upon all Governments to take appropriate measures to prevent the misuse and exploitation by traffickers of economic activities, such as the development of tourism and the export of labour;

6. Encourages member States to consider signing and ratifying or acceding to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Slavery Convention and all other relevant international instruments;

7. Invites the Governments concerned, relevant intergovernmental organizations and non-governmental organizations to adopt appropriate measures to create a better public awareness of the problem;

8. Draws the attention of the Special Rapporteur of the Commission on Human Rights on violence against women and the Working Group on Contemporary

Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to the problem of trafficking in women and girl children;

9. Invites the World Summit for Social Development, the Fourth World Conference on Women and the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to consider including in their respective programmes of action the subject of the traffic in women and girl children;

10. Recommends that the problem of trafficking in women and girl children be given consideration in the context of the implementation of all relevant international legal instruments and, if need be, that consideration be given to measures to strengthen them, without undermining their legal authority and integrity;

11. Requests the Secretary-General to provide the Commission at its fifty-second session with his preliminary report to be submitted to the General Assembly at its fiftieth session, pursuant to Assembly resolution 49/166 relating to traffic in women and girls;

12. Decides to continue its consideration of the question at its fifty-second session under the agenda item entitled "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-seventh session".

52nd meeting
3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/26. Work of the Sub-Commission on Prevention of
Discrimination and Protection of Minorities

The Commission on Human Rights,

Reaffirming its resolution 1994/23 of 4 March 1994,

Taking note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56),

Expressing its appreciation of the positive contribution made by the Sub-Commission to the promotion and protection of human rights,

Recalling the terms of reference of the Sub-Commission as defined by the Commission and its particular responsibilities established, inter alia, in Commission resolutions 8 (XXIII) of 16 March 1967 and 17 (XXXVII) of

10 March 1981, Economic and Social Council resolutions 1235 (XLII) of 6 June 1967 and 1503 (XLVIII) of 27 May 1970, and the relevant resolutions of the General Assembly,

Recalling also its resolution 1992/66 of 4 March 1992, in which it provided certain guidelines for the work of the Sub-Commission, and Economic and Social Council resolution 1991/32 of 31 May 1991 on strengthening the independence of the experts members of the Sub-Commission,

Taking note of the report of the working group on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1994/3) and of Sub-Commission decision 1994/117 of 26 August 1994,

Taking note also of the report of the Chairman of the Sub-Commission at its forty-sixth session (E/CN.4/1995/83),

Noting with appreciation the spirit of cooperation between the Commission and the Sub-Commission and their continuing dialogue as reflected in the mutual exchange of information by their respective chairpersons, in accordance with paragraphs 17 and 18 of Commission resolution 1990/64 of 7 March 1990,

Convinced that it is essential that the impartiality and the objectivity of the Sub-Commission and the independent status of its members and their alternates should continue to be its guiding principles,

Convinced also that the credibility and effectiveness of the Sub-Commission as an expert human rights body are dependent on Governments nominating and the Commission electing as members and alternates of the Sub-Commission only individuals who possess genuine expertise in the field of human rights and who are able to act independently of their Governments,

Stressing the valuable role that the Sub-Commission, as a body of independent experts, can play, inter alia, in addressing new developments in the field of human rights and also in providing a forum for the contributions of non-governmental organizations in the field of new developments,

Mindful of the important contribution in general that non-governmental organizations in consultative status with the Economic and Social Council can make to the work of the Sub-Commission, in conformity with the principles embodied in Council resolutions 1296 (XLIV) of 23 May 1968 and 1919 (LVIII) of 5 May 1975,

Convinced that it is highly appropriate for the Commission to give considered attention to the work of the Sub-Commission and thereby maintain the effectiveness of both bodies in their respective roles,

Recalling the continuing importance for the Commission to give guidance to the Sub-Commission, and for the Sub-Commission to follow that guidance, in the light of the mandate already granted to it, in order to ensure the complementarity of its activities with those of the Commission,

1. Reaffirms that the Sub-Commission on Prevention of Discrimination and Protection of Minorities can best assist the Commission on Human Rights by providing it with recommendations based on the different views and perspectives of independent experts, which should be appropriately reflected in the report of the Sub-Commission, as well as in the expert studies carried out under its auspices;

2. Calls upon the Sub-Commission, in the fulfilment of its functions and duties, to be guided by the relevant resolutions of the Commission and the Economic and Social Council;

3. Reaffirms that one of the tasks of the Sub-Commission is a thorough examination of information concerning alleged human rights violations, as well as the presentation of the results of the examination to the Commission;

4. Invites the Sub-Commission to continue to give due regard to new developments in the field of human rights;

5. Reiterates its request to the Sub-Commission to implement fully the Guidelines annexed to Sub-Commission resolution 1992/8 of 26 August 1992, including those concerning the number of studies and the requirement of the submission of a preparatory document before a study is entrusted to a Special Rapporteur and to establish priorities relating to its work;

6. Recommends that the Sub-Commission, when adopting its agenda for its forty-seventh session, allocate, within its scheduled meetings, sufficient time for an adequate discussion of its studies and reports;

7. Takes note of the Sub-Commission's decision, contained in Sub-Commission decision 1994/117 of 26 August 1994, to consider, at its forty-seventh session, on an experimental basis, its agenda item entitled "Questions of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)" as soon as the agenda is approved, and requests the Sub-Commission, if necessary, to re-evaluate that decision in the light of the experience of the participants in the forty-seventh session;

8. Encourages the Sub-Commission to continue to consider all such reforms of its agenda and methods of work that serve the efficiency of its work, better coordination with other organs and mechanisms in the field of human rights, and better dissemination of the results of its work;

9. Requests the Sub-Commission to ensure that each completed study is accompanied by a short summary, for the purpose of its widest possible dissemination;

10. Calls upon States to nominate as members and alternates persons meeting the criteria of independent experts, who should discharge in that capacity their functions as members of the Sub-Commission, and to respect fully the independence of elected members and alternates;

11. Requests the Secretary-General to continue to give strong support to the Sub-Commission and in particular, to ensure that Sub-Commission documents are available in all languages in good time before the session;

12. Invites the Chairman of the Commission to inform the Sub-Commission on the debate under this item;

13. Decides to invite the Chairman of the Sub-Commission at its forty-sixth session to come for consultations with the members of the Bureau of the Commission at an appropriate time during the meeting of the Bureau of the Commission at the conclusion of its fifty-first session, and to invite the Chairman of the Sub-Commission at its forty-seventh session to report to the Commission at its fifty-second session on significant aspects of the work of the Sub-Commission.

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/27. Contemporary forms of slavery

The Commission on Human Rights,

Gravely concerned at modern manifestations of slavery, the slave trade and slavery-like practices,

Recalling the provisions of the Conventions on slavery, i.e. the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949, as well as article 4 of

the Universal Declaration of Human Rights and article 8 of the International Covenant on Civil and Political Rights, which state that no one shall be held in slavery or servitude,

Recalling its resolution 1982/20 of 10 March 1982 on the question of slavery and the slave trade in all their practices and manifestations and its resolutions on the reports of the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, including the most recent, resolution 1994/25 of 4 March 1994,

Taking note of the report of the Working Group on Contemporary Forms of Slavery on its nineteenth session (E/CN.4/Sub.2/1994/33 and Corr.1), submitted to the Sub-Commission at its forty-sixth session,

Recalling its encouragement of the Sub-Commission, including its Working Group, to continue to elaborate recommendations on the ways and means of establishing an effective mechanism for the implementation of the conventions on slavery on the basis of the study prepared by the Secretary-General on this issue (E/CN.4/Sub.2/1989/37),

Having considered Sub-Commission resolution 1994/7 of 19 August 1994 containing recommendations on establishing such a mechanism,

Considering the recommendation of the Sub-Commission to appoint Ms. H.E. Warzazi as Special Rapporteur on the exploitation of child labour and debt bondage,

Recalling Guideline 2 of the Guidelines adopted by the Sub-Commission at its forty-fourth session, (Sub-Commission resolution 1992/8, annex) concerning its methods of work, which provides that no new study may be undertaken unless a preparatory document has been submitted,

Taking note of the report of the Secretary-General on the status of implementation of the Programme of Action on the Elimination of the Exploitation of Child Labour (E/CN.4/Sub.2/1994/34),

Taking note also of the recommendation of the Sub-Commission that the Commission take into consideration at its present session and eventually adopt the draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others,

Considering that thus far 12 Governments and a few United Nations bodies and specialized and related agencies, other intergovernmental organizations

and non-governmental organizations have submitted comments on the draft programme of action and that some of the comments received purport to amend or add to the text of the draft programme of action,

Convinced that the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, which was established by the General Assembly in its resolution 46/122 of 17 December 1991, will play an important role in the protection of the human rights of victims of contemporary forms of slavery,

Doubting the sufficiency of the recommendation of the Sub-Commission, aimed at making the Fund more effective, to reprioritize the potential beneficiaries of the Fund by reversing the order of subparagraphs 1 (e) (i) and 1 (e) (ii) of General Assembly resolution 46/122 of 17 December 1991,

1. Expresses its appreciation to the Working Group on Contemporary Forms of Slavery of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its valuable work, in particular the progress made at its nineteenth session in implementing its programme of work, and for its flexible methods of work;

2. Expresses its grave concern at manifestations of contemporary forms of slavery as reported to the Working Group;

3. Endorses the Sub-Commission's recommendations regarding the review of the implementation of the conventions on slavery with the proviso that the proposed three-year term of office of the members of the Working Group should not extend beyond their four-year term of membership of the Sub-Commission;

4. Requests the Sub-Commission to give further consideration to its proposed appointment of Ms. H.E. Warzazi as Special Rapporteur on the exploitation of child labour and debt bondage and to make the appointment subject to the submission of a preparatory document, and also requests the Sub-Commission, when it assesses the document, to determine the need for a Special Rapporteur and, if it considers the appointment of a Special Rapporteur is called for, to identify a specific set of activities, which should take account of the need to avoid duplication with other activities within the United Nations system, including activities of the International Labour Organization and of the Special Rapporteur on the sale of children;

5. Invites the Sub-Commission to continue considering the strengthening of its involvement in the activities of the Working Group;

6. Requests the Secretary-General to invite those eligible States that have not ratified or acceded to the conventions on slavery to consider doing

so as soon as possible or to explain in writing, if they so wish, why they feel unable to do so, and to consider providing information regarding their national legislation and practices in this field;

7. Invites intergovernmental organizations, relevant organizations of the United Nations system, as well as the International Criminal Police Organization and non-governmental organizations concerned, to supply relevant information to the Working Group;

8. Appeals to Governments and relevant non-governmental organizations to send representatives to the sessions of the Working Group;

9. Recommends that the supervisory bodies of the International Labour Organization give particular attention in their work to the implementation of provisions and standards designed to ensure the protection of children and other persons exposed to contemporary forms of slavery;

10. Invites all Member States to consider the possibility of taking appropriate action for the protection of particularly vulnerable groups, such as children and migrant women, against exploitation by prostitution and other slavery-like practices, including the possibility of establishing national bodies to achieve this objective;

11. Encourages Governments to consider, in the context of the Programme of Action on the Elimination of the Exploitation of Child Labour, the adoption of measures and regulations to protect child labourers and to ensure that their labour is not exploited;

12. Invites the newly appointed Special Rapporteur on the sale of children to examine ways and means of cooperating with the Working Group;

13. Requests the Sub-Commission at its forty-seventh session to review the draft programme of action for the prevention of traffic in persons and the exploitation of the prostitution of others in the light of the comments already received or that will be received and to submit to the Commission at its fifty-second session a final draft for approval;

14. Requests Governments to pursue a policy of information, prevention and rehabilitation of children and women victims of the exploitation of prostitution and to take the appropriate economic and social measures deemed necessary to that effect;

15. Recalls once again its request to the Secretary-General to designate the Centre for Human Rights as the focal point for the coordination of activities in the United Nations system for the suppression of contemporary forms of slavery;

16. Requests the Secretary-General to give effect to his decision to reassign to the Working Group a Professional staff member of the Centre for Human Rights, as was the case in the past, to work on a permanent basis to ensure continuity and close coordination within and outside the Centre on issues relating to contemporary forms of slavery;

17. Expresses its regret that as a result of the present financial situation of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, owing to a lack of contributions, the Board of Trustees of the Fund has only been able to meet once since it was appointed by the Secretary-General in 1993;

18. Appeals again to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund, if possible on a regular basis;

19. Commends the Board of Trustees on its concern about the limited assets of the Fund, demonstrated by its judicious measures to minimize administrative expenses;

20. Encourages the Sub-Commission to continue considering the development of systematic fund-raising methods and to recommend a set of measures, including that already proposed, to promote increased contributions to the Fund;

21. Requests the Secretary-General to transmit once again to all Governments the appeal of the Commission on Human Rights for contributions to the Fund.

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/28. International Decade of the World's Indigenous People

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or

humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolutions 48/163 of 21 December 1993 and 49/214 of 23 December 1994 on the International Decade of the World's Indigenous People,

Recalling also that the goal of the Decade is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health,

Recognizing the importance of consultation and cooperation with indigenous people in planning and implementing the programme of activities for the Decade, the need for adequate financial support from the international community, including support from within the United Nations and the specialized agencies, and the need for adequate coordination and communication channels,

Recalling the invitation addressed by the General Assembly to indigenous organizations and other non-governmental organizations to consider the contributions they can make to the success of the Decade, with a view to presenting them to the Working Group on indigenous populations,

Noting Economic and Social Council decision 1992/255 of 20 July 1992, in which the Council requested United Nations bodies and specialized agencies to ensure that all technical assistance financed or provided by them was compatible with international instruments and standards applicable to indigenous people, and encouraged efforts to promote coordination in this field and greater participation of indigenous people in the planning and implementation of projects affecting them,

Mindful of the relevant recommendations of the World Conference on Human Rights, the United Nations Conference on Environment and Development and the International Conference on Population and Development,

Recognizing the value and diversity of the cultures and forms of social organization of indigenous people, and convinced that the development of indigenous people within their countries will contribute to the socio-economic, cultural and environmental advancement of all the countries of the world,

1. Takes note of the preliminary report of the Secretary-General on a comprehensive programme of action for the International Decade of the World's Indigenous People (A/49/444) and the annexes to that report;
2. Welcomes the decision of the General Assembly to adopt the short-term programme of activities for 1995 contained in Annex II to the report of the Secretary-General;
3. Decides that the final programme of activities for 1995 should be that contained in the annex to the present resolution;
4. Invites Governments to give full consideration to the final comprehensive programme of action for the Decade to be considered by the General Assembly at its fiftieth session;
5. Takes note of the request of the General Assembly for the establishment of a unit within the Centre for Human Rights to support its activities related to indigenous people, in particular to plan, coordinate and implement activities for the Decade;
6. Also takes note of the recommendation of the General Assembly that a second technical meeting on the planning of the Decade be convened immediately prior to the thirteenth session of the Working Group on Indigenous Populations of the Sub-Commission and of the decision to consider at a later session the convening of meetings for planning and review purposes at appropriate intervals during the Decade.

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

Annex

INTERNATIONAL DECADE OF THE WORLD'S INDIGENOUS PEOPLE

PROGRAMME OF ACTIVITIES FOR 1995

First quarter

Establishment of the Voluntary Fund for the International Decade of the World's Indigenous People

Preparation and dissemination of presentation video on the Decade

Second quarter

Publication of first information book about the Decade

Eighth session of the Voluntary Fund for Indigenous Populations

Establishment of a fellowship programme for indigenous people

Initiation of an information programme linking the Coordinator to focal points of the United Nations system, national committees for the Decade and, through appropriate channels, indigenous networks

Consultation with the interim advisory group of the Voluntary Fund for the International Decade

Third quarter

Technical meeting on the Decade to finalize recommendations for the programme of action

Thirteenth session of the Working Group on Indigenous Populations

First session of the advisory group of the Voluntary Fund for the International Decade

International Day of Indigenous People, 9 August

Fourth quarter

Expert meeting on land rights and claims of indigenous people

Inter-agency consultation on practical measures to implement the Programme of Activities for the Decade: special consideration of a preliminary project outline to consider how the United Nations system can aggregate data specific to indigenous people by means of enhancing and facilitating the coordination capabilities of Member States for collecting and analysing such data

Workshop on indigenous women

Submission of Secretary-General's final report on the Programme of Activities for the Decade

Publication of poster, brochure, media kit and other information material for the Decade

1995/29. Minimum humanitarian standards

The Commission on Human Rights,

Gravely concerned at the large number of situations where internal violence causes extensive suffering and breaches of the principles of humanity and undermines the protection of human rights,

Gravely concerned also at the conduct of groups and individuals who resort to violence, thereby contributing to the suffering of innocent people in such situations,

Emphasizing in this regard the need to identify and implement measures to prevent violations and abuses of human rights and fundamental freedoms, in particular the right to life and integrity of the individual,

Taking note of resolution 1994/26 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in which the Sub-Commission decided to transmit the text of the Declaration of Minimum Humanitarian Standards (E/CN.4/Sub.2/1991/55) to the Commission on Human Rights with a view to its further elaboration and eventual adoption,

1. Recognizes the need to address principles applicable to situations of internal and related violence, disturbance, tension and public emergency in a manner consistent with international law and the Charter of the United Nations;

2. Also recognizes in this regard the vital importance of the existence in each country of appropriate national legislation for dealing with such situations in a manner consistent with the rule of law;

3. Invites all States to consider reviewing their national legislation relevant to situations of public emergency with a view to ensuring that it meets the requirements of the rule of law and that it does not involve discrimination on the ground of race, colour, sex, language, religion or social origin;

4. Requests the Secretary-General to transmit the text of the Declaration of Humanitarian Standards (E/CN.4/Sub.2/1991/55) to Governments, and intergovernmental and non-governmental organizations for their comments and to submit a report on this matter to the Commission on Human Rights at its fifty-second session.

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/30. A permanent forum for indigenous people
in the United Nations system

Guided by the purposes and principles enshrined in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Bearing in mind Articles 55 and 56 of the Charter of the United Nations in the context of all human rights of indigenous people,

Recalling the recommendations pertaining to indigenous people included in the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the

World Conference on Human Rights, in particular the recommendation that the establishment of a permanent forum for indigenous people in the United Nations system should be considered,

Recalling also the recommendations of the United Nations Conference on Environment and Development to involve indigenous people and their communities in the United Nations programmes of environment and development as stated in article 22 of the Rio Declaration on Environment and Development and in chapter 26 of Agenda 21,

Recalling further its resolution 1994/28 of 4 March 1994, as well as General Assembly resolution 49/214 of 23 December 1994,

Noting the recommendations regarding the possible establishment of a permanent forum for indigenous people made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session in resolution 1994/50 of 26 August 1994, and taking into account the comments and suggestions made by participants at the twelfth session of the Working Group on Indigenous Populations,

Recognizing the importance of increased incorporation of the values, views and knowledge of indigenous people in relevant aspects of the programmes and activities of the States concerned and of the United Nations system,

Recognizing in particular the importance of involving indigenous people and their organizations in the consideration of the establishment of a permanent forum,

Acknowledging the important role of the Working Group on Indigenous Populations in this respect,

1. Endorses the recommendation made by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-sixth session, that the Centre for Human Rights organize a workshop on the possible establishment of a permanent forum for indigenous people with the participation of representatives of Governments, organizations of indigenous people and independent experts;

2. Recommends that such a workshop be held for a period of three days within existing resources and in accordance with established United Nations practice, prior to the thirteenth session of the Working Group on Indigenous Populations and that the outcome of the workshop be transmitted to the Working Group at its thirteenth session;

3. Requests the Secretary-General to transmit to the Working Group at its thirteenth session the comments and suggestions received from Governments and organizations of indigenous people on the possible establishment of a permanent forum;

4. Requests the Working Group at its thirteenth session to continue to give priority consideration to the possible establishment of a permanent forum for indigenous people and to submit its views and suggestions, through the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, to the Commission on Human Rights at its fifty-second session;

5. Decides to continue to consider the question of a permanent forum at its fifty-second session.

52nd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/31. Report of the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Commission on Human Rights,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission on Prevention of Discrimination and Protection of Minorities to establish annually a working group on indigenous populations with the mandate to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous people, giving special attention to the evolution of standards concerning the rights of indigenous people,

Recalling also its resolution 1988/44 of 8 March 1988, in which it urged the Working Group on Indigenous Populations to intensify its efforts in carrying out its plan of action and to continue the elaboration of international standards in this field,

Having examined the report of the Working Group on its twelfth session (E/CN.4/Sub.2/1994/30 and Corr.1),

Conscious that, in various situations, indigenous people are unable to enjoy their inalienable human rights and fundamental freedoms,

Determined to do everything possible to promote the enjoyment of the human rights and fundamental freedoms of indigenous people,

Bearing in mind that international standards must be developed on the basis of the diverse realities of indigenous people in all parts of the world,

1. Takes note of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-sixth session (E/CN.4/1995/2-E/CN.4/Sub.2/1994/56);
2. Expresses its appreciation and satisfaction to the Working Group on Indigenous Populations of the Sub-Commission for its valuable work, in particular for the completion of the draft "United Nations declaration on the rights of indigenous peoples";
3. Also expresses its appreciation to observers participating in the twelfth session of the Working Group on Indigenous Populations, namely, representatives of Governments, the specialized agencies, non-governmental organizations and indigenous organizations, for their active and constructive participation in its work;
4. Recommends to the Economic and Social Council that the Working Group be authorized to meet for five working days prior to the forty-seventh session of the Sub-Commission;
5. Invites the Working Group to take into account in its deliberations on developments pertaining to the promotion and protection of the human rights of indigenous people the work, within the framework of their respective mandates, of all thematic special rapporteurs, special representatives, independent experts and working groups as it pertains to the situation of indigenous people;
6. Urges the Working Group to continue its comprehensive review of developments and of the situation and aspirations of indigenous people throughout the world;
7. Invites the Working Group to consider whether there are ways in which the contribution of expertise from indigenous people to the work of the Working Group might be enhanced;
8. Requests the Secretary-General to give all the necessary resources and assistance, from within existing overall United Nations resources, to the Working Group in discharging its tasks, including adequate dissemination of information about the activities of the Working Group to Governments, specialized agencies and non-governmental and indigenous organizations, in order to encourage the widest possible participation in its work;

9. Requests the Secretary-General:

(a) To transmit the reports of the Working Group to Governments, indigenous organizations and intergovernmental and non-governmental organizations, as soon as possible, for specific comments and suggestions;

(b) To ensure that all meetings of the Working Group at its thirteenth session are provided with interpretation and documentation;

10. Expresses its gratitude and appreciation to the Governments and organizations that have made contributions to the United Nations Voluntary Fund for Indigenous Populations;

11. Appeals to all Governments, organizations and individuals in a position to do so to consider requests for further contributions to the Fund;

12. Encourages all the initiatives that can be taken by Governments, indigenous organizations and non-governmental organizations to ensure the full participation of indigenous people in the activities related to the tasks of the Working Group.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. XIX.]

1995/32. Establishment of a working group of the Commission on Human Rights to elaborate a draft declaration in accordance with operative paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

The Commission on Human Rights,

Bearing in mind General Assembly resolution 47/75 of 14 December 1992 and part II, paragraph 28 of the Vienna Declaration and Programme of Action (A/CONF.157/23),

Recalling its resolution 1994/29 of 4 March 1994, in which it urged the Sub-Commission on Prevention of Discrimination and Protection of Minorities to complete its consideration of the draft declaration on the rights of indigenous people and submit to the Commission at its fifty-first session the draft declaration together with any recommendations thereon,

Welcoming Sub-Commission resolution 1994/45 of 26 August 1994 in which the Sub-Commission decided to adopt the draft declaration as agreed upon by the members of the Working Group on Indigenous Populations and to submit it to the Commission at its fifty-first session,

Recalling General Assembly resolution 49/214 of 23 December 1994, in which the Assembly encouraged the Commission to consider the draft declaration

with the participation of representatives of indigenous people, on the basis of and in accordance with appropriate procedures to be determined by the Commission,

Emphasizing the importance and special nature of the draft declaration as a standard-setting exercise specifically for indigenous people,

Recognizing that organizations of indigenous people have special knowledge and understanding of the current situation of the world's indigenous people and their human rights needs,

Expressing its appreciation to the Working Group on Indigenous Populations for its contribution to the process of elaboration of the draft declaration,

1. Decides to establish, as a matter of priority and from within existing overall United Nations resources, an open-ended inter-sessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled draft "United Nations declaration on the rights of indigenous peoples" for consideration and adoption by the General Assembly within the International Decade of the World's Indigenous People;

2. Encourages the Working Group to consider in this context all aspects of the draft declaration, including its scope of application;

3. Requests that the Working Group meet for 10 working days at the earliest possible date in 1995;

4. Also requests that the Working Group recommend to the Commission the time and duration of its meetings in subsequent years;

5. Further requests the Working Group to submit a progress report to the Commission on Human Rights for consideration at its fifty-second session;

6. Invites relevant United Nations organs, bodies, programmes and specialized agencies and non-governmental organizations in consultative status with the Economic and Social Council which are interested in contributing to the activities of the Working Group to participate in its work, in accordance with established practice;

7. Decides that participation of other relevant organizations of indigenous people, in addition to non-governmental organizations in consultative status with the Economic and Social Council, should be in

accordance with the relevant provisions of Economic and Social Council resolution 1296 (XLIV) of 23 May 1968 and the procedures set out in the annex to the present resolution, and invites such organizations to submit applications as soon as possible;

8. Requests the Secretary-General to invite Governments, intergovernmental organizations, non-governmental organizations in consultative status with the Economic and Social Council and organizations of indigenous people authorized to participate to submit, for consideration by the Working Group, comments on the draft declaration submitted by the Sub-Commission;

9. Recommends that the Economic and Social Council take the appropriate steps to expedite the implementation of the present resolution;

10. Decides to consider the question again at its fifty-second session under an appropriate agenda item to be decided upon;

11. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council,

Recalling Commission on Human Rights resolution 1995/32

of 3 March 1995,

Reaffirming its resolution 1296 (XLIV) of 23 May 1968, entitled 'Arrangements for consultation with non-governmental organizations', in particular its paragraphs 9, 19 and 33,

Recalling the mandate of the Council Committee on Non-Governmental Organizations, especially as contained in paragraph 40 (e) of resolution 1296 (XLIV),

1. Endorses Commission on Human Rights resolution 1995/32 of 3 March 1995;

2. Authorizes the establishment, as a matter of priority and from within existing overall United Nations resources, of an open-ended inter-sessional working group of the Commission on Human Rights with the sole purpose of elaborating a draft declaration, considering the draft contained in the annex to resolution 1994/45 of 26 August 1994 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled draft 'United Nations declaration on the rights of indigenous peoples', for consideration and adoption by the General Assembly within the International Decade of the World's

Indigenous People and operating in accordance with the procedures established by the Commission on Human Rights in the annex to resolution 1995/32;

3. Also authorizes the open-ended Working Group to meet for 10 working days at the earliest possible date in 1995;

4. Invites applications from organizations of indigenous people not in consultative status with the Economic and Social Council which are interested in participating in the Working Group;

5. Requests the Coordinator of the International Decade, in accordance with the procedures established by the Commission on Human Rights in resolution 1995/32 and following consultations with the States concerned, in accordance with Article 71 of the Charter of the United Nations, to forward all applications and information received to the Council Committee on Non-Governmental Organizations;

6. Requests the Council Committee on Non-Governmental Organizations to meet as necessary to examine the applications and, having considered all relevant information, including any views received from the States concerned, to recommend to the Economic and Social Council those organizations of indigenous people which should be authorized to participate in the Working Group, including at the first session in 1995;

7. Decides, on the basis of the recommendations of the Council Committee on Non-Governmental Organizations, to authorize the participation in the work of the Working Group of interested organizations of indigenous people, in accordance with rules 75 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council;

8. Requests the Commission on Human Rights at its fifty-second session to review the progress of the Working Group and to transmit its comments to the Economic and Social Council at its substantive session for 1996;

9. Requests the Secretary-General to provide the necessary services and facilities for the implementation of the present resolution."

53rd meeting
3 March 1995

[Adopted without a vote. See chap. XIX.]

Annex

PARTICIPATION OF ORGANIZATIONS OF INDIGENOUS PEOPLE
IN THE OPEN-ENDED INTER-SESSIONAL WORKING GROUP

1. The procedures contained in the present annex are adopted solely to authorize the participation of organizations of indigenous people not in consultative status with the Economic and Social Council.
2. These procedures are consistent with the procedures set forth in resolution 1296 (XLIV) of 23 May 1968 of the Economic and Social Council and do not constitute a precedent in any other situation. They shall apply only to the Working Group created by Council resolution ... and they shall remain in effect for the duration of the Working Group.
3. Organizations of indigenous people not in consultative status wishing to participate in the Working Group may apply to the Coordinator of the International Decade. Such applications must include the following information concerning the organization concerned:
 - (a) The name, headquarters or seat, address and contact person for the organization;
 - (b) The aims and purposes of the organization (these should be in conformity with the spirit, purposes, and principles of the Charter of the United Nations);
 - (c) Information on the programmes and activities of the organization and the country or countries in which they are carried out or to which they apply;
 - (d) A description of the membership of the organization, indicating the total number of members.
4. Upon receipt of applications, the Coordinator of the International Decade should consult with any State concerned pursuant to Article 71 of the Charter of the United Nations and paragraph 9 of resolution 1296 (XLIV) of the Economic and Social Council. The Coordinator should promptly forward all applications and information received to the Council Committee on Non-Governmental Organizations for its decision.
5. Authorization to participate shall remain valid for the duration of the Working Group subject to the relevant provisions of part VIII of resolution 1296 (XLIV) of the Economic and Social Council.

6. The activities of organizations of indigenous people authorized to participate in the Working Group pursuant to these procedures shall be governed by rules 75 and 76 of the rules of procedure of the functional commissions of the Economic and Social Council.

7. Organizations of indigenous people authorized to participate in the Working Group will have the opportunity to address the Working Group, consistent with the relevant provisions of paragraphs 31 and 33 of Council resolution 1296 (XLIV), and are encouraged to organize themselves into constituencies for this purpose.

8. Organizations of indigenous people may make written presentations which, however, will not be issued as official documents.

9. States having indigenous populations should take effective measures to bring the invitation to participate and these procedures to the attention of organizations of indigenous people potentially interested in contributing to and participating in the Working Group.

1995/33. Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The Commission on Human Rights,

Recalling its decision 1991/107 of 5 March 1991, in which it decided to consider at its forty-eighth session the text, proposed by the Government of Costa Rica, of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1991/66), intended to establish a preventive system of visits to places of detention,

Recalling also its resolution 1992/43 of 3 March 1992, by which it established an open-ended working group to elaborate a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, using as a basis for its discussions the draft text proposed by the Government of Costa Rica, and decided to consider the question at its forty-ninth session,

Recalling further Economic and Social Council resolution 1992/6 of 20 July 1992, by which the Council authorized an open-ended working group to meet for a period of two weeks prior to the forty-ninth session of the Commission,

Recalling subsequent resolutions, in particular resolution 1994/40 of 4 March 1994, in which it authorized the working group to hold new meetings in order to continue its work and to submit a report,

Considering that the working group agreed in general that some progress had been made at the third session and that a continuation of the work in the same way offered the prospect of the elaboration, within a reasonable period, of a text which could be of great value in the field of the prevention of torture,

Recalling the firm declaration of the World Conference on Human Rights that efforts to eradicate torture should, first and foremost, be concentrated on prevention and which called for the early adoption of an optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which is intended to establish a preventive system of regular visits to places of detention,

1. Takes note of the report of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/38) and welcomes the substantial progress made by the working group during its third session;

2. Requests the open-ended working group to meet between sessions, for a period of two weeks prior to the fifty-second session of the Commission in order to pursue its work and to submit a new report to the Commission;

3. Requests the Secretary-General to transmit the report of the working group to all Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and to intergovernmental and non-governmental organizations, and to invite them to submit their comments to the working group;

4. Also requests the Secretary-General to invite Governments, the specialized agencies and non-governmental organizations, as well as the Chairperson of the Committee against Torture and the Special Rapporteur on the question of torture, to participate in the activities of the working group;

5. Further requests the Secretary-General to extend all the necessary facilities to the working group for its meetings prior to the fifty-second session of the Commission;

6. Decides to examine the report of the working group at its fifty-second session under the sub-item entitled "Question of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment" under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment";

7. Recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council,
Taking note of Commission on Human Rights resolution 1995/33 of
3 March 1995,

(a) Authorizes an open-ended working group of the Commission on Human Rights to meet for a period of two weeks prior to the fifty-second session of the Commission in order to continue the elaboration of a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Requests the Secretary-General to extend all the necessary facilities to the working group for its meetings, and to transmit the report of the working group (E/CN.4/1995/38) to Governments, the specialized agencies, the chairpersons of the human rights treaty bodies and the intergovernmental and non-governmental organizations concerned."

53rd meeting
3 March 1995

[Adopted without a vote. See chap. X.]

1995/34. Right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, other relevant instruments in the field of human rights and the Vienna Declaration and Programme of Action,

Reaffirming that, pursuant to internationally proclaimed human rights principles, victims of grave violations of human rights should receive, in appropriate cases, restitution, compensation and rehabilitation,

Considering that the question of restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms has received insufficient attention and should be addressed in a more systematic and thorough way at the national and international levels,

Noting with interest the positive experience of countries that have established reparation policies for victims of grave violations of human rights,

Reiterating its appreciation of the study on the subject prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mr. Theo van Boven, contained in his final report (E/CN.4/Sub.2/1993/8),

Recalling its resolution 1994/35 of 4 March 1994 in which it expressed the hope that priority attention would be given to this question, in particular on the specific field of violations of human rights, and regarded the proposed basic principles and guidelines contained in the study of the Special Rapporteur as a useful basis for that purpose, and recommended that the Sub-Commission on Prevention of Discrimination and Protection of Minorities, in conformity with Sub-Commission resolution 1993/29 of 25 August 1993, take measures to examine the proposed basic principles and guidelines with a view to making proposals thereon and report to the Commission,

1. Calls upon the international community to give increased attention to the right to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms;

2. Encourages the Sub-Commission to continue to give consideration to the proposed basic principles and guidelines at its forty-seventh session, with a view to making substantive progress on this matter in the specific field of violations of human rights;

3. Requests States to provide information to the Secretary-General about legislation already adopted, as well as that in the process of being adopted, relating to restitution, compensation and rehabilitation of victims of grave violations of human rights and fundamental freedoms;

4. Requests the Secretary-General to submit a report on this subject, taking into account the information provided by States, to the Commission at its fifty-second session;

5. Decides to consider this matter at its fifty-second session under agenda item 10.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/35. Special process dealing with the problem of missing persons in the territory of the former Yugoslavia

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto of 1977, as well as other relevant documents and resolutions of the General Assembly and the Security Council of the United Nations,

Recalling General Assembly resolution 47/133 of 18 December 1992, in which the General Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance,

Recalling also its resolution 1994/72 of 9 March 1994 concerning, inter alia, the special process on missing persons in the territory of the former Yugoslavia,

Deeply disturbed at the huge number of missing persons still unaccounted for as a consequence of the continuing practice of "ethnic cleansing" and the armed conflict in the territory of the former Yugoslavia, particularly in the Republic of Bosnia and Herzegovina and the Republic of Croatia,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all,

Expressing its deepest sympathy to the families of missing persons in the territory of the former Yugoslavia, and reaffirming its readiness to undertake all necessary measures with a view to expediting the search for their next of kin,

Stressing that the basic objective of the special process dealing with the problem of missing persons in the territory of the former Yugoslavia should be strictly humanitarian, aimed at providing their relatives with information on their fate,

Emphasizing that the cooperation of the Governments of the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as the parties and organizations in a position to help, is essential to the achievement of the objectives of the special process,

Bearing in mind that the agreement on the comprehensive cease-fire signed on 23 December 1994 by the Government of the Republic of Bosnia and Herzegovina and the representatives of the Bosnian Serbs includes the obligation to release all available information on missing persons,

1. Commends and thanks the expert member of the Working Group on Enforced or Involuntary Disappearances for his first report on the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1995/37);

2. Expresses its appreciation to the Governments of the Republic of Bosnia and Herzegovina and the Republic of Croatia, requests them to continue and expand the cooperation with the special process, and invites them, as well as all other parties in a position to help, to continue searching for the missing persons on their territory;

3. Urges the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to allow the expert member of the Working Group on Enforced and Involuntary Disappearances to visit Belgrade in order to discuss concrete aspects of cooperation, and to undertake maximum efforts to cooperate by disclosing all relevant available information and documentation in order finally to determine the fate of the thousands of missing persons and to alleviate the suffering of their relatives;

4. Requests the expert member of the Working Group on Enforced or Involuntary Disappearances responsible for the special process on missing persons in the territory of the former Yugoslavia to continue his efforts and to submit a report on his activities to the Commission at its fifty-second session;

5. Requests relevant United Nations bodies, including the Office of the United Nations High Commissioner for Refugees and the United Nations Protection Force, the International Committee of the Red Cross and national Red Cross and Red Crescent societies to continue their cooperation with the special process;

6. Requests the Secretary-General to continue providing the special process with the necessary resources so that it can perform its functions continuously and expeditiously.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/36. Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

The Commission on Human Rights,

Guided by articles 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 14 and 26 of the International Covenant on Civil and Political Rights,

Convinced that an independent and impartial judiciary and an independent legal profession are essential prerequisites for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Bearing in mind the Vienna Declaration and Programme of Action (A/CONF.157/23), in particular paragraph 27 of part I and paragraphs 88, 90 and 95 of part II,

Recalling its resolution 1994/41 of 4 March 1994 in which it requested the Chairman of the Commission to appoint for a period of three years, a special rapporteur on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers,

Recalling also General Assembly resolution 40/32 of 29 November 1985 in which the Assembly endorsed the Basic Principles on the Independence of the Judiciary, and resolution 40/146 of 13 December 1985,

Recalling further General Assembly resolution 45/166 of 18 December 1990, in which the Assembly welcomed the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and invited Governments to respect them and to take them into account within the framework of their national legislation and practice,

Bearing in mind the principles contained in the draft declaration prepared by Mr. L.M. Singhvi (E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1), which the Commission, in its resolution 1989/32 of 6 March 1989, invited Governments to take into account in implementing the Basic Principles on the Independence of the Judiciary,

Recalling the appointment by the Chairman of the Commission on Human Rights of Mr. Param Kumaraswamy as Special Rapporteur,

Taking note of the first report submitted by the Special Rapporteur on the implementation of his mandate and the recommendation addressed to the Commission on Human Rights contained therein (E/CN.4/1995/39, para. 105),

Noting with concern the increasingly frequent attacks on their independence suffered by judges, lawyers and court officers, and aware of the close link between the weakening of safeguards for judges, lawyers and court officers and the frequency and gravity of violations of human rights,

1. Welcomes the first report submitted by the Special Rapporteur on the activities relating to his mandate entitled "Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers" (E/CN.4/1995/39);

2. Endorses the decision of the Special Rapporteur to use, beginning in 1995, the short title of "Special Rapporteur on the independence of judges and lawyers", and requests the Centre on Human Rights to take note of this in its future communications;

3. Takes note of and welcomes the methods of work the Special Rapporteur intends to follow in the implementation of his task, as outlined in chapter II of his report;

4. Notes with appreciation the determination of the Special Rapporteur to achieve as wide a dissemination as possible of information about existing standards relating to the independence and impartiality of the judiciary and the independence of the legal profession in conjunction with the publications and promotional activities of the Centre for Human Rights;

5. Endorses the wish of the Special Rapporteur to be kept regularly informed about the programme of advisory services and technical assistance of the Centre for Human Rights so that he will be in a position to implement his mandate by monitoring progress achieved;

6. Requests the Secretary-General, within the limits of the resources of the United Nations, to provide the Special Rapporteur with any assistance needed for the discharge of his mandate;

7. Requests the Special Rapporteur to submit a report on the activities relating to his mandate to the Commission at its fifty-second session;

8. Decides to consider this question at its fifty-second session.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/37. Torture and other cruel, inhuman or degrading
treatment or punishment

A

The Commission on Human Rights,

Having regard to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Recalling the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,

Recalling also General Assembly resolution 39/46 of 10 December 1984, in which the Assembly adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and called upon all Governments to consider signing and ratifying the Convention as a matter of priority,

Recalling further the Vienna Declaration and Programme of Action (A/CONF.157/23) adopted by the World Conference on Human Rights, in particular part I, paragraph 30, in which the World Conference stated that torture and other cruel, inhuman or degrading treatment or punishment constituted serious obstacles to the full enjoyment of all human rights, and part II, paragraphs 54 to 61, in which the World Conference urged States to put an immediate end to the practice of torture and to eradicate that evil forever, and stated that providing the necessary resources for assistance to victims of torture should be given high priority, inter alia by additional contributions to the United Nations Voluntary Fund for Victims of Torture,

Bearing in mind its resolutions 1994/36 and 1994/38 of 4 March 1994,

Alarmed at the widespread occurrence of torture and other cruel, inhuman or degrading treatment or punishment,

Aware that torture constitutes a criminal obliteration of the human personality which can never be justified under any circumstances, by any ideology or by any overriding interest, and convinced that a society that tolerates torture can never claim to respect human rights,

Determined to promote the full implementation of the prohibition under international and national law of the practice of torture and other cruel, inhuman or degrading treatment or punishment,

Mindful of the relevance, for the eradication of torture and other cruel, inhuman or degrading treatment or punishment, of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977), the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169, of 17 December 1979, annex), the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194, annex), the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) as well as the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex),

Recalling article 10 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which provides that 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,

Taking note of the outcome of the second session of the open-ended working group of the Commission on Human Rights on the elaboration of a draft optional protocol to the Convention,

Recalling General Assembly resolution 36/151 of 16 December 1981, in which the Assembly noted with deep concern that acts of torture took place in various countries, recognized the need to provide assistance to the victims in a purely humanitarian spirit and established the United Nations Voluntary Fund for Victims of Torture, as well as General Assembly resolution 49/176 of 23 December 1994,

Recalling the statement by the Board of Trustees of the Fund on the need to receive contributions from Governments on a regular basis, which, inter alia, would prevent the interruption of programmes in the continuation of which the Fund plays an instrumental role,

Taking account of the increasing number of projects and the repeated requests by the Board of Trustees of the Fund to have adequate staff for the operations of the Fund,

Taking note of the information provided by the Secretary-General in his reports on the United Nations Voluntary Fund for Victims of Torture (E/CN.4/1995/33 and Add.1, A/49/484 and Add.1),

Noting with satisfaction the existence and rapid expansion of an international network of centres for the rehabilitation of torture victims, which play an important role in providing assistance to victims of torture, and the collaboration of the Fund with these centres,

Welcoming the appeal launched by the United Nations High Commissioner for Human Rights during his official visit to Denmark from 27 to 28 June 1994, for, inter alia, a definitive end to and the eradication of torture everywhere in the world and the ratification and full implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

1. Welcomes the report of the Committee against Torture on its eleventh and twelfth sessions (A/49/44);
2. Expresses its appreciation to the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture for the work it has accomplished;
3. Urges all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/23) and, in particular, of the section relating to freedom from torture;
4. Takes note of the report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1995/35);
5. Encourages the States Parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;
6. Urges States Parties whose arrears precede the provision made by the Secretary-General for funding the Committee against Torture from the regular budget to fulfil their obligations forthwith;
7. Urges all States to become parties to the Convention as a matter of priority;
8. Invites all States ratifying or acceding to the Convention and those States Parties that have not yet done so to make the declaration provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20;

9. Welcomes the attention that the Committee against Torture has given to the development of an effective system of reporting on the implementation of the Convention by States Parties, including its practice of formulating concluding observations after the consideration of such reports, as well as its practice of carrying out inquiries into cases where there are indications of the systematic practice of torture in States Parties;

10. Emphasizes the obligation of States Parties under article 10 of the Convention to ensure education and training for personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment, and calls upon the High Commissioner for Human Rights, in conformity with his mandate established in General Assembly resolution 48/141 of 20 December 1993, to provide advisory services in this regard, at the request of Governments;

11. Expresses its gratitude and appreciation to those Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

12. Requests the Secretary-General to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

13. Appeals to all Governments, organizations and individuals in a position to do so to respond favourably to requests for contributions to the Fund, if possible on a regular basis and annually before the meeting of the Board of Trustees of the Fund, and if possible with a substantial increase in the number and level of contributions in order to take into consideration the ever-increasing demand for assistance;

14. Renews its request to the Secretary-General to transmit to all Governments the appeals of the Commission for contributions to the Fund;

15. Also renews its request to the Secretary-General to make use of all existing possibilities, including the preparation, production and dissemination of information materials, to assist the Board of Trustees of the Fund in its efforts to make the Fund and its humanitarian work better known and in its appeal for contributions;

16. Calls upon the Board of Trustees to report to the Commission at its fifty-second session on the increasing need for overall rehabilitation services for torture victims;

17. Requests the Secretary-General, in accordance with the Vienna Declaration and Programme of Action (A/CONF.157/23, part II, para. 16) to ensure strict and transparent project management rules for the Fund and to arrange for the holding of annual information meetings open to all Member States and organizations directly involved in the projects supported by the Fund;

18. Also requests the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of an adequate and stable level of staffing and technical equipment to ensure the efficient operation and management of the Fund, as well as for the effective performance of the functions of the Committee against Torture;

19. Further requests the Secretary-General to continue to keep the Commission informed of the operations of the Fund on an annual basis and to submit to the Commission annual reports on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

20. Decides to consider these questions at its fifty-second session.

53rd meeting
3 March 1995

[Adopted without a vote. See chap. X.]

B

The Commission on Human Rights,

Recalling its resolution 1985/33 of 13 March 1985, in which it decided to appoint for one year a special rapporteur on torture, and all its subsequent resolutions in which that mandate was regularly extended, most recently for a further three years in paragraph 13 of resolution 1992/32 of 28 February 1992, while maintaining the annual reporting cycle,

Recalling also the conclusions and recommendations of the Special Rapporteur that the Commission on Human Rights underlined in its resolutions 1987/29 of 10 March 1987, 1988/32 of 8 March 1988, 1989/33 of 6 March 1989, 1990/34 of 2 March 1990, 1991/38 of 5 March 1991, 1992/32 of 28 February 1992, 1993/40 of 5 March 1993 and 1994/37 of 4 March 1994,

Taking into account General Assembly resolution 49/181 of 23 December 1994,

1. Commends the Special Rapporteur on his report (E/CN.4/1995/34 and Add.1 and Add.1/Corr.1);

2. Stresses the recommendations of the Special Rapporteur contained in his report;

3. Stresses in particular that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment and that those who encourage, order, tolerate or perpetrate such acts must be held responsible and severely punished, especially the official in charge of the place of detention where the prohibited act is found to have taken place;

4. Decides to extend for three years the mandate of the Special Rapporteur on torture, while maintaining the annual cycle of reporting;

5. Invites the Special Rapporteur to examine questions concerning torture directed primarily against women and children and conditions conducive to such torture, and to make appropriate recommendations concerning the prevention of gender-specific forms of torture and the torture of children;

6. Approves the methods of work employed by the Special Rapporteur, in particular as regards urgent appeals;

7. Considers it desirable that the Special Rapporteur should continue to have a further exchange of views with the relevant human rights mechanisms and bodies, especially the Committee against Torture, in particular with a view to enhancing further their effectiveness and mutual cooperation, and that he should pursue cooperation with relevant United Nations programmes, notably that on crime prevention and criminal justice;

8. Appeals to all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to supply all information requested, including by reacting properly to his urgent appeals;

9. Urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer expeditiously;

10. Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;

11. Calls upon the Special Rapporteur to continue to include information in his report on the follow-up by Governments to his recommendations, visits and communications;

12. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to cover all of his activities in order to enable him to submit his report to the Commission at its fifty-second session.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/38. Question of enforced disappearances

The Commission on Human Rights,

Bearing in mind General Assembly resolution 33/173 of 20 December 1978, in which the Assembly 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, in which it decided to establish a working group consisting of five of its members, to serve as experts in their individual capacity, to examine questions relevant to enforced or involuntary disappearances, and its resolutions 1991/41 of 5 March 1991, 1992/30 of 28 February 1992, 1993/35 of 5 March 1993 and 1994/39 of 5 March 1994,

Recalling also General Assembly resolution 47/133 of 18 December 1992, by which the General Assembly adopted the Declaration on the Protection of All Persons from Enforced Disappearance,

Emphasizing that, in the Vienna Declaration and Programme of Action (A/CONF.157/23), the World Conference on Human Rights welcomed the adoption of the Declaration on the Protection of All Persons from Enforced Disappearance and called upon all States to take effective legislative, administrative, judicial or other measures to prevent, terminate and punish acts of enforced disappearance,

Noting that the Working Group on Enforced or Involuntary Disappearances considers the adoption of the latter Declaration to be the most encouraging development since its establishment in respect of efforts to combat enforced disappearances, especially in so far as it recognizes that the systematic practice of such acts "is of the nature of a crime against humanity",

Expressing concern in this connection that, according to the Working Group, the practice of a number of States can run counter to the Declaration,

Convinced of the need to continue implementing the provisions of General Assembly resolution 33/173 and of the other United Nations resolutions on the question of disappeared persons, with a view to finding solutions for cases of disappearance and eliminating enforced disappearances, duly taking into account the provisions of the Declaration,

Taking into account General Assembly resolution 49/181 of 23 December 1994,

Noting General Assembly resolution 49/193 of 23 December 1994,

Deeply concerned at the increase and spread of the practice of enforced disappearances in various parts of the world,

Concerned at the large number of reports concerning harassment, ill-treatment and intimidation of witnesses of disappearances or relatives of disappeared persons,

Noting with satisfaction in this connection that the Working Group reports increased cooperation on the part of most States,

Recalling its resolution 1994/70 of 2 March 1994 on cooperation with representatives of United Nations human rights bodies,

Having considered the report of the Working Group (E/CN.4/1995/36) and the report of the expert member of the Working Group on the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1995/37),

1. Expresses its appreciation to the Working Group on Enforced or Involuntary Disappearances for the way in which it is performing its task, and thanks it for submitting a report to the Commission in accordance with resolution 1994/39 of 4 March 1994;

2. Takes note of the report of the Working Group (E/CN.4/1995/36);

3. Encourages the Working Group, in its efforts to help to eliminate the practice of enforced disappearances, to submit to the Commission all information it deems necessary and any specific recommendations it may wish to make regarding the fulfilment of its task;

4. Notes that the primary role of the Working Group, as described in its reports, is to act as a channel of communication between families of the disappeared persons and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases are investigated and to ascertain whether such information falls under its mandate and contains the required elements;

5. Reminds the Working Group of the need to observe, in its humanitarian task, United Nations standards and practices regarding the handling of communications and the consideration of government replies;

6. Deplores the fact that, as the Working Group stresses in paragraph 440 of its report, some Governments have never provided substantive replies concerning enforced disappearances alleged to have occurred in their countries, nor acted in the recommendations concerning them made in the reports of the Working Group;

7. Urges the Governments concerned, particularly those which have not yet responded to communications transmitted to them by the Working Group, to take action as rapidly as possible concerning these communications, to cooperate with and assist the Working Group so that it may carry out its mandate effectively, and in particular to reply expeditiously to its requests for information;

8. Also urges the Governments concerned to intensify their cooperation with the Working Group on any action taken pursuant to recommendations addressed to them by the Working Group;

9. Once again urges Governments to take steps to protect the families of disappeared persons against any intimidation or ill-treatment to which they might be subjected;

10. Encourages Governments to give serious consideration to inviting the Working Group to visit their countries so as to enable the Working Group to fulfil its mandate even more effectively;

11. Urges Governments to take steps to ensure that, when a state of emergency is introduced, the protection of human rights is guaranteed, particularly as regards the prevention of enforced disappearances;

12. Reminds Governments of the need to ensure that their competent authorities conduct prompt and impartial inquiries in all circumstances whenever there is reason to believe that an enforced disappearance has occurred in a territory under their jurisdiction;

13. Recalls that, if allegations are confirmed, the perpetrators should be prosecuted;

14. Expresses its profound thanks to the many Governments that have cooperated with the Working Group and replied to its requests for information, and to the Governments that have invited the Working Group to visit their countries, asks them to give all necessary attention to the Working Group's recommendations, and invites them to inform the Working Group of any action they take on those recommendations;

15. Commends in particular the efforts of Governments which investigate and/or develop appropriate mechanisms to investigate any cases of enforced disappearance which are brought to their attention, and encourages all the Governments concerned to expand their efforts in this area;

16. Invites States, taking into account the conclusions of the Working Group, to consider taking effective measures, including if appropriate legislative measures, to implement the principles of the Declaration on the Protection of All Persons from Enforced Disappearance;

17. Invites, in this connection, all Governments to take appropriate legislative or other steps to prevent and punish the practice of enforced disappearance, in keeping with the Declaration, and to take action at the national and regional levels and in cooperation with the United Nations, if appropriate through technical assistance;

18. Recalls that all acts of enforced disappearance are offences punishable by appropriate penalties which take into account their extreme seriousness under criminal law;

19. Encourages States to provide concrete information, as some have already done, on measures taken to give effect to the Declaration, as well as obstacles encountered;

20. Again invites the Working Group to identify obstacles to the realization of the Declaration, to recommend ways of overcoming those obstacles and to pursue in this respect its dialogue with Governments and institutions concerned;

21. Notes, that the Working Group, in conformity with paragraph 17 of resolution 1994/39, has undertaken to revise its working methods, in particular the presentation of its report, taking into account the provisions of the Declaration;

22. Invites the Working Group to continue to consider the question of impunity, in close collaboration with the rapporteurs appointed by the Sub-Commission on Prevention of Discrimination and Protection of Minorities and with due regard for the relevant provisions of the Declaration;

23. Requests the Working Group to pay particular attention to cases of children subjected to enforced disappearance and children of disappeared persons and to cooperate closely with the Governments concerned to search for and identify these children;

24. Notes the activities of non-governmental organizations to support the implementation of the Declaration and invites them to continue to facilitate its dissemination and to contribute to the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

25. Takes note of the cooperation provided to the Working Group by non-governmental organizations;

26. Takes note with interest of the report of the expert member of the Working Group on the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1995/37);

27. Decides to extend for a three-year period the mandate of the Working Group, composed of five independent experts, in order to enable it to take into consideration all such information concerning enforced, involuntary or arbitrary disappearances, as may be communicated to it on cases brought to its attention, while maintaining the principle of the submission of annual reports;

28. Requests the Working Group to report on its work to the Commission at its fifty-second session and to continue to discharge its mandate discreetly and conscientiously;

29. Requests once more the Secretary-General to ensure that the Working Group receives all necessary assistance, in particular the staff and resources it requires to perform its functions, especially in carrying out missions, following them up or holding sessions in countries that would be prepared to receive it;

30. Also requests the Secretary-General to keep the Working Group and the Commission on Human Rights regularly informed of the steps he takes for the widespread dissemination and promotion of the Declaration on the Protection of All Persons from Enforced Disappearance.

53rd meeting
3 March 1995

[Adopted without a vote. See chap. X]

1995/39. Staff members of the United Nations and of the specialized agencies in detention

The Commission on Human Rights,

Recalling General Assembly resolutions 42/219 of 21 December 1987, 43/225 of 21 December 1988, 44/186 of 19 December 1989 and 45/240 of 21 December 1990, in which the Assembly deplored the increase in the number of cases where the functioning, safety and well-being of officials had been adversely affected, including cases of detention in Member States and abduction by armed groups and individuals, and the increasing number of cases in which the lives and well-being of officials had been placed in jeopardy during the exercise of their official functions,

Recalling its resolution 1994/42 of 4 March 1994, in which it requested the Secretary-General to submit to the Commission at its fifty-first session an updated version of the report on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Aware of the need to strengthen the relevant international legal instruments and welcoming the adoption and opening for signature by the General Assembly, in its resolution 49/59 of 9 December 1994, of the Convention on the Safety of United Nations and Associated Personnel,

Considering that, at a time when the United Nations is undertaking greater responsibilities sending missions in difficult conditions to various parts of the world, it is imperative that its staff members and other personnel acting under its authority be able to perform their duties with the assurance that their human rights, privileges and immunities will be fully respected, in accordance with the relevant provision of the Charter of the United Nations and other international instruments,

Having examined the updated report of the Secretary-General on detention of international civil servants and their families (E/CN.4/1995/40),

Gravely concerned that a significant number of United Nations staff members, experts and their families continue to be detained, imprisoned, missing or held in a country against their will,

Gravely concerned also that a significant number of United Nations staff members, recruited nationally or internationally, and other personnel acting under the authority of the United Nations and their families have been killed since July 1993,

Noting the need for updated and complete information on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will,

Convinced that a better coordinated and more detailed reporting system, with a better dialogue between the United Nations and the host country, can contribute to a faster solution of cases,

Deeply concerned at the inordinate delays and obstacles which different organizations of the United Nations system face when trying to exercise fully the right of functional protection of their staff members,

Greatly appreciating the efforts of the Secretary-General to promote a satisfactory resolution of all cases of this kind, and noting that these

efforts have already produced concrete results concerning the security of United Nations staff members, experts and their families,

1. Takes note with interest of the updated report of the Secretary-General (E/CN.4/1995/40);

2. Requests the Secretary-General to take further steps aimed at ensuring the application without delay of all the recommendations contained in the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the protection of the human rights of United Nations staff members, experts and their families (E/CN.4/Sub.2/1992/19);

3. Appeals once again to Member States to respect and to ensure respect for the rights of staff members and other personnel acting under the authority of the United Nations and their families and to take the necessary measures to ensure the protection of United Nations and associated personnel in their territory;

4. Requests the Secretary-General to continue his efforts to ensure that the human rights, privileges and immunities of United Nations staff members, experts and their families are fully respected and to seek redress and compensation for the damage caused to them, as well as their full reintegration, when their human rights, privileges and immunities have been violated;

5. Reiterates the obligations of Member States under the Convention on the Privileges and Immunities of the United Nations and also under the Convention on the Privileges and Immunities of the Specialized Agencies regarding immunity from legal process and from personal arrest or detention;

6. Urges Member States:

(a) To provide adequate and prompt information concerning the arrest or detention of United Nations staff members, experts or their families;

(b) To grant the representative of the competent international organization immediate access to them;

(c) To allow independent medical teams to investigate the health of detained staff members, experts or their families, and to afford them the necessary medical assistance;

(d) To allow representatives of the competent international organization to attend any hearing concerning United Nations staff members, experts and their families;

(e) To ensure the speedy release of United Nations staff members, experts and members of their families who have been arrested or detained in violation of their immunity;

7. Welcomes the adoption and opening for signature by the General Assembly, in its resolution 49/59 of 9 December 1994 of the Convention on the Safety of United Nations and Associated Personnel;

8. Urges Member States to consider promptly signing and becoming parties to the Convention;

9. Requests the Secretary-General to submit to the Commission at its fifty-second session a report on the status of the Convention on the Safety of United Nations and Associated Personnel, on the situation of United Nations staff members, experts and their families detained, imprisoned, missing or held in a country against their will, on cases which have been successfully settled since the presentation of the last report, and on the implementation of the measures referred to in the present resolution.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/40. Right to freedom of opinion and expression

The Commission on Human Rights,

Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,

Mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, the right of everyone to hold opinions without interference, as well as the right to freedom of expression, and states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions, but that these shall be only such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (ordre public), or of public health and morals,

Mindful also that the International Covenant on Civil and Political Rights states that any propaganda for war or any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Recalling its resolution 1993/45 of 5 March 1993, in which it decided to appoint a special rapporteur on the promotion and protection of the right to freedom of opinion and expression,

Recalling also its resolutions 1984/26 of 12 March 1984, 1985/17 of 11 March 1985, 1986/46 of 12 March 1986, 1987/32 of 10 March 1987, 1988/37 and 1988/39 of 8 March 1988, 1989/31 of 6 March 1989, 1989/56 of 7 March 1989, 1990/32 of 2 March 1990, 1991/32 of 5 March 1991, 1992/22 of 28 February 1992 and 1994/33 of 4 March 1994,

Taking note of resolution 1983/32 of 6 September 1983 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note also of the reports and the final conclusions and recommendations on the right to freedom of opinion and expression submitted to the Sub-Commission at its forty-second, forty-third and forty-fourth sessions by the Special Rapporteurs, Mr. Louis Joinet and Mr. Danilo Türk (E/CN.4/Sub.2/1990/11, E/CN.4/Sub.2/1991/9 and E/CN.4/Sub.2/1992/9 and Add.1),

Considering that the effective promotion of the human rights of persons who exercise the right to freedom of opinion and expression is of fundamental importance to the safeguarding of human dignity,

Noting the comment in the final report of the Special Rapporteurs that the right to freedom of opinion and expression is interrelated with and enhances the exercise of all other human rights,

Deeply concerned by numerous reports of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information, including journalists, editors, writers and authors, translators, publishers, printers and distributors,

Deeply concerned also that for many women in many parts of the world, there exists a gap between the right to freedom of opinion and expression and the effective implementation of that right and that this contributes to the under-reporting of incidents of discrimination based on sex and inadequate action by Governments to investigate and take appropriate remedial action in response to these incidents,

1. Welcomes the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/1995/32), and endorses his conclusion that freedom of expression is a fundamental right,

the enjoyment of which illustrates in many ways the degree of enjoyment of all human rights enshrined in the International Bill of Human Rights;

2. Also welcomes the Special Rapporteur's statement that the right to seek or have access to information is one of the most essential elements of freedom of speech and expression;

3. Notes that the Special Rapporteur recognized in his first report (E/CN.4/1994/33) the need to cooperate with other special rapporteurs, special representatives, independent experts, working groups and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue his efforts in this regard;

4. Expresses concern at the inadequate resources, both human and material, provided to the Special Rapporteur, and accordingly reiterates its request to the Secretary-General to provide, within existing overall United Nations resources, all the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by strengthening the human and material resources placed at his disposal;

5. Requests the Secretary-General to consider ways of publicizing, particularly within the framework of the information activities of the Centre for Human Rights, the work of the Special Rapporteur, as well as recommendations made by him;

6. Expresses its concern at the extensive occurrence of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at persons who exercise the right to freedom of opinion and expression and the intrinsically linked rights to freedom of thought, conscience and religion, of peaceful assembly and freedom of association, and the right to take part in the conduct of public affairs as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights;

7. Also expresses its concern at the extensive occurrence in many parts of the world of detention of, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at persons who seek to promote and defend these rights and freedoms;

8. Emphasizes that professionals in the field of information play a major role in the promotion and protection of freedom of opinion and expression, and expresses in this regard its deep concern at the numerous reports received by the Special Rapporteur of detention of, as well as

discrimination, threats and acts of violence and harassment, including persecution and intimidation, directed at such professionals, including journalists, editors, writers and authors, translators, publishers, printers and distributors;

9. Expresses its concern at the number of cases of arbitrary detention ordered following the exercise of rights protected by article 19 of the International Covenant on Civil and Political Rights concerning the right to freedom of opinion and expression;

10. Welcomes the release of persons detained for exercising these rights and freedoms, and encourages further progress in this regard;

11. Urges the Special Rapporteur, within the framework of his mandate, to draw to the attention of the High Commissioner for Human Rights those situations regarding freedom of opinion and expression which are of particularly serious concern to the Special Rapporteur;

12. Invites the Special Rapporteur to pay particular attention to the situation of women and the relationship between the effective implementation of the right to freedom of opinion and expression and incidents of discrimination based on sex committed against them;

13. Appeals to all States to ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, the rights to freedom of thought, conscience and religion, peaceful assembly and association, and the right to take part in the conduct of public affairs, or who seek to promote and defend these rights and freedoms and, where any persons have been detained, subjected to violence or threats of violence and to harassment, including persecution and intimidation, solely for exercising these rights as laid down in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

14. Also appeals to all States to ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services;

15. Invites once again the working groups, representatives and the special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated or discriminated against for having

exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights and, where applicable, the International Covenant on Civil and Political Rights;

16. Urges all Governments to cooperate with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him to fully carry out his mandate;

17. Requests the Special Rapporteur, in his next report, to develop further his commentary on the right to seek and receive information and to expand on his observations arising from communications;

18. Also requests the Special Rapporteur to submit to the Commission at its fifty-second session a report covering the activities relating to his mandate;

19. Decides to review this matter at its fifty-second session.

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]

1995/41. Human rights in the administration of justice, in particular children and juveniles in detention

The Commission of Human Rights,

Guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and its Optional Protocols,

Guided in particular by the Convention on the Rights of the Child and its article 40, as well as the relevant provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women,

Recognizing the central role of the administration of justice in the promotion and protection of human rights,

Welcoming the work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in the field of human rights in the administration of justice,

Welcoming also the work of the Commission on Crime Prevention and Criminal Justice in the field of human rights and the administration of justice as reflected, inter alia, in resolution 1994/22 of 25 July 1994 of the Economic and Social Council on technical cooperation in the field of crime

prevention and criminal justice and Council resolution 1994/18 of 25 July 1994 on United Nations standards and norms in crime prevention and criminal justice,

Emphasizing the importance of coordinating the activities in this field carried out under the responsibility of the Commission on Human Rights with those under the responsibility of the Commission on Crime Prevention and Criminal Justice,

Noting that many human rights violations in the administration of justice are specifically or primarily directed against women and that the identification and reporting of these violations demand special vigilance,

Aware of the specific situation of children and juveniles in detention and their special needs while deprived of their liberty, in particular their vulnerability to various forms of abuse, injustice and humiliation,

Recalling in this context the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules"), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and General Assembly resolution 45/115 of 14 December 1990 on the instrumental use of children in criminal activities,

Welcoming the important activities of the Committee on the Rights of the Child, the Commission on Crime Prevention and Criminal Justice, the United Nations Children's Fund, the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Special Rapporteur on the sale of children, child prostitution and child pornography with regard to the special needs of children and juveniles in detention,

Deeply concerned at the severity and brutality with which children and juveniles are used as instruments in criminal activities,

Reaffirming that the best interests of the child and the juvenile must be a primary consideration in all decisions concerning the deprivation of their liberty,

1. Reaffirms the importance of the full implementation of all relevant United Nations standards on human rights in the administration of justice;

2. Reiterates once again its call to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure full implementation of these standards;

3. Recognizes the important role that non-governmental organizations, including professional associations of lawyers and judges, can play in promoting human rights in the administration of justice;

4. Welcomes the special attention given to questions relating to the effective protection of human rights in the administration of justice by special rapporteurs and working groups and calls upon them to continue to provide, wherever appropriate, specific recommendations in this regard, including proposals for concrete measures under the United Nations programme of advisory services and technical assistance in the field of human rights;

5. Stresses the desirability of States being provided, at their request, with continued assistance in the field of the administration of justice;

6. Urges the High Commissioner for Human Rights to consider favourably requests by States for assistance in the field of the administration of justice and to strengthen system-wide coordination in this field, in particular between the United Nations programme of advisory services and technical assistance in the field of human rights and the technical cooperation and advisory services of the United Nations crime prevention and criminal justice programme;

7. Takes note with appreciation of the recommendations of the expert group meeting on children and juveniles in detention, held at Vienna from 30 October to 4 November 1994 (see E/CN.4/1995/100);

8. Recognizes that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her dignity and needs;

9. Calls upon all States to give high priority to the promotion and protection of all rights of the child and juveniles in the administration of justice;

10. Urges States that the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty be fully taken into account in their national legislation and practice and that they be widely disseminated;

11. Also urges States to take appropriate steps to ensure compliance with the principle that depriving children and juveniles of their liberty should only be used as a measure of last resort;

12. Invites Governments to provide training in human rights and juvenile justice to all judges, lawyers, prosecutors, social workers and other professionals concerned with juvenile justice matters, including police and immigration officers;

13. Recommends that States make use of technical assistance offered by the United Nations programmes of advisory services and technical assistance, in order to strengthen national capacities and infrastructures in the field of juvenile justice;

14. Requests the High Commissioner for Human Rights to pay special attention to the subject of juvenile justice and, in close cooperation with the Crime Prevention and Criminal Justice Branch, the Committee on the Rights of the Child and the United Nations Children's Fund, to develop strategies to ensure effective coordination of technical cooperation programmes in the field of juvenile justice;

15. Requests the Secretary-General to report to the Commission at its fifty-second session on the implementation of the present resolution;

16. Decides to consider this question at its fifty-second session under the agenda item entitled "Question of the human rights of all persons subjected to any form of detention or imprisonment".

53rd meeting
3 March 1995

[Adopted without a vote. See chap. X.]

1995/42. Question of human rights and states of emergency

The Commission on Human Rights,

Endorsing Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/36, of 26 August 1994,

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

"The Economic and Social Council,

Recalling Commission on Human Rights resolution 1995/42 of 3 March 1995 and Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1994/36 of 26 August 1994,

1. Approves the Sub-Commission's request to the Special Rapporteur on human rights and states of emergency, Mr. Leandro Despouy, to fulfil his mandate, notably relating to the holding of an expert meeting (i) to study non-derogable rights in states or situations of

emergency and the international principles to be taken into account in drafting national legal rules, and (ii) to establish a database on states of emergency and related human rights questions;

2. Requests the Secretary-General to place at the disposal of the Special Rapporteur the human and material resources to fulfil his mandate in accordance with the foregoing."

53rd meeting

3 March 1995

[Adopted without a vote. See chap. X.]
