

YEARBOOK
ON
HUMAN RIGHTS
FOR 1988



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Introduction

The *Yearbook on Human Rights* for 1988 contains three parts: part I concerns international developments in the field of human rights, part II relates to activities of the United Nations supervisory bodies and part III concerns national developments.

Part I contains a brief account of activities in the field of human rights in the United Nations system and reflects major developments on questions of human rights in relevant United Nations organs and specialized agencies.

Part II consists of two sections:

Section A reflects the practice of the supervisory bodies concerning the examination of government reports and other tasks entrusted to these bodies under the relevant international instruments.

Section B includes relevant decisions, general recommendations, comments and observations made by the supervisory bodies in connection with their examination of reports submitted and other tasks entrusted to them under the international instruments.

Part III contains two sections:

Section A consists of a selection of material reflecting legislative, administrative, judicial and other national measures and court decisions, taken from government reports submitted under the international human rights instruments. Extracts from reports made by the following States under relevant international instruments in the field of Human Rights are reflected in the present *Yearbook*: Argentina, Bangladesh, Byelorussian Soviet Socialist Republic, Cameroon, Chile, Democratic Yemen, Ecuador, Egypt, Germany, Federal Republic of, Mexico, Mongolia, Netherlands, New Zealand, Norway, Poland, Republic of Korea, Sweden, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Zaire.

The material has been arranged under country headings with subject sub-headings related to the pertinent articles of the Universal Declaration of Human Rights as well as to relevant articles of the international instruments under which the State reports used as a source of information have been submitted.

Section B contains information relating to the exercise, in certain Trust and Non-Self-Governing Territories, of the right to self-determination.

PART I

INTERNATIONAL DEVELOPMENTS

Section A. United Nations system

The United Nations organs whose work in the field of human rights is summarized here are: the General Assembly, the Economic and Social Council, the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities.

During the period under review, human rights matters were dealt with at various sessions of those organs as follows:

General Assembly, forty-third session (20 September-22 December 1988);

Economic and Social Council, first regular session of 1988 (3-27 May 1988) and second regular session of 1988 (6-29 July 1988);

Commission on Human Rights, forty-fourth session (1 February-11 March 1988);

Sub-Commission on Prevention of Discrimination and Protection of Minorities, fortieth session (8 August-2 September 1988).

A. Elimination of racial discrimination—Decade for Action to Combat Racism and Racial Discrimination

At its forty-fourth session in February-March 1988, the Commission on Human Rights considered the question of the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination. By its resolution 1988/16 of 29 February 1988,¹ it urged all States and international organizations to cooperate with the Secretary-General in the implementation of the plan of activities for the period 1985-1989; appealed to all Governments, organizations and individuals in a position to do so to contribute generously to the Trust Fund for the Programme for the Decade for Action to Combat Racism and Racial Discrimination, so as to enable the Secretary-General to implement the various programme elements outlined in the plan of activities for 1985-1989; recalled its resolution 1987/12, in which it decided that the topic for such thematic consideration in

¹ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88, and Corr.1)*, chap. II.A.

1989 would be “The political, historical, economic, social and cultural factors contributing to racism, racial discrimination and *apartheid*”, and requested the Secretary-General to envisage the organization of a seminar on that topic; decided that the topic for 1990 will be “The human rights of individuals belonging to ethnic groups in countries of immigration”; welcomed General Assembly resolution 42/47, in which the Assembly once again authorized the Secretary-General to organize in 1988 a global consultation on racial discrimination involving representatives of the United Nations system, regional intergovernmental organizations and interested non-governmental organizations in consultative status with the Economic and Social Council to focus on the coordination of international activities to combat racism and racial discrimination.

During its first regular session in 1988, the Economic and Social Council, by its resolution 1988/6 of 24 May 1988,² urgently requested the Secretary-General to ensure the effective and immediate implementation of those activities proposed for the first half of the Decade that have not yet been undertaken; invited the Secretary-General to proceed with the implementation of the activities for the period 1990-1993 listed in the annex to General Assembly resolution 42/47, and requested him, in this context, to accord the highest priority to measures to combat *apartheid*; also requested the Secretary-General to organize in 1989 a seminar on cultural dialogue between the countries of origin and the host countries of migrant workers; emphasized the importance of public information activities in combating racism and racial discrimination and in mobilizing public support for the objectives of the Second Decade, and, in this context, commends the efforts of the Coordinator for the Second Decade to Combat Racism and Racial Discrimination.

The General Assembly also considered the question of the implementation of the Programme for the Decade for Action to Combat Racism at its forty-third session.

By its resolution 43/91 of 8 December 1988,³ the General Assembly decided that the international community in general, and the United Nations in particular, should continue to give the highest priority to programmes for combating racism, racial discrimination and *apartheid*, and to intensify their efforts, during the Second Decade to Combat Racism and Racial Discrimination, to provide assistance and relief to the victims of racism and all forms of racial discrimination and *apartheid*, especially in South Africa and Namibia and in occupied territories and territories under alien domination; also requested the Sub-Commission on Prevention of Discrimination and

² *Ibid.*, Supplement No. 1 (E/1988/88).

³ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

Protection of Minorities to complete as soon as possible the study of the results achieved and the obstacles encountered during the first Decade for Action to Combat Racism and Racial Discrimination and the first half of the Second Decade; noted the holding at Geneva, from 3 to 6 October 1988, of a meeting on the global consultations on racial discrimination and requested the Secretary-General to transmit the recommendations of the global consultations to the organs of the United Nations and to the specialized agencies concerned with a view to their implementation; welcomed the decision of the Economic and Social Council contained in resolution 1988/6 of 24 May 1988 to organize in 1989 a seminar on cultural dialogue between the countries of origin and the host countries of migrant workers.

B. Measures against ideologies and practices based on racial intolerance, hatred and terror

The question of measures to be taken against all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist ideologies, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences, was considered by the Commission on Human Rights at its forty-fourth session. By its resolution 1988/63 of 10 March 1988,⁴ the Commission, *inter alia*, expressed its determination to resist all totalitarian ideologies, and especially their practices, which deprive people of basic human rights and fundamental freedoms and of equality of opportunity; considered further that free and widespread participation by all levels of the population in democratic institutions based on respect for the human rights proclaimed in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international instruments is one of the most effective forms of defence against all totalitarian ideologies; called upon all Governments to pay constant attention to educating the young in the spirit of respect for international law and fundamental human rights and freedoms and against Fascist, neo-Fascist and other totalitarian ideologies and practices based on terror, hatred and violence.

By its resolution 43/150 of 8 December 1988,⁵ the General Assembly, *inter alia*, again resolutely condemned all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist, that are based on *apartheid*, racial discrimination and racism, and the systematic denial of human rights and fundamental freedoms, or which have such consequences; called

⁴ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88, and Corr.1)*, chap. II.A.

⁵ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

upon all States to take the necessary measures to ensure the thorough investigation, detection, arrest, extradition and punishment of all war criminals and persons guilty of crimes against humanity who have not yet been brought before a court and appropriately punished; further called upon all States, in accordance with the basic principles of international law, to refrain from practices aimed at the violation of basic human rights, particularly the right to self-determination; appealed to States that have not yet done so to consider becoming parties to the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity and the International Convention on the Suppression and Punishment of the Crime of *Apartheid*.

C. Elimination of all forms of religious intolerance

By its resolution 1988/55 of 8 March 1988,⁶ the Commission on Human Rights, urged States, in accordance with their respective constitutional systems, and with such internationally accepted instruments as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, to provide, where they have not already done so, adequate constitutional and legal guarantees of freedom of thought, conscience, religion and belief, including the provision of effective remedies where there is intolerance or discrimination based on religion or belief; invited the Secretary-General to continue to give high priority to the dissemination of the text of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, in all official languages of the United Nations and in national languages, and to take all appropriate measures to make the text available for use by United Nations information centres as well as by other interested bodies; decided that the study of the current dimensions of the problems of intolerance and discrimination based on religion or belief by Mrs. Elizabeth Odio Benito, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, should be published in all official languages of the United Nations and widely distributed; decided to extend for two years the mandate of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world which are inconsistent with the provisions of the Declaration on the Elimination of All

⁶ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88, and Corr.1), chap. II.A.*

Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures, as appropriate.

During its first regular session of 27 May 1988,⁷ the Economic and Social Council adopted decision 1988/142, in which, taking note of Commission on Human Rights resolution 1988/55 of 8 March 1988, it approved the decision of the Commission to extend for two years the mandate of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and to recommend remedial measures, as appropriate. The Council also approved the Commission's request to the Secretary-General to provide all necessary assistance to the Special Rapporteur to enable him to report to the Commission at its forty-fifth session.

By its resolution 43/108 of 8 December 1988,⁸ the General Assembly, taking note of Commission on Human Rights resolution 1988/55 of 8 March 1988 and Economic and Social Council decision 1988/142 of 27 May 1988, whereby the mandate of the Special Rapporteur appointed to examine incidents and governmental actions in all parts of the world that are incompatible with the provisions of the Declaration and to recommend remedial measures as appropriate was extended for two years; invited the United Nations University and other academic and research institutions to undertake programmes and studies on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief; considered it desirable to enhance the promotional and public information activities of the United Nations in matters relating to freedom of religion or belief.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities also considered the question of the Elimination of All Forms of Religious Intolerance. By its resolution 1988/32 of 1 September 1988,⁹ taking into account the work already accomplished in the elaboration of international legal standards and norms concerning the elimination of intolerance and discrimination based on religion or belief, bearing in mind that the work carried out by the pre-sessional Working Group of the Commission to draft a convention on the rights of the child may be successfully completed in 1989, thus creating favourable conditions for the establishment of a pre-sessional open-ended working group to draft a convention on the freedom of religion or belief without calling for additional financial

⁷ *Ibid.*, Supplement No. 1 (E/1988/88).

⁸ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

⁹ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

resources, recommended to the Commission on Human Rights that it should consider establishing a pre-session working group on the topic immediately after the mandate of the Working Group to draft a convention on the rights of the child has come to an end.

D. Human rights of national, ethnic, religious and linguistic minorities

The Commission on Human Rights, by its resolution 1988/64 of 10 March 1988,¹⁰ decided to consider at its forty-fifth session the agenda item "Rights of persons belonging to national, ethnic, religious and linguistic minorities"; decided to establish at its forty-fifth session an open-ended working group to continue consideration of the revised draft declaration proposed by Yugoslavia, taking into account all relevant documents; decided further that the working group shall have no fewer than four full meetings, preferably during the first two weeks of the forty-fifth session; requested the Secretary-General to provide the working group with all the assistance it may require in the continuation of its drafting work.

E. Question of Palestine: the exercise of the inalienable rights of the Palestinian people

By its resolution 1988/3 adopted on 22 February 1988,¹⁰ the Commission on Human Rights, *inter alia*, reaffirmed the right of the Palestinian people to regain their rights by all means in accordance with the purposes and principles of the Charter of the United Nations and with relevant United Nations resolutions, and affirmed that the uprising of the Palestinian people since 8 December 1987 against the Israeli occupation is a form of legitimate resistance, an expression of their rejection of occupation and a consolidation of their unity under the leadership of the Palestine Liberation Organization; expressed again its deep regret at the negative attitude of some States, which is hindering the convening of the international peace conference, and called upon those States to reconsider their attitude towards the question of peace in the Middle East; strongly condemned Israel for its continued occupation of the Palestinian and other Arab territories, which violates the Charter of the United Nations, the principles of international law and the relevant resolutions of the Security Council, the General Assembly and the Commission on Human Rights; requested the Secretary-General to transmit the present resolution to the Government of Israel with a view to its implementation and

¹⁰ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 and Corr.1* (E/1988/12-E/CN.4/1988/88), chap. II.A.

to report thereon to the Commission at its forty-fifth session; decided to place on the provisional agenda of its forty-fifth session as a matter of high priority the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider, in the context of this item, the situation in occupied Palestine.

By its resolution 43/175 A of 15 December 1988¹¹ on the Exercise of the Inalienable Rights of the Palestinian People, the General Assembly, *inter alia*, authorized the Committee to continue to exert all efforts to promote the implementation of its recommendations, including representation at conferences and meetings and the sending of delegations, to make such adjustments in its approved programme of seminars and symposia and meetings for non-governmental organizations as it may consider necessary, and to report thereon to the General Assembly at its forty-fourth session and thereafter; requested the Committee to continue to extend its co-operation to non-governmental organizations in their contribution towards heightening international awareness of the facts relating to the question of Palestine and creating a more favourable atmosphere for the full implementation of the Committee's recommendations, and to take the necessary steps to expand its contacts with those organizations; decided to circulate the report of the Committee to all the competent bodies of the United Nations and urged them to take the necessary action, as appropriate, in accordance with the Committee's programme of implementation.

By its resolution 43/175 B,¹¹ also adopted on 15 December 1988, the General Assembly requested the Secretary-General to direct the Division for Palestinian Rights to pay particular attention to the plight of Palestinian children in the occupied Palestinian territories in its programme of work for 1989; took note with appreciation of the action taken by Member States to observe annually on 29 November the International Day of Solidarity with the Palestinian People, and of the issuance by them of special postage stamps for the occasion.

By its resolution 43/175 C of 15 December 1988,¹¹ the General Assembly, *inter alia*, requested the Department of Public Information, in full co-operation and coordination with the Committee on the Exercise of the Inalienable Rights of the Palestinian People, to continue its special information programme on the question of Palestine in 1989, with particular emphasis on public opinion in Europe and North America.

¹¹ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

F. The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa

By its resolution 1988/12 of 29 February 1988,¹² the Commission on Human Rights, *inter alia*, invited the Special Rapporteur to intensify direct contacts with the United Nations Centre on Transnational Corporations and the Centre against *Apartheid*, with a view to consolidating mutual co-operation in updating his report; called upon Governments to cooperate with the Special Rapporteur in making the report even more accurate and informative; to disseminate the updated report and give its contents the widest possible publicity.

By its resolution 1988/13, also adopted on 29 February 1988,¹¹ the Commission on Human Rights, *inter alia*, welcoming the establishment of the Action for Resisting Invasion, Colonialism and *Apartheid* Fund by the Eighth Conference of Heads of State and Government of Non-Aligned Countries, held in Harare from 1 to 6 September 1986, and the launching of the Fund following the African Fund summit meeting, held in New Delhi on 24 and 25 January 1987, noted with appreciation the recent measures taken by some States, parliamentarians, institutions and non-governmental organizations in order to exert pressure on the racist régime of South Africa and called upon them to redouble and intensify their efforts to force the racist régime to comply with resolutions and decisions of the United Nations on Namibia and South Africa; welcomed the request of the General Assembly that the Security Council urgently consider complete and mandatory sanctions under Chapter VII of the Charter of the United Nations against the racist, colonial régime of South Africa.

The General Assembly, by its resolution 43/92 of 8 December 1988,¹³ also considered the question of adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa, in which it, *inter alia*, vigorously condemned the collaboration of certain Western States, Israel and other States, as well as the transnational corporations and other organizations, which maintain or continue to increase their collaboration with the racist and colonialist régime of South Africa, especially in the political, economic, military and nuclear fields, thus encouraging that régime to persist in its inhuman and criminal policy of brutal oppression of the peoples of southern Africa and denial of their human rights; demanded that the Secretary-General, in accordance with Economic and Social Council

¹² See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II. A.

¹³ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

decision 1986/145 of 23 May 1986, make available to the Special Rapporteur two economists to help him to develop his work of analysis and documentation of some special cases mentioned in his report; requested the Special Rapporteur to include in his updated report a list of partial disinvestment of foreign enterprises from South Africa, enumerating various techniques employed to avoid total withdrawal from participation in the South African economy; called upon the Governments of the countries where the banks, transnational corporations and other organizations named and listed in the updated report are based to take effective action to put a stop to their trading, manufacturing and investing activities in the territory of South Africa as well as in the Territory of Namibia illegally occupied by the racist Pretoria régime.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, by its resolution 1988/3 adopted on 25 August 1988,¹⁴ recommended draft resolution II to the Commission on Human Rights for adoption.

G. The right of peoples to self-determination

Afghanistan

At its forty-fourth session, the Commission on Human Rights, adopted resolution 1988/4 of 22 February 1988,¹⁵ in which it, *inter alia*, reaffirmed its most profound concern that the people of Afghanistan continue to be denied their right to self-determination and to determine their own form of government and to choose their economic, political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever; expressed its appreciation and support for the efforts and constructive steps taken by the Secretary-General, especially the diplomatic process initiated by him, in the search for a solution to the problem; requested the Secretary-General to continue these efforts with a view to promoting a political solution, in accordance with the provisions of the relevant General Assembly resolutions; urged all concerned to continue to cooperate with the Secretary-General in his efforts to promote a political solution in respect of the situation in Afghanistan; appealed to all States and international organizations to extend humanitarian relief assistance, with a view to alleviating the hardship of Afghan refugees, in coordination with the United Nations High Commissioner for Refugees.

¹⁴ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

¹⁵ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1), chap. II.A.

Democratic Kampuchea

By its resolution 1988/6 of 22 February 1988,¹⁵ the Commission on Human Rights, *inter alia*, seriously concerned that the continuing illegal occupation of Kampuchea and the reported demographic changes imposed by foreign occupation forces in Kampuchea are a threat to the survival of the Kampuchean people and culture, reiterated its condemnation of the persistent occurrence of gross and flagrant violations of human rights in Kampuchea as expressed in its resolutions adopted in the last eight years, namely, resolutions 29 (XXXVI), 11 (XXXVII), 1982/13, 1983/5, 1984/12, 1985/12, 1986/25 and 1987/6; reaffirmed that the continuing illegal occupation of Kampuchea by foreign forces deprived the people of Kampuchea of the exercise of their right to self-determination and constituted the primary violation of human rights in Kampuchea.

By its decision 1988/143, of 27 May 1988,¹⁶ the Economic and Social Council, *inter alia*, expressed its grave concern at the unresolved dilemma of the approximately 292,000 Kampuchean civilians still stranded in Thailand as a result of the armed attacks by the foreign forces in Kampuchea on the Kampuchean civilian encampments along the Thai-Kampuchean border since 1984. In that connection, the Council recalled the statements made by the Secretary-General on 27 December 1984 and 13 March 1985, in which, *inter alia*, he appealed to all concerned to avoid endangering the lives of those Kampuchean civilians and adding to the misery and deprivation that already afflicted those most unfortunate people.

The Council also expressed its grave concern at the continued violation of human rights by the foreign occupying forces in Kampuchea of Kampuchean nationals in their homeland, as well as of innocent Kampuchean displaced persons seeking temporary shelter in encampments along the border; it requested the Secretary-General to report to the Council any further violations of humanitarian principles perpetrated against Kampuchean civilian refugees by the foreign occupying troops along the border, and also requested him to continue to monitor closely the developments in Kampuchea and to intensify efforts, including the use of his good offices, to bring about a comprehensive political settlement of the Kampuchean problem and the restoration of fundamental human rights in Kampuchea; and recalled the communiqués issued by the *Ad Hoc* Committee of the International Conference on Kampuchea on 17 January and 15 February 1985. The Council noted the visits undertaken by the Chairman and members of the Committee to a number of countries in 1987 in an effort to find a comprehensive political solution to the Kampuchean problem. The Council also noted with ap-

¹⁶ *Ibid.*, Supplement No. 1 (E/1988/88).

preciation the ongoing efforts of the Committee and requested that the Committee continue its work, pending the reconvening of the Conference.

The General Assembly also considered the question of the situation in Kampuchea. By its resolution 43/19 of 3 November 1988,¹⁷ *inter alia*, it recognized that the Jakarta Informal Meeting held at Bogor, Indonesia, from 25 to 28 July 1988 was a significant development, which marked for the first time the participation of the parties directly involved and other concerned countries; reiterated its conviction that the withdrawal of all foreign forces from Kampuchea under effective international supervision and control, the creation of an interim administering authority, the promotion of national reconciliation among all Kampuchean under the leadership of Samdech Norodom Sihanouk, the non-return to the universally condemned policies and practices of the recent past, the restoration and preservation of the independence, sovereignty, territorial integrity and neutral and non-aligned status of Kampuchea, the reaffirmation of the right of the Kampuchean people to determine their own destiny and the commitment by all States to non-interference and non-intervention in the internal affairs of Kampuchea, with effective guarantees, are the principal components of any just and lasting resolution of the Kampuchean problem; urged the States of South-East Asia, once a comprehensive political solution to the Kampuchean conflict is achieved, to exert renewed efforts to establish a zone of peace, freedom and neutrality in South-East Asia; reiterated the hope that, following a comprehensive political solution, an intergovernmental committee will be established to consider a programme of assistance to Kampuchea for the reconstruction of its economy and for the economic and social development of all States in the region.

Western Sahara

By its resolution 1988/5 of 22 February 1988,¹⁸ the Commission on Human Rights, *inter alia*, reaffirmed also that the solution of the question of Western Sahara lay in the implementation of resolution AHG/Res.104 (XIX) of the Assembly of Heads of State and Government of the Organization of African Unity, which established ways and means for a just and definitive political solution to the Western Sahara conflict; welcomed also the invitation by the General Assembly to the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity and the Secretary-General of the United Nations to continue to exert every effort to persuade the two parties to the conflict, the Kingdom of Morocco and the

¹⁷ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

¹⁸ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II.A.

Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro, to negotiate, in the shortest possible time, in conformity with Organization of African Unity resolution AHG/Res.104 (XIX) and General Assembly resolutions 40/50 and 42/78, the terms of a cease-fire and the modalities for the said referendum; joined in the appeal by the General Assembly to the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro to display the political will necessary to implement Organization of African Unity resolution AHG/Res.104 (XIX) and General Assembly resolutions 40/50, 41/16 and 42/78; expressed its satisfaction at the determination of the United Nations to cooperate fully with the Organization of African Unity with a view to implementing the relevant decisions of that organization, in particular resolution AHG/Res.104 (XIX).

H. Question of human rights of persons subjected to any form of detention or imprisonment

By its decision 1988/107 of 1 September 1988,¹⁹ the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its fortieth session, decided without a vote, to request the Secretary-General to bring to the attention of the General Assembly's Sixth Committee's Working Group on the Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, in connection with the draft text annexed to its report (A/C.6/42/L.12), the questions set forth in annex II to the report of the Sub-Commission's Working Group on Detention (E/CN.4/Sub.2/1988/28).

I. Communications concerning human rights

The Sub-Commission on Prevention of Discrimination and Protection of Minorities considered communications concerning human rights: report of the working group established under Sub-Commission resolution 2 (XXIV) of 16 August 1971 in accordance with economic and social council resolution 1503 (XLVIII) of 27 May 1970.²⁰

The Sub-Commission decided to defer action on certain communications to its forty-first session in 1989 and to take no action with regard to certain other communications which it had before it. Following the dis-

¹⁹ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

²⁰ *Ibid.*

discussion which ensued, the Sub-Commission decided, pursuant to paragraph 5 of Economic and Social Council resolution 1503 (XLVIII), to refer to the Commission on Human Rights for consideration certain particular situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights; adopted a report by which it communicated its decision, to the Commission on Human Rights, confidentially, in accordance with paragraph 8 of Council resolution 1503 (XLVIII); the Sub-Commission had before it a confidential report on the work of the sixteenth session of the Working Group on Communications, held from 25 July to 5 August 1988 (E/CN.4/Sub.2/1988/R.1 and Addenda), as well as certain communications which had been kept pending before it since its thirty-ninth session in 1987. All relevant government replies were also before the Sub-Commission. The Chairman-Rapporteur of the Working Group on Communications, Mr. Fisseha Yimer, introduced its report and drew attention, as appropriate, to the material which was pending before the Sub-Commission since its thirty-ninth session.

The Commission on Human Rights at its 41st to 44th meetings, held on 1 and 2 March 1988,²¹ examined the human rights situations in Albania, Benin, Brunei Darussalam, Grenada, Honduras, Iraq, Pakistan, Paraguay and Zaire and took action thereon under Economic and Social Council resolution 1503 (XLVIII), as publicly announced by the Chairman after the closed part of the 44th meeting. He also announced that the human rights situation in Albania, Benin, Grenada, Iraq and Pakistan were no longer under consideration by the Commission under Council resolution 1503 (XLVIII), but that the decision taken by it in closed session in respect of Albania would be made public. The Commission, acting under paragraph 8 of Council resolution 1503 (XLVIII), decided to discontinue consideration of the human rights situation in Albania under the confidential procedure governed by that resolution and to take up consideration of the matter under the public procedure provided for by Commission resolution 8 (XXIII) and Council resolution 1235 (XLII). The decision, adopted in the form of a resolution, contains a recommendation to the Economic and Social Council that the confidential material concerning Albania that has been before the Commission under Council resolution 1503 (XLVIII) should no longer be restricted. At the request of the representative of Ireland, a roll-call vote was taken on the draft resolution concerning Albania. The draft resolution was adopted by 15 votes to 11, with 17 abstentions.

²¹ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. XII. B.

J. Slavery and slavery-like practices

The Commission on Human Rights by its resolution 1988/42 of 8 March 1988,²² *inter alia*, invited the Sub-Commission and its Working Group to draw up, for submission to the Commission at its forty-fifth session, a plan of action on its future work regarding the elimination of contemporary forms of slavery, including the traffic in persons and the exploitation of the prostitution of others, and paying particular attention to the prevention of child prostitution and child pornography; decided to transmit to all Member States the recommendation by the Sub-Commission that freedom of attendance and freedom of speech before the Working Group be solemnly reaffirmed, and that any step taken by any authority designed to interfere with those freedoms or to punish their exercise be strongly condemned; requested the Secretary-General to report to the Economic and Social Council on the steps taken to implement the recommendations in Council resolution 1983/30; recommended draft resolution III to the Economic and Social Council for adoption.

By its resolution 1988/34 of 27 May 1988,²³ the Economic and Social Council, *inter alia*, endorsed the recommendation made by the Commission on Human Rights in its resolution 1988/42 that the Sub-Commission on Prevention of Discrimination and Protection of Minorities consider appointing a special rapporteur to review the implementation of the recommendations made and the appropriate measures taken by United Nations organs and specialized agencies, other international organizations and Member States and to submit recommendations with a view to achieving further progress in the prevention and suppression of slavery-like practices, the traffic in persons and the exploitation of the prostitution of others, as well as other contemporary forms of slavery; decided, in the light of the recommendations made in its resolution 1983/30 and in General Assembly resolutions 38/107 and 40/103, to consider the question of the suppression of the traffic in persons and of the exploitation of the prostitution of others at its first regular session of 1989 under the agenda item entitled "Human Rights".

By its resolution 1988/31 of 1 September 1988,²⁴ the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *inter alia*, encouraged United Nations institutions, in particular the United Nations Educational, Scientific and Cultural Organization, to examine the possibility of organizing expert meetings on the international standards regarding the prevention of traffic in persons and exploitation of the prostitution of others;

²² See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1).

²³ *Ibid.*, *Supplement No. 1* (E/1988/88).

²⁴ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

recalled that one professional post has been included in the budget of the Centre for Human Rights specifically for questions relating to slavery and practices similar to slavery, and requested the Secretary-General to assign a full-time professional staff member to serve the Working Group and other activities relating to contemporary forms of slavery.

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

At its forty-fourth session, the Commission on Human Rights, in its resolution 1988/31 of 8 March 1988,²⁵ bearing in mind that the Economic and Social Council is called upon to consider annual reports on the activities of all such bodies and that it can therefore make appropriate recommendations to the General Assembly; recommended to the Economic and Social Council that it give the matter due attention; requested the Secretary-General to prepare for consideration by the Council at its next session a concise overview of the various methods applied under different human rights instruments as regards their financial implications.

By its resolution 43/132 of 8 December 1988,²⁶ the General Assembly appreciated the fact that the Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment has given early attention to the development of an effective reporting system on implementation by States parties to the Convention; once again invited all States, upon ratification of or accession to the Convention, or subsequently, to consider the possibility of making the declarations provided for in articles 21 and 22 thereof; requested the Secretary-General to submit to the Commission on Human Rights at its forty-fifth session and to the General Assembly at its forty-fourth session a report on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

L. Question of a convention on the rights of the child

The Commission on Human Rights by its resolution 1988/75 of 10 March 1988,²⁷ noted with appreciation that the first reading of a comprehensive draft convention on the rights of the child has been completed by the

²⁵ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88)*, chap. II.A.

²⁶ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

²⁷ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II.A.

open-ended working group of the Commission on Human Rights; requested the Economic and Social Council to authorize, within existing resources, the convening of an open-ended working group for a period of up to two weeks in November-December 1988, with a view to completing the second reading of the draft convention on the rights of the child prior to the forty-fifth session of the Commission for transmission, through the Economic and Social Council, to the General Assembly at its forty-fourth session; further requested the Secretary-General to provide the resources necessary for the technical review of the first reading of the convention, as requested by the working group, so that the technical review may be completed by 31 August 1988 and its results sent to all States well in advance of the second reading; recommended draft resolution IX to the Economic and Social Council for adoption.

During its first regular session, the Economic and Social Council adopted resolution 1988/40 of 27 May 1988.²⁸ It authorized, within existing resources, the open-ended working group of the Commission on Human Rights to meet for a period of up to two weeks in November-December 1988, with a view to completing the second reading of the draft convention on the rights of the child prior to the forty-fifth session of the Commission for submission, through the Economic and Social Council, to the General Assembly at its forty-fourth session; requested the Secretary-General to continue to provide the working group with all the support and facilities necessary for the successful completion of its task, to circulate to all States the report of the working group and the draft convention as adopted during its first reading, and to provide the resources necessary for the technical review requested by the working group and for the meeting of the working group in November-December 1988.

The General Assembly also considered the question of a convention on the rights of the child. By its resolution 43/112 of 8 December 1988,²⁹ it welcomed Economic and Social Council resolution 1988/40 of 27 May 1988, in which the Council authorized a meeting of the open-ended working group of the Commission on Human Rights for a period of up to two weeks in November-December 1988, with a view to completing the second reading of the draft convention on the rights of the child prior to the forty-fifth session of the Commission; requested the Commission on Human Rights to give the highest priority to the draft convention on the rights of the child and to make every effort at its session in 1989 to complete it and to submit it, through the Economic and Social Council, to the General Assembly at its

²⁸ See *Official Records of the Economic and Social Council, 1988, Supplement No. 1 (E/1988/88)*.

²⁹ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

forty-fourth session; invited all Member States to offer their active support to the completion of the draft convention on the rights of the child in 1989, the year of the thirtieth anniversary of the Declaration on the Rights of the Child and of the tenth anniversary of the International Year of the Child.

M. Measures to improve the situation and to ensure the human rights and dignity of all migrant workers

By its resolution 1988/77 of 10 March 1988,³⁰ the Commission on Human Rights, *inter alia*, welcomed once more the progress being made by the Working Group in the discharge of its mandate and, in particular, the headway it has made in the second reading of the draft international convention on the protection of the rights of all migrant workers and their families; reiterated its hope that the General Assembly will complete the elaboration of the convention as soon as possible.

By its resolution 43/146 of 8 December 1988,³¹ the General Assembly, *inter alia*, decided that, in order to enable it to complete its task as soon as possible, the Working Group shall again hold an inter-sessional meeting of two weeks' duration in New York, immediately after the first regular session of 1989 of the Economic and Social Council; invited the Secretary-General to transmit to Governments the two most recent reports of the Working Group so as to enable the members of the Working Group to continue the drafting, in second reading, of the draft convention during the inter-sessional meeting to be held in the spring of 1989, as well as to transmit the results obtained at that meeting to the General Assembly for consideration during its forty-fourth session; decided that the Working Group shall meet during the forty-fourth session of the General Assembly, preferably at the beginning of the session, to conclude, if possible, the second reading of the draft international convention on the protection of the rights of all migrant workers and their families; requested the Secretary-General to do everything possible to ensure adequate secretariat services for the Working Group for the timely fulfilment of its mandate, both at its inter-sessional meeting to be held after the first regular session of 1989 of the Economic and Social Council and during the forty-fourth session of the General Assembly.

³⁰ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II.A.

³¹ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

N. The right of everyone to leave any country, including his own, and to return to his country

By its resolution 1988/46 of 8 March 1988,³² the Commission on Human Rights, *inter alia*, noted also with satisfaction that the Sub-Commission had decided to consider the matter under a separate sub-item of the agenda item entitled "Promotion, protection and restoration of human rights at national, regional and international level"; requested that appropriate steps be taken to ensure that the Sub-Commission was provided with the entire report and requested the Secretary-General to continue giving the Special Rapporteur all the assistance required to enable him to present the final report and the draft declaration to the Sub-Commission at its fortieth session.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities, by its resolution 1988/39 of 1 September 1988,³³ decided to examine further as a separate item the report, the recommendations for future actions and development contained in the report, as well as the draft declaration on freedom and non-discrimination in respect of the right of everyone to leave any country, including his own, and to return to his country, at its forty-first session and to take effective measures at that session in order to secure that substantive progress be made as regards further work on this issue, with special focus on the draft declaration; further decided to request the Secretary-General to transmit the said draft declaration to Member States, specialized agencies and other intergovernmental organizations with competence in the field of human rights, and non-governmental organizations in consultative status, for their comments and to bring these comments to the attention of the Sub-Commission at its forty-first session.

O. Indigenous populations

By its resolution 1988/48 of 8 March 1988,³⁴ the Commission on Human Rights considered the study of the problem of discrimination against indigenous populations and recommended draft resolution IV to the Economic and Social Council for adoption.

By its resolution 1988/49 of 8 March 1988,³⁴ the Commission recommended to the Economic and Social Council for adoption resolution V on the draft declaration of principles on the rights of indigenous populations.

³² See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1), chap. II.A.

³³ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1988/3-E/CN.4/Sub.2/1988/45).

³⁴ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1), chap. II.A.

By its resolution 1988/56 of 9 March 1988,³⁴ entitled “Study on the significance of treaties, agreements and other constructive arrangements for the promotion and protection of the human rights and fundamental freedoms of indigenous populations”, the Commission on Human Rights, *inter alia*, recommended to the Economic and Social Council that it authorize the appointment of Mr. Miguel Alfonso Martínez as Special Rapporteur of the Sub-Commission with the mandate of preparing an outline on the possible purposes, scope and sources of a study to be conducted on the potential utility of treaties, agreements and other constructive arrangements between indigenous populations and governments for the purpose of ensuring the promotion and protection of the human rights and fundamental freedoms of indigenous populations; requested the Secretary-General to bring the present resolution, the above-mentioned outline and the deliberations of the Sub-Commission thereon to the attention of Governments, specialized agencies and non-governmental organizations, including indigenous peoples’ organizations, with a view to obtaining comments in advance of the forty-fifth session of the Commission.

The Commission on Human Rights by its resolution 1988/58, of 9 March 1988,³⁴ recommended draft resolution VI to the Economic and Social Council for adoption.

By its resolution 1988/35 of 27 May 1988,³⁵ the Economic and Social Council, *inter alia*, requested the Secretary-General to include the recognition and promotion of the rights of indigenous peoples in future United Nations activities under the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination and to invite representatives of indigenous nations, peoples and communities, including non-governmental organizations, to participate in the planning and implementation of these activities; requested the Secretary-General to organize in 1988, as part of the programme of advisory services in the field of human rights, a seminar on the effects of racism and racial discrimination on the social relations between indigenous peoples and States.

By its resolution 1988/36 of 27 May 1988,³⁵ the Economic and Social Council, requested the Chairman-Rapporteur of the Working Group on indigenous populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Mrs. Erica-Irene Daes, to prepare a working paper containing a set of principles and preambular paragraphs for inclusion in a draft declaration of principles on the rights of indigenous populations, for consideration by the Working Group at its sixth session 1988; requested the Secretary-General to give all necessary assistance to Mrs. Daes in the completion of this task.

³⁵ See *Official Records of the Economic and Social Council, 1988, Supplement No. 1 (E/1988/88)*.

By its resolution 1988/37 of 27 May 1988,³⁵ the Economic and Social Council also considered the proposal to proclaim an international year of the world's indigenous populations, in which, *inter alia*, noting that the Sub-Commission on Prevention and Protection of Minorities, in its resolution 1987/16 of 2 September 1987, endorsed the recommendation that the Working Group on indigenous populations should make every effort to complete a draft declaration on indigenous rights as soon as possible, conscious of the continuing struggle of indigenous populations throughout the world to enjoy their inalienable rights and fundamental freedoms, recommended that the General Assembly should, at an appropriate time, proclaim an international year of the world's indigenous populations.

By its decision 1988/134 of 27 May 1988,³⁵ the Economic and Social Council, taking note of Commission on Human Rights resolution 1988/56 of 9 March 1988, decided to authorize the appointment of Mr. Miguel Alfonso Martínez as Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities with the mandate to prepare an outline on the possible purposes, scope and sources of a study to be conducted on the potential utility of treaties, agreements and other constructive arrangements between indigenous populations and governments for the purpose of ensuring the promotion and protection of the human rights and fundamental freedoms of indigenous populations.

The Sub-Commission also considered the question of indigenous populations. By resolution 1988/19 of 1 September 1988,³⁶ *inter alia*, it recommended that an international year for indigenous rights should be proclaimed to coincide with the end of the Second Decade for Action to Combat Racism and Racial Discrimination in 1993; requested the Secretary-General to bring this resolution to the attention of the General Assembly in connection with its consideration of resolution 1988/37 of the Economic and Social Council.

By its resolution 1988/20 of 1 September 1988,³⁶ the Sub-Commission recommended draft resolution III to the Commission on Human Rights for adoption.

By its resolution 1988/18 of 1 September 1988,³⁶ the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *inter alia*, expressed its deep satisfaction with the continued constructive participation of observers for Governments, indigenous peoples, specialized agencies and non-governmental organizations, and welcomed the initiative taken by indigenous non-governmental organizations in planning preparatory meetings of indigenous representatives in advance of its sessions; appreciated the fact that the United Nations Voluntary Fund for Indigenous Populations was able

³⁶ See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

to facilitate the participation of a significant number of representatives of indigenous peoples in the sixth session of the Working Group, and thanked those governments and non-governmental organizations which had made generous contributions to the Fund; endorsed the decision of the Working Group to adopt the working paper prepared by its Chairman-Rapporteur as the framework for the drafting of a universal declaration on indigenous rights in accordance with the plan of action contained in its report and recommendations.

By its decision 1988/105 of 1 September 1988,³⁵ the Sub-Commission recalled its decision 1987/110 of 4 September 1987, which had not yet been carried out, and decided without a vote to invite Mrs. Erica-Irene Daes and Mr. John Carey to prepare, without financial implications, a summary of the information which may be available to them including on the basis of decision 1987/110 regarding the relocation of Hopi and Navajo families, for the use of the Sub-Commission at its forty-first session.

P. United Nations Decade of Disabled Persons

By its resolution 1988/45 of 27 May 1988,³⁷ the Economic and Social Council, *inter alia*, urged all Member States and relevant organs and bodies of the United Nations system that have not yet done so, to submit to the Secretary-General, as soon as possible, their comments in accordance with paragraph 17 of General Assembly resolution 42/58; requested the Secretary-General to submit to the General Assembly at its forty-third session a more detailed report and analysis, based on the comments received, so that a list of priorities may be established for planning global activities and programmes for the remainder of the United Nations Decade of Disabled Persons and beyond; called upon Member States, organs and bodies of the United Nations system and other intergovernmental and non-governmental organizations to make all possible efforts in the implementation of the World Programme of Action concerning Disabled Persons and to promote efforts at all levels in the context of the Decade.

The General Assembly also considered the question of the United Nations Decade of Disabled Persons. By its resolution 43/98 of 8 December 1988,³⁸ taking note of Economic and Social Council resolution 1988/45 of 27 May 1988, in which the Council, *inter alia*, reiterated the need to launch a special global awareness and fund-raising campaign to give added momentum to the Decade, and in this regard, welcomed the appointment by the

³⁷ See *Official Records of the Economic and Social Council, 1988, Supplement No. 1 (E/1988/88)*.

³⁸ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

Secretary-General of the Special Representative for the Promotion of the United Nations Decade of Disabled Persons, it invited Governments to participate actively in the international cooperation with a view to improving the living conditions of disabled persons by encouraging professional experts, in particular disabled persons, in various aspects of rehabilitation and the equalization of opportunity, including those who are in retirement and willing to work with disabled persons; requested the Secretary-General to conduct a feasibility study on the substantive, financial and administrative implications of alternative ways to mark the end of the Decade in 1992, which would include a review of the global progress achieved and obstacles encountered during the Decade and which would provide a mechanism for preparing the actions needed until the year 2000 and beyond, and to submit the study to the General Assembly at its forty-fifth session; requested the Secretary-General to inform the Commission for Social Development at its thirty-first session of the progress of work of the Special Representative for the Promotion of the Decade of Disabled Persons.

Q. Right to development

By its resolution 1988/26 of 7 March 1988,³⁹ the Commission on Human Rights, *inter alia*, decided to convene the Working Group of Governmental Experts on an open-ended basis during the last week of January 1988; directed the Working Group to study the analytical compilation referred to in paragraph 5, if necessary together with the individual replies themselves, and to submit to the Commission, at its forty-fifth session, its final recommendations as to which proposals would best contribute to the further enhancement and implementation of the Declaration on the Right to Development, at the individual, national and international levels, and especially as to the views of the Secretary-General and governments on how an evaluation system on the implementation and further enhancement of the Declaration could be set up; decided also that, at its forty-fifth session, on the basis of the consideration of the report of the Working Group of Governmental Experts and the views expressed by the members of the Commission at the session, a decision would be taken on the further course of action in the matter, in particular on practical measures for the implementation and enhancement of the Declaration on the Right to Development.

By its decision 1988/128 of 27 May 1988,⁴⁰ the Economic and Social Council, taking note of Commission on Human Rights resolution 1988/26 of 7 March 1988, decided to transmit to the General Assembly, at its forty-third

³⁹ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1), chap. II.A.

⁴⁰ *Ibid.*, *Supplement No. 1* (E/1988/88).

session, the report of the Working Group of Governmental Experts on the Right to Development and approved the Commission's decision to convene the Working Group on an open-ended basis during the last week of January 1989 as well as its request to the Secretary-General to provide all necessary assistance to the Working Group.

The General Assembly also considered the question of the right to development by its resolution 43/127 of 8 December 1988,⁴¹ in which, *inter alia*, it expressed the hope that the replies of governments, United Nations bodies and specialized agencies and governmental and non-governmental organizations, submitted at the request of the Secretary-General based on Commission on Human Rights resolution 1988/26 to offer their comments and views on the implementation of the Declaration on the Right to Development, will contain practical proposals for further enhancement of the Declaration; endorsed the agreement reached by the Commission that future work on the question of the right to development should proceed step by step and in stages; called upon the Commission to decide at its forty-fifth session, on the basis of its consideration of the report of the Working Group and the views expressed by the members of the Commission during the session, on the future course of action on the question, in particular on practical measures for the implementation and enhancement of the Declaration.

R. Human rights and scientific and technological developments

By its resolution 1988/60 of 9 March 1988,⁴² the Commission on Human Rights, *inter alia*, again called upon all States that have not yet done so to take effective measures with a view to prohibiting any propaganda for war, in particular the formulation, propounding and dissemination of propaganda for doctrines and concepts aimed at unleashing nuclear war; emphasized the importance of overcoming prejudices based on intolerance, hatred and "enemy image" stereotypes; called upon Governments, intergovernmental and non-governmental organizations and the public in all countries to intensify their efforts with a view to strengthening mutual understanding and trust in relations among peoples and States and educating people in the spirit of peace, humanism and respect for the values common to all mankind.

By its resolution 1988/61 of 9 March 1988,⁴² the Commission on Human Rights, *inter alia*, called upon all States to make the necessary efforts to use the achievements of science and technology in order to promote peaceful

⁴¹ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

⁴² See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II.A.

social, economic and cultural development and progress and to put an end to the use of these achievements for military purposes; also called upon all States to take the necessary measures to ensure that the achievements of science and technology are placed at the service of mankind and do not lead to the degradation of the ecological environment; requested once again the Sub-Commission on Prevention of Discrimination and Protection of Minorities to undertake as a matter of priority a study on the use of the achievements of scientific and technological progress to ensure the right to work and development.

By its resolution 43/110 of 8 December 1988,⁴³ the General Assembly also considered the question of human rights and scientific and technological developments, in which, *inter alia*, it stressed the importance of the implementation by all States of the provisions and principles contained in the Declaration on the Use of Scientific and Technological Progress in the Interest of Peace and for the Benefit of Mankind in order to promote human rights and fundamental freedoms; called upon all States to make every effort to use the achievements of science and technology in order to promote peaceful social, economic and cultural development and progress and to put an end to the use of these achievements for military purposes; also called upon all States to take all necessary measures to place all the achievements of science and technology at the service of mankind and to ensure that they do not lead to the degradation of the natural environment; requested the specialized agencies and other organizations of the United Nations system to take into account in their programmes and activities the provisions of the Declaration; invited the Commission on Human Rights to take appropriate measures and to assist the Sub-Commission on Prevention of Discrimination and Protection of Minorities in preparing the study requested by the Commission in its resolutions 1982/4 of 19 February 1982, 1984/29 of 12 March 1984, 1986/11 of 10 March 1986 and 1988/61 of 9 March 1988.

S. Further promotion and encouragement of human rights and fundamental freedoms: public information activities in the field of human rights, including the World Information Campaign

The Commission on Human Rights by its resolution 1988/74 of 10 March 1988,⁴⁴ *inter alia*, encouraged all Member States to make special efforts during 1988 to provide, facilitate and encourage publicity for the activities of the United Nations in the field of human rights and to accord pri-

⁴³ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

⁴⁴ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*, chap. II.A.

ority to the dissemination, in their respective national and local languages, of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international conventions; welcomed the General Assembly's request that the Secretary-General present a report to the Assembly at its forty-third session on the advisability of launching, within existing resources, a world public information campaign on human rights in 1989 and that he include in the report an outline of planned activities; emphasized the key role of the United Nations information centres in the public information programme of the United Nations in the field of human rights, and urged the Department of Public Information to give special attention to this role when reviewing the performance and accountability of the centres; urged all Member States to include in their educational curricula materials relevant to a comprehensive understanding of human rights issues and encouraged all those responsible for training in law and its enforcement, the armed forces, medicine, diplomacy and other relevant fields to include appropriate human rights components in their programmes; decided to continue its consideration of this question at its forty-fifth session under the agenda item "Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms".

By its resolution 43/128 of 8 December 1988,⁴⁵ the General Assembly, *inter alia*, appreciated the measures taken during 1988 by the Secretariat, through the Centre for Human Rights and the Department of Public Information; decided to launch on 10 December 1988, the fortieth anniversary of the Universal Declaration of Human Rights, within existing resources, a World Public Information Campaign on Human Rights, under which the activities of the Organization in this field should be developed and strengthened in a global and practically oriented fashion, engaging the complementary activities of concerned bodies of the United Nations system, Member States and non-governmental organizations; called upon the Centre for Human Rights, which has primary responsibility within the United Nations system in the field of human rights, to coordinate the substantive activities of the World Campaign pursuant to the direction of the General Assembly and the Commission on Human Rights, and to serve as liaison with governments, regional and national institutions, non-governmental organizations and concerned individuals in the development and implementation of the World Campaign's activities; called upon the Department of Public Information, which has primary responsibility for public information activities, to coordinate the public information activities of the World Campaign and, in its

⁴⁵ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 49 (A/43/49)*.

responsibility as secretariat to the Joint United Nations Information Committee, to promote co-ordinated system-wide information activities in the field of human rights.

T. Advisory services and technical cooperation in the field of human rights

The Commission on Human Rights by its resolution 1988/54,⁴⁶ of 8 March 1988, *inter alia*, reaffirmed that the programme of advisory services in the field of human rights should continue to provide practical assistance in the implementation of international conventions on human rights to those States which indicate a need for such assistance; requested the Secretary-General to pursue his efforts for a medium-term plan for advisory services and technical assistance in the field of human rights, taking into account the comments and views expressed by Governments at the forty-fourth session of the Commission on Human Rights; welcomed the efforts by the Secretary-General to undertake restructuring within the Centre for Human Rights in order to provide fresh impetus and effective management for the provision of advisory services in all their aspects; requested the Secretary-General to ensure that the Centre for Human Rights became a focal point for the coordination, as appropriate, within the United Nations, of the activities for the provision of advisory services in all their aspects; invited competent United Nations bodies, such as the committees set up under the International Covenants on Human Rights and the Committee on the Elimination of Racial Discrimination, to make suggestions and proposals for the implementation of advisory services; appealed to all Governments to consider making use of the possibility offered by the United Nations of organizing, under the programme of advisory services in the field of human rights, information and/or training courses at the national level for appropriate government personnel on the application of international human rights standards and the experience of relevant international organs.

1. ASSISTANCE TO GUATEMALA IN THE FIELD OF HUMAN RIGHTS

By its resolution 1988/50 of 8 March 1988,⁴⁶ the Commission on Human Rights, *inter alia*, considering that it is desirable to continue to provide advisory services in the field of human rights in Guatemala, in support of the Government's efforts to ensure full respect for human rights and fundamental freedoms in that country, requested the Secretary-General to provide such advisory services and other appropriate forms of assistance in the

⁴⁶ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*.

field of human rights as may be requested by the constitutional Government of Guatemala, with a view to fostering advances in democracy and strengthening the institutions responsible for ensuring respect for human rights, in accordance with the recommendations contained in the Expert's report in the framework of the proposals contained in the report of the Secretary-General on the question (E/CN.4/1988/40 and Add.1); decided to request the Secretary-General to renew the mandate of the Expert for one year, and requested the Expert to submit a report to the Commission at its forty-fifth session.

By its decision 1988/131 of 27 May 1988,⁴⁷ the Economic and Social Council, taking note of Commission on Human Rights resolution 1988/50 of 8 March 1988, approved the decision of the Commission to renew for one year the mandate of the Expert appointed to assist the Government of Guatemala, through direct contacts, in taking the necessary action for the further restoration of human rights in that country. The Council also approved the Commission's request to the Secretary-General to provide such advisory services and other appropriate forms of assistance in the field of human rights as might be requested by the constitutional Government of Guatemala, in accordance with the recommendations contained in the Expert's report and within the framework of the proposals contained in the report of the Secretary-General on the question.

2. ASSISTANCE TO HAITI IN THE FIELD OF HUMAN RIGHTS

By its resolution 1988/51 of 8 March 1988,⁴⁸ the Commission on Human Rights, *inter alia*, expressed the view that the obligation to promote and protect human rights and fundamental freedoms calls not only for measures to guarantee the protection of human rights and fundamental freedoms, but also for measures intended effectively to prevent any violation of those rights; decided to request the Secretary-General to extend the mandate of the Expert for one year, and requested the Expert to submit a report to the Commission at its forty-fifth session; invited the Expert to take into account in his contacts with the Government of Haiti the provisions of Commission resolution 1987/13 concerning: (a) technical assistance programmes in the field of human rights; (b) the training programme for qualified Haitian nationals in areas identified by Commission resolution 1987/13.

⁴⁷ See *Official Records of the Economic and Social Council, 1988, Supplement No. 1 (E/1988/88)*.

⁴⁸ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2 (E/1988/12-E/CN.4/1988/88 and Corr.1)*.

By its decision 1988/132 of 27 May 1988,⁴⁹ the Economic and Social Council, taking note of Commission on Human Rights resolution 1988/51 of 8 March 1988, approved the decision of the Commission to extend by one year the mandate of the Expert appointed by the Secretary-General with a view to assisting the Government of Haiti, through direct contacts, in taking the necessary action for the full restoration of human rights. The Council also approved the Commission's request to the Secretary-General to provide all necessary assistance to the Expert.

3. SITUATION IN EQUATORIAL GUINEA

By its resolution 1988/52 of 8 March 1988,⁵⁰ the Commission on Human Rights, *inter alia*, recommended to the Government of Equatorial Guinea that it give active consideration to the possibility of becoming a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; requested the Government of Equatorial Guinea to give appropriate consideration to the implementation of the plan of action proposed by the United Nations, taking particular account of the recommendations and proposals submitted by Mr. Fernando Volio Jiménez.

By its decision 1988/133 of 27 May 1988,⁵¹ the Economic and Social Council, taking note of Commission on Human Rights resolution 1988/52 of 8 March 1988, approved the decision of the Commission to consider the report of the Expert appointed by the Secretary-General pursuant to Commission on Human Rights resolution 33 (XXXVI) of 11 March 1980 on the manner in which the Government of Equatorial Guinea intended fully to implement the plan of action proposed by the United Nations and on the progress achieved.

U. Coordinating role of the Centre for Human Rights

By its resolution 1988/2 of 25 August 1988,⁵² the Sub-Commission on Prevention of Discrimination and Protection of Minorities, *inter alia*, also appreciating at their true worth the new emphasis in matters of information and the provision of expert assistance to Governments in creating the necessary legal infrastructure, the organization of consultations and meetings un-

⁴⁹ *Ibid.*, Supplement No. 1 (E/1988/88).

⁵⁰ See *Official Records of the Economic and Social Council, 1988, Supplement No. 2* (E/1988/12-E/CN.4/1988/88 and Corr.1).

⁵¹ *Ibid.*, Supplement No. 1 (E/1988/88).

⁵² See Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its Fortieth Session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

der the auspices of the Centre in various parts of the world on a wide range of human rights problems, the effectiveness and purpose-oriented character of the United Nations scholarship programmes in the field of human rights, and the coordination of the activities of the specialized agencies and several United Nations secretariat units, in particular the Centre for Social Development and Humanitarian Affairs, noting at the same time that the potentialities of the Centre for Human Rights in the coordination of efforts aimed at guaranteeing human rights are not yet being fully used by Member States; noting also that not all studies and reports are submitted in due time, which adversely affects the effective functioning of United Nations human rights bodies and their machinery; recommended draft resolution I to the Commission on Human Rights for adoption.

Section B. Specialized agencies

A. World Health Organization

A basic principle of the Constitution of the World Health Organization is that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, or economic or social conditions". This principle underlies the established goal of WHO to achieve health for all by the year 2000 and the Declaration of Alma-Ata (September 1978) that primary health care is the key to achieving this goal. The Declaration asserts that gross inequality in the health status of peoples is politically, socially and economically unacceptable; that people have the right and duty to participate individually and collectively in the planning and implementation of their health care; that governments have a responsibility for the health of their people which can be fulfilled only by the provision of adequate health and social measures.

In May 1988 resolution WHA41.34 reaffirmed the Declaration of Alma-Ata and emphasized that it remains valid for all countries at all stages of social and economic development, and that the application of its principles should be maintained after the year 2000.

WHO has continued to pay particular attention to the right to health of vulnerable groups, including infants and young children, adolescents, women, in particular mothers, and the special needs of the disabled. World Health Assembly resolution WHA41.11 of 11 May 1988 commended governments, among others, for their efforts to promote appropriate infant and young child nutrition, and urged Member States to develop and enhance national nutrition programmes and ensure practices and procedures that are consistent with the aim and principles of the International Code of Marketing of Breast-milk Substitutes. Resolution WHA41.28, also adopted in May 1988, set the target for global eradication of poliomyelitis by the year 2000, and emphasized that this eradication effort should be pursued so as to strengthen the development of the Expanded Programme on Immunization which aims at providing immunization services for all children, especially in the developing countries, to prevent needless suffering and death of millions of children from diseases that are easily prevented.

The scourge of AIDS is a global problem which poses a serious threat to humanity, and urgent worldwide action is required to implement WHO's global strategy to combat the spread of AIDS. The AIDS pandemic has raised a multitude of human rights issues which WHO has consistently addressed in its efforts to carry out the Global AIDS Strategy. It was recognized early on in the pandemic that preventing discrimination against persons infected with HIV was not only consistent with universally recognized human rights, but was equally critical to the safeguarding of public health against the spread of AIDS. For example, discrimination against persons with HIV infection or AIDS results in their unjustified isolation and their reluctance to seek testing, counselling and needed health services. Discriminatory laws and policies which result in the violation of individual human rights and dignity drive HIV infected people underground and undermine efforts to teach people how to protect themselves and others from the infection. WHO thus views the human rights aspects of HIV/AIDS as an integral part of all its activities in AIDS prevention and control, rather than as a separate issue.

In May 1988, the World Health Assembly adopted resolution WHA41.24, "Avoidance of discrimination in relation to HIV-infected people and people with AIDS". The resolution urged WHO Member States to foster a spirit of understanding and compassion for persons infected with HIV or AIDS through information, education and social support programmes, to protect the human rights and dignity of these people and avoid discriminatory action against and stigmatization of them in the provision of services, employment and travel. In September 1988, the Interagency Advisory Group (IAAG) was formed to facilitate effective coordination of AIDS activities of the United Nations system in support of WHO's Global AIDS Strategy. This forum has given WHO an opportunity to adopt policies addressing the avoidance of discrimination throughout the United Nations system and to encourage United Nations agencies to incorporate a human rights and avoidance of discrimination focus in their particular areas of competence, e.g. AIDS education in schools (UNESCO), policy in the workplace (ILO) and information for travellers (WTO).

B. Food and Agriculture Organization of the United Nations

1. THE IMPACT OF DEVELOPMENT STRATEGIES ON THE RURAL POOR

This is the second report in the four-year cycle of reporting on progress in the implementation of the World Conference on Agrarian Reform and Rural Development (WCARRD) Programme of Action (1979). In terms of a decision of the 1983 FAO Conference, it also reports on the progress

made in the role of women in rural development. It is based on 50 country progress reports and on other national and international sources of data.

WCARRD had emphasized the need for countries to incorporate objectives of growth with equity and people's participation as well as the integration of women, in their national objectives and strategies. However, in general, the adverse effects of the international recession resulted in a renewed preoccupation with growth, rather than with rural poverty alleviation. On the whole, more countries followed the WCARRD recommendations regarding the specification of objectives and targets for equity and poverty alleviation. However, fewer countries were able to follow this up with adequate or specific budgetary allocations for their implementation.

The WCARRD strategy seeks to involve the rural poor, including women, through programmes specifically directed to identified groups of beneficiaries and areas of concentrated rural poverty. Specific disadvantaged social groups have been identified as target groups in the national development plans of more countries, but fewer countries went further to design and target rural development programmes specifically for such target groups.

Access to land during this period was determined, on the one hand by trends in demographic, structural and other economic factors, and on the other by policies of the governments concerned. In practice, very few governments adopted any significant programmes for agrarian reform during this period; hence, the efforts of demographic and structural factors have tended to predominate. The following adverse developments were reported: a decline in land availability per capita of agricultural population in most countries (except in parts of Latin America and the Near East); large inequalities in the size of land holdings; a high rate of growth of operational holdings; a large increase in very small and marginal holdings, verging on near-landlessness; an increase in landlessness; and virtually no direct land rights for women.

There has been some progress towards people's participation in development, with an increase in the number of countries signing the relevant ILO Convention relating to rights of free association and rural workers' organizations. Perhaps the most significant development in this field has been the development of small informal functional groups of the rural poor, organized for income-generating activities, or for self-help and service activities such as in savings, credit extension, irrigation and water-management. Another important new development has been the involvement of non-governmental/voluntary organizations which have helped to promote, organize and fund grass-roots organizations in participatory development. Decentralization of decision-making has been stressed as a prerequisite for effective local participation, and recent years have seen some progress in this area.

There was an increase in economic cooperation among developing countries (ECDC) during this period. Progress was reported from four regional groupings in Africa (SADCC, PTA, ECOWAS and the Gambia River Basin Organization). In Asia, the South Asian Association for Regional Cooperation (SARRC) was established in 1985. In the Near East, the Cooperation Council of Arab Gulf States (GCC) seeks to promote a common agricultural policy. In Latin America, however, there has been a weakening of economic integration, cooperation and intra-regional trade. In all these groupings, however, trade in agricultural products with countries outside the regional groups has grown faster than intra-group trade.

Technical cooperation among developing countries has increased slowly during the period, with progress being made in matching technical cooperation needs and capabilities, followed by the formation of regional institutions or networks to arrange appropriate exchanges. In the general field of rural development, progress was made by the Centre on Integrated Rural Development for Asia and the Pacific (CIRDAP) and to a lesser extent by the corresponding Regional Centre for Africa (CIRDAFRICA). In the area of agricultural credit, advances were made by the Regional Agricultural Credit Associations in all regions. Progress has also been made in the field of fisheries, through the Regional Networks of Aquaculture Centres in three regions, while livestock development was advanced through regional networks in the Near East and Asia.

2. PEOPLE'S PARTICIPATION IN AGRICULTURAL AND RURAL DEVELOPMENT

In accordance with the Preamble of the FAO Constitution, a principal objective of the Organization is to improve the conditions of rural populations and to raise their levels of nutrition and standards of living. Within this broad mandate, millions of farmers, fishermen and forestry workers and their families have been assisted by and involved in activities, projects and programmes supported worldwide by FAO since its inception. The focus on people and their participation in the development process was considerably strengthened by WCARRD which gave prominence to the role and importance of people's participation in combating rural poverty. The Declaration of Principles and Programme of Action adopted by WCARRD constituted a historic commitment to agrarian reform and rural development by the governments of developing countries and by the international community. The WCARRD Programme of Action called for growth with equity and people's participation. This involved both the identification of groups of rural poor, such as small farmers, landless labourers and rural women, as well as new approaches to institutions, production systems and techniques for their participation in the process of development and its benefits. The twentieth session of the FAO Conference, in its resolution 7/79, endorsed the

WCARRD Declaration of Principles and Programme of Action, and authorized the Director-General to mobilize the staff and resources of the Organization to assist member countries in rural development and to promote, through its leadership in the ACC Task Force on Rural Development, the necessary action for the implementation of the Programme of Action.

Today, people's participation is an important component of FAO's programme and projects for agricultural, fisheries, forestry and human resources development. For example, in the area of marketing and credit, emphasis is placed on the development and strengthening of institutional networks and organizations such as the Scheme for Agricultural Credit Development (SACRED) which closely collaborates with NGO donor organizations as well as with national NGOs.

The importance of NGO development is also reflected by the decision of the Director-General of FAO to establish an *Ad Hoc* Working Group on NGO Participation in Rural Development to study the possibilities for closer collaboration with NGOs and prepare proposals for action. The Working Group is reviewing FAO's past collaboration with NGOs at all levels and is suggesting improvements including greater exchange of information and better coordination of NGO-related activities in FAO as well as the existing framework of FAO/NGO collaboration with particular reference to operational procedures.

Many agencies are exploring possibilities for greater collaboration with NGOs. For instance, UNDP has recently established an NGO Division to obtain advice on the development and implementation of programmes/projects using a community-based participatory approach, and to serve as the focal point for collaboration with promotional NGOs. WFP has also established an NGO Liaison Office. Another type of institution promoting collaboration with NGOs in developing countries is the Committee for the Promotion of Aid to Cooperatives (COPAC).

PART II

**ACTIVITIES OF THE UNITED NATIONS
SUPERVISORY BODIES**

Section A. Treaty-based bodies

A. Committee on the Elimination of Racial Discrimination¹

1. ORGANIZATIONAL AND OTHER MATTERS

The Committee was convened for only a curtailed two-week session at the United Nations Office at Geneva from 1 to 12 August 1988.

On 12 August 1988, the closing date of the thirty-sixth session of the Committee, there were 125 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination.

At its 815th meeting, held on 1 August 1988, the Committee elected the following officers for a term of two years (1988-1989), in accordance with article 10, paragraph 2, of the Convention: *Chairman*: Mr. Georges LAMPTEY; *Vice-Chairmen*: Mr. Ivan GARVALOV, Mr. Karl-Josef PARTSCH and Mr. Mario Jorge YUTZIS; *Rapporteur*: Mrs. Shanti SADIQ ALI.

2. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SECOND SESSION

(a) *Annual report submitted by the Committee under article 9, paragraph 2, of the Convention*

The Rapporteur highlighted the observations and comments made in the Third Committee, notably the views that the Committee on the Elimination of Racial Discrimination had played a pioneering role in the implementation of United Nations human rights instruments, that the Convention provided an international framework to combat racism and racial discrimination on a world-wide basis and that the Committee's contribution to international efforts to promote effective enjoyment of human rights by all peoples was most valuable.

The Rapporteur pointed out that many delegations in the Third Committee of the General Assembly had urged all States parties to the Convention which had not yet done so to make the declaration provided for in article 14 of the Convention. She observed that the resolution adopted by the

¹ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 18 (A/43/18)*.

General Assembly at its forty-second session on the report of the Committee (resolution 42/57) had been adopted without a vote.

(b) *Reporting obligations of States parties to United Nations conventions on human rights (General Assembly resolution 42/105)*

The Committee welcomed the measures being taken by the Secretary-General under the United Nations programme of advisory services in the field of human rights, with a view to providing training and technical assistance to States parties to United Nations instruments in the preparation and submission of their periodic reports to various treaty bodies. The Committee was of the opinion that efforts being undertaken in this field would assist the reporting States to overcome technical difficulties which they might encounter in the preparation and submission of their reports, in particular in respect of States where a large number of reports were overdue.

The Committee decided to endorse the proposal made at the eleventh (emergency) meeting of States parties to the Convention in respect of the periodicity of reporting under article 9, paragraph 2, of the Convention. It agreed as a general practice that, after the submission of initial comprehensive reports to the Committee, States parties would submit further comprehensive reports on every second occasion thereafter, when reports were due, i.e. every four years, and that they would submit brief updating reports on each intervening occasion when reports were due under the Convention. The Committee wished to stress the point that its acceptance of that proposal would not alter the periodicity of reporting as provided for under article 9 of the Convention.

(c) *Obligations of States parties to pay their assessed contributions under the International Convention on the Elimination of All Forms of Racial Discrimination*

The view was expressed that the central problem facing the Committee was not a purely financial one, but rather a lack of political will on the part of the States parties to the Convention. Some members pointed out that that view was reinforced by the correlation between non-payment of assessed contributions and non-submission of reports in accordance with article 9, paragraph 2, of the Convention by the same States parties.

It was emphasized by some other members that lack of sufficient funds and the consequential reduction of meeting-time available to the Committee would lead either to a lowering of the quality of the Committee's monitoring work or to an excessive backlog of reports pending consideration. It was pointed out that there were already 48 reports pending before the Committee, a phenomenon which did not arise as long as the Committee functioned normally.

3. CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

By the end of the thirty-sixth session, a total of 757 reports had been received by the Committee as follows: 120 initial reports, 110 second periodic reports, 105 third periodic reports, 97 fourth periodic reports, 88 fifth periodic reports, 77 sixth periodic reports, 66 seventh periodic reports, 52 eighth periodic reports, 32 ninth periodic reports and 10 tenth periodic reports.

As the information in table 1 shows, only 4 of the 41 reports received during the period under review were submitted on time or before the deadline provided for under article 9, paragraph 1, of the Convention. The rest were submitted after a delay ranging from a few days to over seven years. In the case of 25 of the reports received during the period under review, 1 to 15 reminders had been sent to the States parties concerned before their reports were submitted.

*Reports received during the period under review
(7 August 1987 to 12 August 1988)*

<i>State party</i>	<i>Type of report</i>	<i>Document symbol</i>	<i>Meeting at which considered</i>	<i>Date considered</i>	<i>Summary contained in paragraph</i>
Australia	fifth	CERD/C/115/Add.3	816-817	02/8/88	47-61
Syrian Arab Republic	eighth	CERD/C/118/Add.32	817	02/8/88	62-74
United Republic of Tanzania	seventh	CERD/C/131/Add.11	817	02/8/88	75-79
Nicaragua	fourth	CERD/C/128/Add.11	818	03/8/88	80-94
Portugal	second	CERD/C/126/Add.3	820-822	04/8/88	95-110
Ukrainian SSR	ninth	CERD/C/149/Add.10	820-821	04/8/88	111-126
Romania	seventh/ eighth	CERD/C/132/Add.4	821	04/8/88	127-139
Morocco	eighth	CERD/C/148/Add.2	822	05/8/88	140-148
Ghana	ninth	CERD/C/149/Add.13	822-828	05/8/88	149-159
Spain	ninth	CERD/C/149/Add.14	824	08/8/88	160-176
Kuwait	ninth	CERD/C/149/Add.16	824	08/8/88	177-188
United Arab Emirates	sixth	CERD/C/130/Add.1	824	08/8/88	189-194

The Committee decided to request the Secretary-General, in accordance with rule 66, paragraph 1, of its rules of procedure, to continue sending appropriate reminders to States parties whose reports were due before the closing date of its thirty-sixth session but had not been received, asking them to submit their reports by 31 December 1988. Regarding States parties from which two or more reports were due but had not been received, the Committee agreed that the reminders to be sent by the Secretary-General should

indicate that all their overdue reports could be submitted in one consolidated document by the proposed date.

In accordance with rule 64 of its rules of procedure, the Committee continued the practice, inaugurated at its sixth session, of requesting the Secretary-General to inform the States parties concerned of the dates on which their respective reports would be considered by the Committee. All the States parties whose reports were considered by the Committee, except Seychelles, the United Arab Emirates and the United Republic of Tanzania, sent representatives to participate in the examination of their respective reports. The Committee noted with satisfaction the fruitful dialogue it had developed with representatives of reporting States, and urged that all States parties should endeavour to send representatives when their reports were being examined.

4. CONSIDERATION OF COMMUNICATIONS UNDER ARTICLE 14 OF THE CONVENTION

Consideration of communications under article 14 of the Convention takes place in closed meetings (rule 88 of the Committee's rules of procedure). All documents pertaining to the work of the Committee under article 14 (submissions from the parties and other working documents of the Committee) are confidential.

In its comments on a petitioner's allegations, a State party had argued that it had met its obligations under article 5 (e) (i) to guarantee equality before the law in the enjoyment of the right to employment by providing non-discriminatory remedies. It further claimed that article 6 of the Convention did not oblige it to institute appeal or other mechanisms against judgements of the competent authorities. With respect to article 4, it argued that the obligation arising from that article had been met by incorporating in the relevant domestic legislation provisions which penalized activities contrary to the Convention.

Regarding the alleged violation of article 5 (e) (i), the Committee was of the opinion that the petitioner's dismissal had been the result of a failure to take into account all the circumstances of the case and that she had not been afforded protection in respect of her right to work. It therefore recommended to the State party that it ascertain whether the petitioner was currently gainfully employed and, if not, that it use its good offices to secure alternative employment for her and/or to provide her with such other relief as might be considered equitable. The Committee did not find that there had been any breach of articles 4 and 6 of the Convention by the State party.

5. CONSIDERATION OF COPIES OF PETITIONS, COPIES OF REPORTS AND OTHER INFORMATION RELATING TO TRUST AND NON-SELF-GOVERNING TERRITORIES AND TO ALL OTHER TERRITORIES TO WHICH GENERAL ASSEMBLY RESOLUTION 1514 (XV) APPLIES, IN CONFORMITY WITH ARTICLE 15 OF THE CONVENTION

By resolution 42/57, the General Assembly, *inter alia*, took note of the report of the Committee on the work of its thirty-third, thirty-fourth, and thirty-fifth sessions, which included the Committee's recommendations relating to Trust and Non-Self-Governing Territories to which General Assembly resolution 1514 (XV) applied.

At its thirty-sixth session, the Committee was informed by the Secretary-General of the action taken by the Trusteeship Council at its fifty-fifth (1988) session in connection with article 15 of the Convention. The Trusteeship Council, at its 1656th meeting, held on 26 May 1988, considered the item on the agenda of its fifty-fifth session entitled "Cooperation with the Committee on the Elimination of Racial Discrimination" together with the item concerning the Second Decade to Combat Racism and Racial Discrimination. The Council decided to take note of the statements made on the subject by several of its members (T/PV.1656). No further action concerning the opinions and recommendations of the Committee referred to above was taken by the Trusteeship Council.

At its thirty-sixth session, the Committee appointed the members of its three working groups to examine the documentation submitted to it under article 15 of the Convention and to report to the Committee on their findings, as well as on their opinions and recommendations.

6. SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Some members of the Committee expressed the view that the Committee should undertake a number of concrete activities during the Second Decade to Combat Racism and Racial Discrimination with a view to furthering its contribution to the Decade's objectives. It was suggested in that context that, in accordance with the proposals contained in the annex to General Assembly resolution 42/47, the Committee should be actively involved during the second half of the Second Decade to Combat Racism and Racial Discrimination in organizing the proposed seminar to assess experience gained in the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, and in conducting a global study on the extent of dissemination of the Convention.

The Committee decided, at its 827th meeting, that on the occasion of its own twentieth anniversary in 1990 and as its contribution to the activities of the Second Decade to Combat Racism and Racial Discrimination, it would undertake a revision and updating of its study on "the progress made

towards the achievement of the objectives of the International Convention on the Elimination of All Forms of Racial Discrimination'', which it had initially prepared on the occasion of the World Conference for Action to Combat Racism and Racial Discrimination in 1978. At the same meeting, the Committee decided to appoint Mr. Banton and Mr. Yutzis as Special Rapporteurs to carry out the study and requested the Secretary-General to provide the Special Rapporteurs with necessary technical and logistic support to enable them to undertake the revision and updating of the document.

7. DECISION ADOPTED BY THE COMMITTEE AT ITS THIRTY-SIXTH SESSION

1 (XXXVI). Financial situation of the Committee on the Elimination of Racial Discrimination

The Committee on the Elimination of Racial Discrimination,

Having considered the question of the obligations of States parties to pay their assessed contributions under the Convention,

Having taken into account the views expressed in the Third Committee of the General Assembly at its forty-second session and at the twelfth meeting of the States parties concerning the responsibility of States parties for the expenses of the members of the Committee,

Finding it extremely difficult to continue to discharge its mandate effectively under the Convention as long as the present situation continues to impede its work,

Recommended the following draft resolution to the General Assembly for adoption:

The General Assembly,

Reiterating the importance of the International Convention on the Elimination of All Forms of Racial Discrimination, which is the most widely accepted human rights instrument adopted under the auspices of the United Nations, as well as of the contribution of the Committee on the Elimination of Racial Discrimination to the United Nations efforts to combat racism and racial discrimination on a global scale,

Considering the relatively low cost of enabling the Committee to continue its important work of monitoring the implementation of the Convention,

Authorized the Secretary-General, on a temporary basis, to ensure the financing of the expenses of the members of the Committee

on the Elimination of Racial Discrimination from the United Nations regular budget, until such time as a more permanent solution of the financial difficulties impeding the functioning of that Committee is found.

B. Human Rights Committee²

1. ORGANIZATIONAL AND OTHER MATTERS

As at 29 July 1988, the closing date of the thirty-third session of the Human Rights Committee, there were 87 States parties to the International Covenant on Civil and Political Rights and 42 States parties to the Optional Protocol to the Covenant, both adopted by the General Assembly in resolution 2200 A (XXI) of 16 December 1966 and opened for signature and ratification in New York on 19 December 1966. Also as at 29 July 1988, 22 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant, which came into force on 28 March 1979.

The Human Rights Committee had held three sessions since the adoption of its last annual report. The thirty-first session (758th to 786th meetings) was held at the United Nations Office at Geneva from 26 October to 13 November 1987, the thirty-second session (787th to 812th meetings) was held at United Nations headquarters from 21 March to 8 April 1988 and the thirty-third session (813th to 840th meetings) was held at the United Nations Office at Geneva from 11 to 29 July 1988.

The membership remained the same as during 1987. Except for the absence of Mr. Aguilar at the thirty-first session, of Mr. Wako at the thirty-second session and Mr. Lallah and Mr. Serrano Caldera at the thirty-third session, all the members attended the three sessions.

The officers of the Committee were as follows: *Chairman*, Mr. Julio PRADO VALLEJO; *Vice-Chairmen*, Mr. Joseph A. L. COORAY, Mr. Birame NDIAYE and Mr. Fausto POCAR; *Rapporteur*, Mr. Vojin DIMITRIJEVIC.

2. WORKING GROUPS

In accordance with rules 62 and 89 of its provisional rules of procedure, the Committee established working groups to meet before its thirty-first, thirty-second and thirty-third sessions.

As a result of the financial crisis, the Committee was only able to establish one working group, composed of five members, to meet before the thirty-first session. In addition to making recommendations to the Com-

² *Ibid.*, Supplement No. 40 (A/43/40).

mittee regarding communications under the Optional Protocol, the working group was also mandated to prepare a concise list of issues concerning second periodic reports scheduled to be taken up for consideration at the thirty-first session and to consider a draft general comment on article 17 of the Covenant. The working group was composed of Ms. Chanet, Mr. Cooray, Mr. El-Shafei, Mr. Ndiaye and Mr. Zielinski. It met at the United Nations Office at Geneva from 19 to 23 October 1987. Mr. Cooray was elected Chairman/Rapporteur for matters regarding communications and Mr. Ndiaye for those regarding article 40.

Since it had become clear that one working group could not cope adequately with the large volume of pre-sessional preparatory work, it was necessary for the Committee to revert to its normal practice of establishing two pre-sessional working groups, consisting of four members each. The working group established under rule 89 to meet prior to the Committee's thirty-second and thirty-third sessions was entrusted with the task of making recommendations to the Committee regarding communications under the Optional Protocol. At the thirty-second session, the working group was composed of Mr. Cooray, Mr. Prado Vallejo, Mr. Wennergren and Mr. Zielinski. It met at United Nations headquarters, from 14 to 18 March 1988. Mr. Cooray was elected Chairman/Rapporteur. At the thirty-third session the working group was composed of Mr. Dimitrijevic, Mr. El-Shafei, Mr. Pocar and Mr. Prado Vallejo; it met at the United Nations Office at Geneva from 4 to 8 July 1988 and elected Mr. Pocar as its Chairman/Rapporteur.

The working group established under rule 62 to meet prior to the Committee's thirty-second and thirty-third sessions was mandated to prepare concise lists of issues or topics concerning second periodic reports scheduled for consideration prior to those sessions and to consider the formulation of recommendations relating to the meeting from 10 to 14 October 1988 of chairmen of the supervisory bodies entrusted with the consideration of reports submitted under United Nations instruments on human rights. The Working Group that met before the thirty-second session was also mandated to continue the consideration of a draft general comment relating to article 7 of the Covenant.

3. ACTION BY THE GENERAL ASSEMBLY AT ITS FORTY-SECOND SESSION

The Committee considered the agenda item in the light of the relevant summary records of the Third Committee and of General Assembly resolution 42/103 and 42/105 of 7 December 1987.

The Committee discussed the relevant resolutions adopted by the General Assembly at its forty-second session. With regard to Assembly resolution 42/103, members felt encouraged by the recognition accorded to the importance of the Committee's role in promoting the implementation of the Covenant on Civil and Political Rights. Members also welcomed the Gen-

eral Assembly's renewed call in paragraph 7 of that resolution for all States that had not yet done so to become parties to the Covenant and expressed agreement with the comment made in the Third Committee that accession to the Covenant would be one of the best ways to demonstrate adherence to the Charter itself.

The meeting of the persons chairing the various human rights treaty bodies held from 10 to 14 October 1988 adopted recommendations and observations for use by its Chairman in which, *inter alia*, the Committee further believed that efforts towards harmonization and unification may also find an appropriate solution within a State party, particularly through the creation of a co-ordination mechanism. The Committee urged that the questions of co-ordination and harmonization should be kept under study by the Secretary-General, the General Assembly, the Economic and Social Council, the States parties and the treaty bodies themselves and that the results should be made available to the latter. In addition, the Committee believed that it would be highly desirable to establish a repository of basic legal documents of the States parties within the secretariat. Possibilities for providing, at the request of States parties, training and technical assistance, including sub-regional and national training courses on reporting and, where reporting problems are particularly serious, missions by experts to furnish practical assistance in areas such as the preparation of reports and the elaboration of a human rights infrastructure, should be expanded. A manual on report writing should also be prepared and distributed to States parties; the persons chairing the treaty bodies should encourage more frequent exchanges and contacts between members of the various treaty bodies as well as between the secretariat of the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs.

4. CONSIDERATION OF REPORTS BY STATES PARTIES SUBMITTED UNDER ARTICLE 40 OF THE COVENANT

The Committee noted that there were various reasons for default or delay by States parties in the submission of reports, including technical reasons such as the lack of adequate expertise and personnel, the assignment of insufficient priority, the increasing burden of reporting obligations stemming from the proliferation of human rights supervisory bodies and, rarely, the simple reluctance of States parties to expose themselves to scrutiny.

It was generally agreed that there was no single method of inducing States parties to comply with their reporting obligations but rather a choice of methods to be applied case by case. Members also agreed that, in seeking to ascertain the reasons for non-submission of a given report or to induce compliance with reporting obligations, the Committee should continue to rely on a diplomatic but persistent approach to States parties, including personal contacts with State party representatives by the Chairman or individual

members, whenever the opportunity arose. The traditional practice of the secretariat sending reminders to States parties should also be continued. Strong support was expressed for the Centre's strengthened training and publications activities, which were seen by members as being very effective in assisting States parties to comply with their obligations under the Covenant.

5. GENERAL COMMENTS OF THE COMMITTEE

(a) *General*

In the Committee's guidelines on the form and content of periodic reports (CCPR/C/20), States parties to the Covenant were urged to take the Committee's general comments into account in implementing the Covenant when preparing their reports. During an extended discussion of the role of the general comments in the preparation of periodic reports and of their important bearing on the implementation of a number of articles of the Covenant at its 758th meeting, members reiterated their concern that the general comments were not yet being taken into account sufficiently by States parties. In order to elicit additional information concerning the implementation of relevant articles of the Covenant, the Committee decided to include, on a systematic basis, in the lists of issues prepared for States parties prior to the consideration of their periodic reports, appropriate questions relating to the degree to which the standards contained in the general comments were being observed.

(b) *Work on general comments*

The Committee began discussion of a general comment on article 17 of the Covenant at its thirtieth session on the basis of an initial draft prepared by its Working Group. It continued its consideration of that general comment at its 763rd, 770th, 771st, 777th, 781st and 791st meetings, during its thirty-first and thirty-second sessions, on the basis of successive drafts revised by its Working Group in the light of the comments and proposals advanced by members. The Committee adopted its general comment on article 17 at the 791st meeting, held on 23 March 1988. Pursuant to the request of the Economic and Social Council, the Committee transmitted the general comment to the Council at its first regular session in 1988.

At its 833rd meeting, the Committee decided to start preparatory work on general comments on provisions of the Covenant regarding non-discrimination and on the protection of the family and the child.

6. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

Under the Optional Protocol to the International Covenant on Civil and Political Rights, individuals who claim that any of their rights enumerated in

the Covenant have been violated and who have exhausted all available domestic remedies may submit written communications to the Human Rights Committee for consideration. Of the 87 States that have acceded to or ratified the Covenant, 42 have accepted the competence of the Committee to deal with individual complaints by ratifying or acceding to the Optional Protocol.

(a) *Progress of work*

A volume containing selected decisions under the Optional Protocol from the second to the sixteenth sessions (July 1982) was published in English in 1985. The French and Spanish versions of the publication came out in 1988. A volume containing selected decisions from the seventeenth to the thirty-second sessions is forthcoming. The Committee believed it extremely important that the publication of this second volume should proceed at all due speed.

Increased public awareness of the Committee's work under the Optional Protocol had also led to an exponential growth in the number of communications submitted to it. In the period between the 1985 and 1986 reports, the Committee registered 22 new cases; in the period between the 1986 and 1987 reports, 25 new cases were registered; in the period covered by the present report, 80 new cases were registered. When the 1986 report was adopted, the Committee had before it 33 pending cases; by the adoption of the 1987 report, 49 cases were pending; by the time of adoption of the present report, the Committee had before it 116 pending cases. These figures show a very substantial increase in the Committee's work-load over the last two years.

The Committee's decisions on the merits are non-binding recommendations and as such are referred to as "views under article 5, paragraph 4, of the Optional Protocol". After the Committee has made a finding of a violation of a provision of the Covenant, it always proceeds to ask the State party to take appropriate steps to remedy the violation. For instance, in the period covered by the present report, the Committee found that two States parties were responsible for the violation of the right to life (article 6) of the victims concerned. In its views in case No. 194/1985 (*Miango v. Zaire*), the Committee urged the State party "to take effective steps (a) to investigate the circumstances of the death of Jean Miango Muiyo, (b) to bring to justice any person found to be responsible for his death, and (c) to pay compensation to his family". In case No. 161/1983 (*Herrera Rubio v. Colombia*) the Committee similarly indicated that the State party was under an obligation "further to investigate said violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future".

(b) *Issues considered by the Committee*

For a review of the Committee's work under the Optional Protocol from its second session in 1977 to its thirtieth session in 1987, the reader is referred to the Committee's annual reports for 1984, 1985, 1986 and 1987 which, *inter alia*, contain a summary of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol have been reproduced regularly in annexes to the Committee's annual report.

7. GENERAL COMMENT UNDER ARTICLE 40, PARAGRAPH 4, OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

The Committee wished to point out that, in the reports of States parties to the Covenant, the necessary attention is not being given to information concerning the manner in which respect for this right is guaranteed by legislative, administrative or judicial authorities and in general by the competent organs established in the State. In particular, insufficient attention is paid to the fact that article 17 of the Covenant deals with protection against both unlawful and arbitrary interference. That means that it is precisely in State legislation above all that provision must be made for the protection of the right set forth in that article. At present, the reports either say nothing about such legislation or provide insufficient information on the subject.

The Committee considered that the reports should include information on the authorities and organs set up within the legal system of the State which are competent to authorize interference allowed by the law. It is also indispensable to have information on the authorities which are entitled to exercise control over such interference with strict regard for the law, and to know in what manner and through which organs persons concerned may complain of a violation of the right provided for in article 17 of the Covenant. In their reports, States should make clear the extent to which actual practice conforms to the law. State party reports should also contain information on complaints lodged in respect of arbitrary or unlawful interference, and the number of any findings in that regard, as well as the remedies provided in such cases.

8. VIEWS OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 5, PARAGRAPH 4, OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

During its sessions held in 1988, having concluded its consideration of a number of communications submitted to it under the Optional Protocol, and having taking into account all written information made available to it by the States parties concerned, the Human Rights Committee adopted a

number of views and decisions; under the Optional Protocol. A detailed account of views and decisions adopted can be found in annexes VII and VIII of the Committee's report to the General Assembly at its forty-third session.

C. Committee on Economic, Social and Cultural Rights³

1. ORGANIZATIONAL AND OTHER MATTERS

The second session of the Committee on Economic, Social and Cultural Rights established in accordance with Economic and Social Council resolution 1985/17 of 28 May 1985, was held at the United Nations Office at Geneva from 8 to 25 February 1988.

On 25 February 1988, the closing date of the second session of the Committee, there were 91 States parties to the International Covenant on Economic, Social and Cultural Rights.

In accordance with its resolution 1985/17, the Economic and Social Council, at its 17th meeting on 22 May 1986, elected 18 experts as members of the Committee on Economic, Social and Cultural Rights. The regular term of office of members of the Committee is four years. The President of the Council, immediately after the first elections, chose the nine members whose term shall expire at the end of two years.

On 8 February 1988, the election of members of its Bureau was as follows: *Chairman*: Mr. Ibrahim Ali BADAWI EL-SHEIKH; *Vice-Chairmen*: Mr. Juan ALVAREZ VITA, Mr. Adib DAOUDY and Mr. Wladyslaw NENEMAN; *Rapporteur*: Mr. Philip ALSTON.

Establishment of a sessional working group

The Committee set up a sessional working group, composed of five members, to consider the Committee's methods of work and to develop general guidelines for the preparation of reports pursuant to articles 16 and 17 of the Covenant, taking due account of the compilation of guidelines prepared by the Secretary-General.

2. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT, IN ACCORDANCE WITH ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1988 (LX) AND DECISION 1985/132

At its second session, the Committee examined 15 reports submitted by 11 States parties under articles 16 and 17 of the Covenant. It devoted 18 of the 24 meetings it held during the second session to the consideration of these reports (E/CN.12/1988/SR.3-20). The following reports, listed in the

³ See *Official Records of the Economic and Social Council, 1988, Supplement No. 4* (E/1988/14-E/CN.12/1988/4).

order in which they had been received by the Secretary-General, were before the Committee at its second session:

Initial reports concerning articles 6 to 9 of the Covenant

Afghanistan	E/1984/6/Add.12
Austria	E/1984/6/Add.17
Zaire	E/1984/6/Add.18

Initial reports concerning articles 10 to 12 of the Covenant

Zaire	E/1986/3/Add.7
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Second periodic reports concerning articles 10 to 12 of the Covenant

Cyprus	E/1986/4/Add.2
Mongolia	E/1986/4/Add.9
Poland	E/1986/4/Add.12
Sweden	E/1986/4/Add.13
Denmark	E/1986/4/Add.16
Romania	E/1986/4/Add.17
Chile	E/1986/4/Add.18
Byelorussian SSR	E/1986/4/Add.19
Bulgaria	E/1986/4/Add.20
Norway	E/1986/4/Add.21

Initial reports concerning articles 13 to 15 of the Covenant

Austria	E/1982/3/Add.37
Jordan	E/1982/3/Add.38
Yugoslavia	E/1982/3/Add.39
Chile	E/1982/3/Add.40
Zaire	E/1982/3/Add.41

3. REVIEW OF METHODS OF WORK OF THE COMMITTEE

The Committee took note of the need expressed by the General Assembly in its resolution 42/105, paragraph 9, to reconsider the existing arrangements with respect to the periodicity of reporting requirements for

States parties. Account was also taken of the desirability of harmonizing the reporting arrangements under the International Covenant on Economic, Social and Cultural Rights with those pertaining to the International Covenant on Civil and Political Rights and the other major United Nations human rights instruments. Members recognized that a considerable burden was borne by States parties under the present arrangements, whereby initial reports were due every two years during the first three-stage reporting cycle and subsequent reports were due every three years. It was felt that the preparation of a single report every five years would significantly lessen the demands placed on States parties and would facilitate the preparation of a more integrated and comprehensive picture of the situation. It was agreed that such a change should be accompanied by a revision and simplification of the reporting guidelines, which is a task that the Committee proposed to undertake at its third session. It was noted that the concept of a single report would be consistent with the indivisibility of the various rights contained in the Covenant. By the same token, it was agreed that the single report should nevertheless be organized into chapters reflecting the different clusters of rights recognized in the current reporting arrangements (articles 6-9, 10-12 and 13-15).

The Committee recognized the importance and value of seeking to harmonize and consolidate the reporting guidelines prepared by the various supervisory bodies in so far as a certain range of information is required from each State party by all of the treaty bodies. It was agreed that the specific details of the issues on which harmonization could be achieved would be best discussed by the meeting of persons chairing the supervisory bodies, to be held in Geneva in October 1988.

4. CONCLUSIONS AND RECOMMENDATIONS ADOPTED BY THE COMMITTEE WITH RESPECT TO ITS FUTURE METHODS OF WORK

The Committee recommended that the Council take the necessary steps with a view to amending the reporting programme previously adopted by the Council in its resolution 1988 (LX).

The Committee decided that the guidelines for States parties reports should be revised and simplified and agreed that the issue should be taken up by a sessional working group to be established at its third session. It considered that international cooperation of this nature would be even more necessary once the Committee had completed the revision of its reporting guidelines.

In view of the backlog of reports awaiting consideration and of the number of overdue reports to be submitted, the Committee agreed to request that the Council authorize, on an exceptional basis, an additional week of

meetings at its third session or alternatively that it authorize an extraordinary additional session to be held before the end of 1988.

The Committee also noted the importance of statistical information and requested the Secretary-General to continue to provide it with relevant data taken from United Nations sources. It also noted the importance of receiving relevant information from the specialized agencies, the regional commissions and other relevant United Nations bodies to assist it in its work.

The Committee considered it very important that greater publicity be given to its work. In that regard it recommended, *inter alia*, that members of the Committee undertake to help give the Covenant greater publicity by all means available to them, taking part in conferences and meetings with non-governmental organizations and the press, publishing scientific, legal or other articles on the Covenant, etc. The Committee also requested the secretariat to prepare a bibliography of published material relating to the Covenant and the work of the Committee.

With respect to the non-submission of reports, the Committee reiterated the recommendations made at its first session (E/CN.12/1987/5, paragraph 318) and asked the Economic and Social Council to request the Secretary-General to send appropriate reminders to those States parties whose reports were overdue. It was also agreed that the Committee should continue to mention in each of its own reports States which were late with their reports or had not submitted any reports at all.

D. Committee against Torture⁴

1. ORGANIZATIONAL AND OTHER MATTERS

The first session of the Committee against Torture was held at the United Nations Office at Geneva from 18 to 22 April 1988.

As at 22 April 1988, the closing date of the first session of the Committee against Torture, there were 29 States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The officers elected were: *Chairman*: Mr. Joseph VOYAME; *Vice-Chairmen*: Mr. Alexis Dipanda MOUELLE and Mr. Ricardo GIL-LAVENDRA; *Rapporteur*: Mr. Dimitar Nikolov MIKHAILOV.

⁴ See *Official Records of the General Assembly, Forty-third Session, Supplement No. 46 (A/43/46)*.

2. CONSIDERATION OF REPORTS TO BE SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLE 19 OF THE CONVENTION

- (a) *General guidelines regarding the form and content of reports to be submitted by the States parties under article 19, paragraph 1, of the Convention*

The Committee had a preliminary discussion on the basis of the provisional guidelines regarding the form and content of initial reports to be submitted by States parties under article 19 of the Convention (CAT/C/L.2) prepared by the Secretariat and transmitted to the State parties on 10 December 1987. The general guidelines (see annex IV to the present report) were provisionally adopted, on the understanding that they would be reviewed in the light of information provided in the initial reports of States parties to be examined at the second session (for the list of initial reports to be submitted by States parties, see annex V).

- (b) *Participation of the Chairman of the Committee in the meeting of persons chairing the supervisory bodies entrusted with the consideration of reports submitted by States parties to United Nations instruments on human rights*

The Committee noted that the General Assembly, by its resolutions 41/121 of 4 December 1986 and 42/105 of 7 December 1987, had invited the Chairmen of the supervisory bodies entrusted with the consideration of reports submitted by States parties to United Nations instruments on human rights to meet at the United Nations Office at Geneva from 10 to 14 October 1988. The Committee took note of the draft provisional agenda (CAT/C/L.3) prepared by the Secretariat for that meeting. The Committee agreed on the participation of its Chairman at that meeting.

3. FUTURE MEETINGS OF THE COMMITTEE

In addition, at its 7th meeting, on 22 April 1988, the Committee adopted, without a vote, the following decision concerning the possibility of convening a second session in 1988.

The Committee against Torture,

Having reviewed its obligations and responsibilities under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Taking into account the serious situation regarding torture in the world and the need for urgent and effective measures against torture,

Referring to its decision that, in order to carry out its responsibilities under the Convention at a minimum acceptable level, two ses-

sions of the Committee would be necessary each year (see rule 2 of the rules of procedure of the Committee),

1. *Decides* to request the Secretary-General to:

(a) Review the current and projected resource requirements for the operation of the Committee in 1988;

(b) Consider the possibility of arranging a second session of the Committee, within the overall budget contemplated for the first financial period by the First Meeting of State parties to the Convention;

2. *Further requests* the Secretary-General to inform the Committee and the States parties to the Convention of the arrangements that he had been able to set in train on the basis of such review.

E. Group of Three established under the International Convention on the Suppression and Punishment of the Crime of *Apartheid*⁵

1. ORGANIZATIONAL AND OTHER MATTERS

The Group held its eleventh session at the United Nations Office at Geneva from 25 to 28 January 1988.

As at 31 December 1987, there were 86 States parties to the Convention.

At its meeting held on 25 January 1988, the Group elected Mr. Gustavo Adolfo VARGAS as Chairman/Rapporteur.

The membership of the Group for the session was as follows:

Ethiopia	Ms. Kongit SINEGIORGIS
Nicaragua	Mr. Gustavo Adolfo VARGAS
Sri Lanka	Mr. Bernard A. B. GOONETILLEKE

2. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE VII OF THE CONVENTION

The Group had before it the following documents: (i) a note by the Secretary-General (E/CN.4/1988/30) concerning the status of the Convention and the submission of reports by State parties under article VII of the Convention and (ii) reports submitted since the forty-third session of the Commission on Human Rights by:

Ukrainian Soviet Socialist Republic (E/CN.4/1988/30/Add.1);

Hungary (E/CN.4/1988/30/Add.2);

⁵ E/CN.4/1988/32.

Mongolia (E/CN.4/1988/30/Add.3);
Byelorussian Soviet Socialist Republic (E/CN.4/1988/30/Add.4);
Algeria (E/CN.4/1988/30/Add.5);
Argentina (E/CN.4/1988/30/Add.6);
Bangladesh (E/CN.4/1988/30/Add.7);
and Sri Lanka (E/CN.4/1988/30/Add.8).

The Group undertook the examination of each report in the presence of the representative of the reporting States who had been invited to attend the meetings of the Group in accordance with the recommendations made by the Group at its 1979 and subsequent sessions.

A summary of the consideration of the reports by the Group can be found in paragraphs 11 to 26 of the report (E/CN.4/1988/32).

3. CONSIDERATION OF THE ACTIONS OF TRANSNATIONAL CORPORATIONS WHICH OPERATE IN SOUTH AFRICA AND NAMIBIA

In accordance with the request contained in Commission on Human Rights resolution 1987/11, the Group of Three continued to consider whether the actions of transnational corporations operating in South Africa and Namibia came under the definition of the crime of *apartheid* and whether legal action could be taken under the Convention against them, and, in the light of the views expressed by States parties to the Convention (Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, German Democratic Republic, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics), specialized agencies (International Labour Organisation) and non-governmental organizations (International Confederation of Free Trade Unions and Women's International Democratic Federation) (see E/CN.4/1988/31 and Add.1-3), examined the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of *apartheid* in South Africa.

The Group commended the States parties which had submitted their views and information and called upon those which had not yet submitted their views to do so as soon as possible. The Group was of the opinion that further examination of the matter was needed and that the views and information of all the States parties to the Convention on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of *apartheid* in South Africa would be of the greatest usefulness.

The Group noted, with reference to the views and information submitted, that all States were in agreement as to the necessity of imposing sanctions against the *apartheid* régime, and expressed the hope that more con-

crete proposals on the subject could be communicated to the Group in the future.

Within that context the Group rejected as completely unfounded the assertion that the action of transnational corporations operating in South Africa and close cooperation between certain countries and the racist régime of South Africa in the political, economic, military and other spheres were helping to improve the critical situation of the overwhelming majority of the population of that country and contributed to making the system of *apartheid* more human.

The Group reached the conclusion that by their complicity the transnational corporations operating in South Africa and Namibia, in conformity with article III (b) of the Convention, must be considered accomplices in the crime of *apartheid* and must be prosecuted for their responsibility in the continuation of that crime.

The Group recommended to the Commission that it appeal to all States—whether parties to the Convention or not—to take a responsible stand against the racist régime of South Africa and to step up their action against *apartheid* in compliance with relevant resolutions adopted by various United Nations bodies.

4. CONCLUSIONS AND RECOMMENDATIONS

The Group of Three took note with satisfaction of the new accession to the Convention in 1987. However, it expressed concern at the fact that, as at 31 December 1987, only 86 States had become parties to the Convention. Convinced that the ratification of, or accession to, the Convention on a universal basis and the implementation of its provisions are necessary for its effectiveness, the Group recommended once again to the Commission on Human Rights that it should urge all States which have not yet done so to ratify or accede to the Convention without delay, in particular those States which have jurisdiction over transnational corporations operating in South Africa and Namibia.

The Group also called upon States parties to provide in their reports information on concrete cases in which measures to prosecute, bring to trial and punish persons accused of, and responsible for, the acts enumerated in article II of the Convention have been applied under their jurisdiction.

The Group noted with appreciation the views and information submitted by States parties, specialized agencies and non-governmental organizations in accordance with Commission resolution 1987/11 and called upon those which have not yet done so to submit their views on the extent and nature of the activities of transnational corporations in South Africa and the applicability of article III of the Convention thereto.

The Group stressed that the racist régime of South Africa, the only régime that practises racism as its official policy and has enshrined it in its so-called "constitution", has its roots in the same racist and bellicose ideology that provoked the Second World War and caused untold deaths and destruction. Appeasement of the racist régime therefore can only have the same disastrous consequences. It notes that the policy and practices of the *apartheid* régime have already brought South Africa to the brink of a racial conflagration.

The Group wished to express once again the importance of measures to be taken in the field of teaching and education for fuller implementation of the Convention and invited the States parties to include information on these measures in their reports.

The Group reiterated its belief that the assistance given to national liberation movements in southern Africa should be strengthened and called upon the international community to contribute generously to such movements.

The Group wished to recommend to the Commission on Human Rights that it request the Secretary-General to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the types of the crimes of *apartheid*, as contained in article II of the Convention, committed by transnational corporations operating in South Africa.

F. Coordination within the United Nations: meeting of Chairpersons of human rights treaty bodies⁶

1. ORGANIZATION OF THE MEETING

The meeting was held at the United Nations Office at Geneva from 10 to 14 October 1988 and was attended by the following participants: the Chairman of the Commission on Human Rights (Mr. Alioune SENE), the Chairman and Vice-Chairman of the Human Rights Committee (Mr. Julio PRADO VALLEJO and Mr. Fausto POCAR), the Rapporteur of the Committee on Economic, Social and Cultural Rights (Mr. Philip ALSTON), the Chairman of the Committee on the Elimination of Racial Discrimination (Mr. George O. LAMPTEY), the representative of the Committee on the Elimination of Discrimination against Women (Ms. Zagorka ILIC), the Chairman of the Group of Three established under the Convention on the Suppression and Punishment of the Crime of *Apartheid* (Mr. Gustavo

⁶ A/44/98.

Adolfo VARGAS) and the Chairman of the Committee against Torture (Mr. Joseph VOYAME).

2. IDENTIFICATION AND REVIEW OF PROBLEMS

(a) *Human Rights Committee*

The representative of the Human Rights Committee explained that the Committee had encountered very serious delays in the submission of reports by States parties. That was partly due to the fact that the International Covenant on Civil and Political Rights covered many wide-ranging rights, which rendered the preparation of the reports more difficult than for some of the other Conventions.

Regarding remedial action to improve compliance by States parties with their reporting obligations, it was stated that the Human Rights Committee had already resorted to such measures as dispatching written reminders to States parties whose reports were overdue, inviting the permanent representatives of States parties to discuss their countries' reporting difficulties with the Committee, designating members of the Bureau to contact permanent representatives on the Committee's behalf, and arranging for the Chairman of the Committee to dispatch special letters to the Foreign Ministers of States parties whose reports had been overdue for a long period. It was also mentioned that a member of the Committee had visited one of the States parties to provide expertise and advice, with a view to facilitating its discharge of its reporting obligations.

In connection with the consideration of periodic reports, the Committee was of the view that the Chairpersons should appeal to States parties to adhere closely to reporting guidelines so that the consideration of reports could be conducted in an orderly and efficient manner. The length of reports had not presented major problems in itself, but it was important to emphasize the need to present information that was both relevant and complete. It would also be helpful if State party delegations could keep their introductory remarks and oral responses to questions as relevant and concise as possible.

Concerning the possibilities for providing assistance to States parties, the Committee considered that technical assistance efforts should be expanded, including subregional and national training courses on reporting and, where reporting problems were particularly serious, missions by experts to furnish practical assistance in areas such as the preparation of reports and the elaboration of a human rights infrastructure, and that a manual on report writing should be prepared and distributed to States parties.

(b) *Committee on Economic, Social and Cultural Rights*

The representative of the Committee pointed out that some of the problems that had been encountered were due to the fact that the Committee

had so far held only two sessions, while others were due to the specific nature of the rights with which it was dealing.

The representative also informed the meeting that the Committee had decided to undertake the preparation of general comments, based on specific provisions of the Covenant. Their purpose would be to make available to all States parties the experience gained so far through the examination of reports in order to promote more effective further implementation of the Covenant, to draw the attention of the States parties to insufficiencies present in a large number of reports, and to suggest to the States parties and the relevant international organizations and specialized agencies measures designed to promote the full realization of the rights recognized in the Covenant.

The Committee also decided that, at each of its future sessions, it would devote one day to a general discussion of one specific right or of a particular article of the Covenant, in order to develop in greater depth its understanding of the relevant issues.

The Committee had expressed its serious concern about the failure to submit, and extended delays in the submission of, reports by States parties to the Covenant. The meeting was informed that, as of 1 October 1988, there were 139 overdue reports. Accordingly, the Committee had recommended that the Council request the Secretary-General to send appropriate reminders to those States.

In that connection, and in view of the difficulties a number of States parties might be experiencing in submitting reports on a timely basis, the Committee emphasized the need for the Secretary-General to devise and implement a programme of advisory services and technical assistance that would be available on request.

(c) Committee on the Elimination of Racial Discrimination

The Chairman of the Committee on the Elimination of Racial Discrimination pointed out that one of the main problems facing the Committee was the failure to submit reports, and stressed that a number of States parties had not submitted a single report since becoming a party to the Convention. That was probably due to a lack of political will on the part of the States parties concerned. In an effort to resolve the problem, the Committee had listed the defaulting States parties in its reports to the General Assembly, had delegated some of its members to raise the matter with the representatives of the States parties concerned and had requested the Secretary-General to send reminders on behalf of the Committee to those States that had not satisfied their reporting obligations.

The Chairman of the Committee informed the meeting that another problem encountered by the Committee was that of late submission of re-

ports. However, he stressed that the problem was probably not due to a lack of political will but rather to the burden of complying with the increased number of human rights instruments involving reporting obligations. To overcome that problem, the Committee had adopted the practice of requesting the submission of multiple overdue reports in one consolidated report. Although that practice had helped some of the States parties, the problem had not yet been solved.

He informed the meeting that the Committee had found some of the reports submitted to it inconsistent with the guidelines and inadequate in content. It was pointed out that the provision of advisory services to assist States parties unable to submit adequate reports had been pioneered by the Committee on the Elimination of Racial Discrimination. The members of that Committee had also indicated their willingness to assist in seminars and workshops to train officials responsible for the preparation of human rights reports.

The Chairman informed the meeting that the financial problems the Committee faced due to the failure by a number of States parties to pay assessed contributions had affected its ability to discharge its monitoring functions under the Convention. He said that such financial problems were likely to be experienced by other self-financing committees as well, such as the Committee against Torture. When the International Convention on the Elimination of All Forms of Racial Discrimination was being drafted, the prevailing view had been that the Committee should be self-financing so as to maintain its independence.

The Chairman stated that since the human rights programme was one of the major responsibilities of the United Nations and since the international human rights instruments were adopted by the General Assembly, in which all the States members of the United Nations took part in the consideration of reports from the human rights treaty bodies, the financing of such bodies should come under the regular budget of the United Nations. That view currently prevailed in many Member States of the United Nations. In his view, unless a solution to the financing problem was found, the human rights programme would disintegrate.

(d) *Committee on the Elimination of Discrimination against Women*

The representative emphasized that certain problems were common to all reporting procedures under human rights instruments, while other problems were specific to a particular reporting procedure, and that the latter should also be taken into account in the formulation of final recommendations by the meeting.

She explained that the main problems specifically concerning the reporting procedure under the Convention on the Elimination of All Forms of

Discrimination against Women could be classified in two categories: (i) difficulties encountered by States parties in preparing their reports; and (ii) difficulties encountered by the Committee in its consideration of reports submitted by States parties.

(e) *Group of Three established under the International Convention on the Suppression and Punishment of the Crime of Apartheid*

The Chairman of the Group of Three said that the high rate of non-submission of reports no doubt resulted from the view of many States parties that the “crime of *apartheid*” was not likely to arise in their territories. He emphasized that it was important to submit reports nevertheless, particularly in order to monitor the activities of transnational corporations, which operated in all countries. He suggested that to overcome the problem the Group of Three should in future follow the practice of the Committee on the Elimination of Racial Discrimination (i.e. after having provided initial reports, States parties should be requested to submit further comprehensive reports only on every second occasion thereafter when reports were due—every four years—and to present brief updating reports on each intervening occasion when reports were due under the Convention).

(f) *Committee against Torture*

The Committee against Torture had already encountered a problem that would arise again in its future activities and might also affect the operation of the reporting system under the Convention: the lack of financial resources. The Chairman of the Committee recalled that States parties were responsible for expenses relating to the implementation system of the Convention, as provided in its article 17, paragraph 7, and article 18, paragraph 5. The activities of the Committee thus required that the contributions of States parties be set at appropriate levels and be paid in good time. The financial decisions of the first meeting of States parties held in November 1987 had prevented the Committee from meeting for a second session in 1988, thus creating a situation in which reports submitted by States parties in June 1988 could not be considered by the Committee until April 1989.

3. REMEDIAL ACTION

Various suggestions were put forward as to how such a core document might best be prepared. One proposal was that the document should be prepared by each State party and submitted to the Centre for Human Rights so that it could be made available, as appropriate, to each of the treaty bodies. The document could be updated every five years or more frequently, at the discretion of the State concerned. A related suggestion called for the relevant information to be contained in the initial part of any report sent for consideration to a treaty body and then updated in each subsequent report to

that body. A third suggestion was that a questionnaire could be submitted to all States parties indicating the information needed by the Centre for Human Rights, which would then be responsible for the preparation and production of the document.

Another suggestion, which was prefaced by an acknowledgement that it would require considerably more reflection and refinement before being acted upon, was that consideration should be given in the longer term to the possibility of each State party preparing a single overall report. Each body would then have to deal with that part of the report which fell within its competence. The preparation of the report could, if so requested, be undertaken with the assistance of experts from the Centre for Human Rights.

It was also suggested that greater uniformity in reporting might be achieved by each State party if it were to establish a unit for the preparation of all of the reports submitted to the international human rights treaty bodies. Such an initiative would render the technical assistance provided by the Centre for Human Rights more effective and would help to reduce duplication in the submission of information.

4. COORDINATION OF PERIODICITY OR REPORTING UNDER THE VARIOUS UNITED NATIONS INSTRUMENTS

The problem of the non-submission, or excessively late submission, of reports was underlined. It was noted that the failure to report significantly undermined the objectives of the treaties and that every effort should be made by the States parties concerned to fulfil the reporting obligations that they had undertaken. The discussion on positive measures of assistance that might be provided to States is reflected in section D below. It was generally agreed that the treaty bodies should explore all possible means to promote the submission of overdue reports. In that regard, it was said that consideration might be given to the following measures, for example, which had already been used by the Human Rights Committee:

- (a) Dispatching written reminders (twice yearly);
- (b) Calling attention to the problem through personal contacts (by individual members from the relevant region) with representatives of the States parties concerned;
- (c) Listing in the committee's annual report to the General Assembly the names of States parties with overdue reports;
- (d) Inviting the permanent representatives of the States parties concerned to discuss with the committee (in closed meetings) their countries' difficulties in respect of reporting;
- (e) Designating members of the Bureau to contact the permanent representatives of the States parties concerned;

- (f) Dispatching special letters from the Chairman to the Foreign Ministers of States parties with long-overdue reports;
- (g) Arranging for a visit by a member of the committee to a State party to provide expertise and advice.

5. MEASURES FOR EXPEDITING CONSIDERATION OF PERIODIC REPORTS

It was also noted that most, if not all, of the committees had, on occasion, experienced difficulties with delegations speaking at undue length, either when introducing a report or when responding to questions. One committee had adopted relatively strict time-limits, but it was generally agreed that the appropriate limits would have to be decided by each committee in the light of its own circumstances and that, in any event, there would always be instances where additional time was required to ensure adequate presentation and discussion of a report. Particular emphasis was placed on the need for committee members to exert self-restraint and to pose questions as precisely and concisely as possible.

6. PROJECTS FOR TECHNICAL ASSISTANCE AND ADVISORY SERVICES WITH A VIEW TO ASSISTING STATES PARTIES TO FULFIL THEIR REPORTING OBLIGATIONS

It was generally agreed that the provision of technical assistance and advisory services to States parties having acknowledged difficulties in preparing their reports was highly desirable. In that regard, the meeting welcomed the proposals contained in the relevant report by the Secretary-General to the Commission on Human Rights (E/CN.4/1988/40). It was felt that the regional and subregional training courses on reporting issues had been of great value and should be continued on a regular basis. For that purpose, it would be desirable for the Centre for Human Rights to obtain the appropriate expertise for undertaking training activities. It was asked whether individual fellowships were a cost-efficient way of providing training for reporting purposes in view of their cost and the high rotation of the national officials concerned.

7. COORDINATION OF FUTURE ACTIVITIES

It was noted that the greatly increased number of reports by States parties, together with the enormous volume of other relevant documentation, already made it very difficult for committee members to keep track of, let alone synthesize, the diverse sources of information. That problem would probably be further compounded in the future as more ratifications were received and new instruments entered into force. For those reasons, it was said to be essential to make use of the opportunities provided by computerization in order to reduce unnecessary work, increase efficiency and assist States

parties in their own endeavours. While it was recognized that a greater use of computers would entail costs, it was suggested that considerable savings in money and staff time could result in the long term. It was proposed that a small task force should be established, consisting of an expert from one of the committees, a computer expert and a secretariat member to be appointed by the Secretary-General, to explore the costs and benefits of making greater use of computers to assist the committees in their work.

Another proposal was to establish a "committee resources room" in the Centre for Human Rights in which the principal documentation of the relevant committees could be kept, along with copies of the constitutions and other basic legislation of States parties. In addition, relevant reports from other United Nations bodies and other sources could be made available for the information of experts. Such a facility would also encourage greater interaction among committee members, which was considered highly desirable. It was noted that virtually all of the documents could be obtained free of charge and that interns could be responsible for arranging and cataloguing the materials so as not to incur additional staffing costs.

8. OTHER MATTERS

There was considerable discussion of the difficulties that had arisen as a result of factors such as the financial crisis of the United Nations, the non-payment of assessed dues by States parties to the International Convention on the Elimination of All Forms of Racial Discrimination, and the method of "self-financing" provided for in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The experience with the Committee on the Elimination of Racial Discrimination and the Committee against Torture suggested that the self-financing system did not contribute to ensuring the effective operation of those mechanisms or to promoting the acceptance of the obligations inherent in the instruments. It was therefore agreed that the General Assembly should, as a matter of the highest priority, ensure the financing of the committees from the United Nations regular budget or make other financial arrangements as necessary in order to enable each of the committees to operate effectively.

9. CONCLUSIONS AND RECOMMENDATIONS

The following conclusions and recommendations were submitted to the General Assembly for its consideration in accordance with its resolutions 41/121 and 42/105.

Technical assistance and advisory services should be provided on a regular basis by the Secretary-General to assist States parties in fulfilling their reporting obligations. Regional and subregional training courses on the

preparation and submission of reports by States parties were of particular value in this regard. Priority should also be given to the provision of assistance, upon request, to States contemplating ratification of the relevant instruments.

A task force on computerization should be appointed by the Secretary-General to explore the costs and benefits of computerizing the work of the committees. A member of one of the expert committees should be a member of the task force.

The General Assembly, in carrying out its responsibility relating to the proper functioning of the human rights treaty bodies established to monitor the implementation of instruments adopted by the Assembly itself, and as a matter of the highest priority, should ensure the financing of each of the committees from the United Nations regular budget or make any other financial arrangements that might be necessary to enable each of the committees to operate effectively.

The detailed reporting manual intended to assist States in the fulfilment of their reporting obligations, which was being prepared by the Centre for Human Rights in collaboration with UNITAR, should be given high priority. Each of the committees should be given an opportunity to comment on a draft of the manual.

Treaty bodies should consider how best to make use of individual rapporteurs or coordinators and working groups, in order to expedite the timely and effective consideration of periodic reports.

In order to facilitate a more efficient exchange of information and documentation, occasional meetings should be convened between the Chairpersons of the United Nations treaty bodies and those of the relevant regional commissions and the ILO and UNESCO committees on conventions and recommendations and other competent bodies.

Section B. Charter-based bodies

A. Countries-approach organs

1. SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN RIGHTS IN AFGHANISTAN¹

When he was appointed by the Commission on Human Rights in 1984, the Special Rapporteur was instructed "to examine the human rights situation in Afghanistan, with a view to formulating proposals which could contribute to ensuring full protection of the human rights of all residents of the country, before, during and after the withdrawal of all foreign forces". The Special Rapporteur's mandate has regularly been renewed by various subsequent resolutions of the Commission on Human Rights and the Economic and Social Council. Since then he has submitted three reports to the Commission on Human Rights (E/CN.4/1985/21, E/CN.4/1986/24 and E/CN.4/1987/22) and three reports to the General Assembly (A/40/843, A/41/778 and A/42/667 and Corr.1).

In submitting his report to the Commission on Human Rights at its forty-fourth session, the Special Rapporteur emphasized that he was continuing to do his utmost to inform the Commission, in the most impartial and most objective manner possible, with the sole aim of contributing to the improvement of the human rights situation in Afghanistan. In chapter II of his report the Special Rapporteur described his activities during the period under consideration. In chapter III he evaluated the human rights situation by analysing in particular the situation in the regions under government control and that in the regions not under government control, and the specific problem of the refugees. Chapters IV and V contained his conclusions and recommendations based on his analysis of the additional information available and took account of recent developments in the overall human rights situation in Afghanistan.

For the purpose of drafting his report, apart from the information he obtained in the course of the two visits to Afghanistan and Pakistan, the Special Rapporteur followed the course of events since December 1987 and sys-

¹ "Report on the situation of human rights in Afghanistan . . ." (E/CN.4/1988/25).

tematically examined the written information he received from private individuals and/or humanitarian organizations present in the region and dealing with questions relating to his mandate. He also studied the report on the human rights situations submitted to the United States Senate, but was unable to check the allegations of massive and systematic violations of human rights in Afghanistan contained in that report.

The human rights situation in government-controlled areas has improved as compared with the situation described in previous reports. However, there were still reliable reports of torture under interrogation and killing of political prisoners. This indicated that the will of the Government to bring the human rights situation into line with its international obligations could not be implemented in all the regions under government control or in all branches of government.

The Special Rapporteur reminded the Commission that his mandate also required him to make recommendations as to the restoration of human rights "during and after withdrawal of foreign troops". Since the human rights situation was different in the various regions of Afghanistan, his recommendations differed accordingly.

In the *government-controlled area*, the amnesty should be broadened. Amnestied persons should be entirely free and should not be put under house arrest or police surveillance. The Government should implement the human rights provisions contained in the new Constitution in the spirit of the International Covenant on Civil and Political Rights. The system of revolutionary or special tribunals, revolutionary or special prosecutors and the KHAD should be dismantled. The fate of missing persons should be investigated.

In the *areas not under government control*, the full assistance of specialized agencies and non-governmental organizations should be extended. The International Committee of the Red Cross should be guaranteed free access to all places in which humanitarian action is required. Opposition movements should find a way to release all prisoners under their control.

In *combat areas*, the withdrawal of foreign troops should be accompanied by a universal cease-fire in conformity with all relevant rules and the parties to the conflict should adhere strictly to the Geneva Conventions of 1949 or, if they are not parties thereto, they should at least implement article 3 of these Conventions. As stated in paragraph 134 of his report to the Commission on Human Rights (E/CN.4/1986/24):

"In regard to the human rights situation during withdrawal of troops, adequate precautions should be taken to ensure the protection of all civilians, in particular women, children and elderly persons. The international community and humanitarian organizations, such as

ICRC, should be invited to supervise this protection and to furnish humanitarian assistance, wherever needed”.

Concerning the *refugee problem*, the refugees outside Afghanistan should be completely free to decide about their return and no obstacle whatsoever should be created to prevent them from crossing the border at any of the official outposts. Conditions should be created for refugees inside Afghanistan to return to their homes so that changes in the demographic structure of the country may be redressed.

Elections to the National Assembly should not be held in the presence of foreign troops; the Government in Afghanistan should be genuinely representative.

Journalists should be treated in accordance with General Assembly resolution 2673 (XXV) on protection of journalists engaged in dangerous missions in areas of armed conflict.

The Special Rapporteur was of the opinion that, as far as the establishment of a system of human rights protection was concerned, the United Nations could play a useful role. In post-war Afghanistan, it would be essential to adopt concrete measures aimed at securing the observance of human rights. It would be necessary to introduce appropriate legislation and to establish monitoring mechanisms and essential infrastructure to safeguard human rights. In this process, the United Nations might advise and provide assistance through the programme of advisory services in the field of human rights. A pilot programme could be envisaged and Afghanistan could become a test case for the effectiveness of the advisory services system. At the present juncture, the protecting powers system for safeguarding human rights, as provided for in articles 9 to 11 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, should be implemented.

Given the geopolitical situation of Afghanistan and the present conditions, the Special Rapporteur believed that, if the country were to adopt the status of permanent neutrality, new perspectives for the peaceful existence of Afghanistan would be opened. The Special Rapporteur had recommended this course of action several times in his previous reports, on the basis of his experience as a citizen of a country with that status.

2. SPECIAL RAPPORTEUR ON THE QUESTION OF HUMAN RIGHTS IN CHILE²

In accordance with paragraph 12 of Commission on Human Rights resolution 1987/60, the Special Rapporteur submitted to the General Assembly at its forty-second session a report on the situation of human rights in Chile (A/42/556 and Corr.1) covering the first six months of 1987.

² “Report on the question of human rights in Chile . . .” (E/CN.4/1988/7).

For the purpose of preparing that report, the Special Rapporteur again received the permission of the Government of Chile to visit the country. The visit—his third—took place from 8 to 21 December 1987. Section II of his report contained a detailed account of his activities during the visit. Section III comprised a further compendium—which has been transmitted to the Government for comment—of further complaints lodged with the Chilean courts concerning alleged violations of human rights. Sections IV and V contained the conclusions and recommendations with which the Special Rapporteur closed the analysis of the human rights situation in Chile in 1987.

Despite the above-mentioned permission and cooperation on the part of the Government, the Special Rapporteur was obliged to mention two incidents which hampered his mission in Chile. First, as he stated later, he was granted a hearing by the Minister of Justice, during which he was taken aback by the hostile, discourteous and uncooperative attitude of the Minister, who gave him warnings that were clearly out of place. This incident cast a shadow on the cooperative spirit with which the Government had promised to receive the Special Rapporteur. Secondly, several competent representatives of the military courts did not respond promptly or in a proper manner to his request for a hearing; he specifically wanted to discuss with them important questions relating to the performance of their duties in the military courts. In addition, the Special Rapporteur requested, also in good time through diplomatic channels, hearings with the Director-General of the National Information Agency (CNI) and with the representatives of the ordinary courts who were investigating important complaints of human rights violations. On that occasion, too, the Special Rapporteur did not receive an affirmative response from any of the parties concerned, with the result that he was obliged to make direct contact, at very short notice, with the various civil judges and magistrates, who did allow the Special Rapporteur to interview them. The content of these interviews is referred to below.

As on previous occasions, the Special Rapporteur transmitted complaints of human rights violations to the Government of Chile for comment, in a letter dated 29 January 1988 addressed to Ambassador M. Calderón Vargas. The letter also stated:

“Without prejudice to relevant verifications, that Your Excellency’s Government may wish to make and transmit to me, I am compelled to state that these complaints have been of great concern to me. For this reason I have decided, in addition, to include the complaints in my report to the Commission . . . but this does not imply a premature judgement on the part of the Special Rapporteur as to their merit.”

The complaints are set out below in accordance with the following outline:

- (a) Right to life;
- (b) Right to physical and moral integrity;
- (c) Right to liberty;
- (d) Right to security;
- (e) Right to a proper trial and to procedural guarantees;
- (f) Right to enter and leave the country freely;
- (g) Right to freedom of expression and information;
- (h) Alleged disappearances.

Section III of the report contains a detailed account of the complaints lodged with the Chilean courts concerning alleged violations of human rights.

As in December 1985 and in March 1987, in this third on-the-spot investigation conducted in Chile in December 1987, the Government gave the Special Rapporteur all the necessary facilities for carrying out his mission. The Special Rapporteur himself drew up his programme of work and put it into practice independently, without any interference from the Government.

The lack of cooperation on the part of the Minister of Justice was the exception—and an important one—to the rule. His hostility and disrespect towards the Special Rapporteur, together with his dogmatism and refusal to collaborate with the mission, not only prevented any constructive dialogue, but also spoiled the atmosphere in which the Special Rapporteur was doing his work. In practice, they also fomented hostility towards him in a sector of public opinion which tends to defend the *status quo*, giving a misleading impression of the nature and purposes of the visit.

The establishment of a democratic system, arising from and based on the freely expressed and faithfully respected will of the people, was an essential task which must be carried out in Chile. Its establishment would already constitute respect for human rights, not only because electoral rights would be put into effect, but also because a climate of calm and security was indispensable in any process of this kind, so as to allow the citizen to take part without fear, particularly from the authorities. Such a climate would help to create respect for all the other fundamental rights of the individual, and due guarantees or legal protection therefor.

In accordance with the Constitution in force, a plebiscite was to be held during 1988 to select a new President of Chile, as part of a system of transition towards a representative democratic régime. Apart from any criticism which such a system might provoke (the Special Rapporteur had already said in his earlier reports that he preferred the system of general elections to the *sui generis* system of the Chilean Constitution), a plebiscite was scheduled to take place and would have to be conducted in strict accordance with the universal standards of respect for the will of the voters.

The Special Rapporteur considered that if the plebiscite was to become the first phase of a complex process which would place Chile among the representative democracies, where the Government represented the expression of the free will of the people, the Government first of all, and then the people, must make an intensive, extraordinary and persistent effort to bring about a substantial improvement in the human rights situation through action on those lines. In addition, the precise date on which the plebiscite was to be held should be announced as soon as possible.

The Special Rapporteur has noted that there was a tendency or willingness within the Government of Chile to improve its performance with regard to political freedom, with favourable conditions for people to live without fear and with respect for each individual and for the development of a harmonious, united and informed society. For example, the political parties had been able to emerge from banishment, and despite the fact that some objected to certain provisions of the Act which legitimized them and the Special Rapporteur agreed with some of those objections, it was true that those which registered would be able to engage in their normal and typical activities, including participation, if they so decided, in the 1988 plebiscite. Several political parties had, in fact, already begun the registration procedure.

With regard to the military courts, the Special Rapporteur noted that Chilean military courts had been characterized, under the present régime, by their harshness, wide field of action, bias in favour of the establishment of which they formed a part, their tendency to take over civil cases and their dependence on the Government, among other typical features. But it was with the appointment of Special Military Prosecutor Fernando Torres, to investigate the attempt on the life of the President of the Republic in 1986, that Chilean military justice began to deviate from the normal practices of military courts in a democratic society. The tendency towards self-aggrandizement that already existed had strengthened to an extraordinary extent, becoming one of the main features of the system and one of the means by which judicial investigations were turned into an especially odious and unjust instrument of oppression, causing great insecurity to citizens who are the subject of endless investigations by the Special Military Prosecutor.

The situation of the press continued to preoccupy the Special Rapporteur. Although the organs of the media were many and varied, they operated under constant threat of the application of the legislation brought in under the states of emergency. The Special Rapporteur wished to confirm what he had said in his fifth report (A/42/556, para. 107), adding that his concern was increased by the fact that media directors were still being prosecuted and intimidated, as was the case, during the six-month period under consideration, with the director and deputy director of a magazine and the director of a radio station. The latter was attacked and a threat was made against his life.

The Special Rapporteur was concerned at the situation in Chile because, despite the fact that in the course of his mandate (from February 1985 to the present) there had been important changes which had improved the human rights situation in the country, much still remained to be done in essential areas such as the action taken by the courts and, in particular, the military courts, the behaviour of the CNI in applying illegitimate pressure, and the violent and criminal activities of private gangs and terrorists.

Nevertheless, the Special Rapporteur believed that with perseverance further progress could be made in promoting the cause of human rights, if a positive attitude was maintained by the Government, in the first place, and by all social groups which wanted to establish a society willing to pursue the general good without hatred or strife. To that end it was essential and a matter of urgency that there should be a national consensus on the problems that had to be faced in protecting freedoms and how to take united action on those problems.

The transition to a democracy must be a genuine and continuous process. The 1988 plebiscite must accordingly give citizens and the political parties a broad opportunity for participation, in order that it might be a genuine consultation of the people. The date of the plebiscite should be indicated without delay, so as to avoid undesirable uncertainty. It would therefore be appropriate for the Government itself authoritatively to announce the date, although a consensus already appeared to exist regarding the period from 11 September to 11 December 1988.

Political and civil rights must be faithfully observed before, during and after the plebiscite, in order to guarantee public safety and the free participation of voters in the discussion of all matters concerning the nation's future.

It is essential that the system of justice, and especially the military system of justice, should undergo a broad and thorough review. The military system of justice should be more humane and less inclined to deal with matters that are within the competence of the civil courts in a democratic society.

Similarly, it was essential that the Government should undertake the urgent task of reviewing the conduct of Special Military Prosecutor Colonel Fernando Torres, in order to bring his conduct into line with the principles and standards of "due process", which are respected in democratic societies, for the purposes of the enjoyment of human rights.

The ordinary system of justice must be given back its independence and prestige through the encouragement, in all areas, of members of the judiciary who are making laudable efforts to act in keeping with the lofty values they were called upon to embody, in adverse circumstances which darkened Chilean life, especially in the field of protection of human rights. To that end, the ordinary courts must be given back the powers that the in-

flated system of military justice had wrested from them, to the point of having completely relegated them to the background. To the same end, a start must be made on reforming the legislation that shackled the ordinary system of justice in Chile, to the detriment of observance of human rights.

The police authorities must actively and effectively assist civilian magistrates and judges who were investigating criminal acts, especially the inhuman acts attributed to private gangs whose methods of action were similar to those of paramilitary organizations. The Government must not allow the impunity which had characterized such cases to encourage heinous behaviour which endangered public safety and social harmony.

Freedom of expression must be adequately protected. For this reason, the Government should exercise the greatest moderation in its relations with the media. The transition to democracy required the practice of tolerance, because democracy was nourished by divergent ideas and established itself through the citizens' supervision of the behaviour of those who governed them.

It was very important that the Government should firmly set about combating, by all appropriate means, the intimidation of individuals and groups by private gangs acting as paramilitary organizations. In this connection, stress should be laid on the praiseworthy attitude of the Director of the *Carabineros* in protecting a number of persons who have recently been intimidated.

The Anti-Terrorism Act should be reformed, for the purpose of reducing the periods during which detainees were held incommunicado under the Act.

In cooperation with the International Committee of the Red Cross and the advisory services of the Centre for Human Rights, the Government should organize training courses for law-enforcement officials on the proper treatment of persons deprived of their liberty.

3. SPECIAL REPRESENTATIVE ON THE QUESTION OF HUMAN RIGHTS IN EL SALVADOR³

This report was prepared in pursuance of resolution 1987/51 of the Commission on Human Rights. The document referred to the situation of human rights in El Salvador during 1987, although it should obviously be read in the light of the reports submitted by the Special Representative since 1981. The Special Representative was profoundly grateful for the cooperation of the Government of El Salvador and the FMLN-FDR, and for the co-

³ "Final report to the Commission on Human Rights on the situation of human rights in El Salvador . . ." (E/CN.4/1988/23).

operation of other Governments, international and non-governmental organizations, and other individuals and institutions.

The Special Representative had been able to visit El Salvador once again. During his stay in that country, from 27 September to 5 October 1987, he had interviews with leading authorities of the Republic of El Salvador, including the President of the Republic, the President of the Legislative Assembly and the President of the Supreme Court. At the time of the dialogue between the Government and the armed opposition initiated in San Salvador on 4 October, the Special Representative was also able to talk to delegates of the FDR and commanders of the FMLN present at the meeting. During his stay, the Special Representative also questioned many witnesses presented to him by humanitarian organizations working there. In addition, the Special Representative visited detention centres, where he interviewed political prisoners under conditions of confidentiality, and received much oral and written information from human rights organizations operating in the country. Since the report to the General Assembly was prepared, the Special Representative has continued to receive copious information.

Having evaluated the information on the human rights situation in El Salvador in 1987, the Special Representative drew the following conclusions:

The situation of *economic, social and cultural rights* had deteriorated as a result of the combined effect of a number of factors, such as the world economic crisis, the persistence of the military conflict, the October 1986 earthquake and the drought.

In the opinion of the Special Representative, the systematic attacks which the FMLN had continued to carry out against the country's economic infrastructure seriously threatened the present and future enjoyment by Salvadorian citizens of important economic, social and cultural rights.

Politically motivated *summary executions* of civilians had been carried out by members of the armed forces and civil defence. While it is difficult to determine exactly how many had occurred, they were certainly disturbing, although there were fewer than the average for the previous year. The Attorney-General of the Republic had taken action with regard to some of those executions.

The Special Representative noted with satisfaction that no summary executions had been reliably attributed to members of the security forces.

There were indications of a definite resurgence of "death squad" activities, and at least one source attributed summary executions and other serious human rights violations to those squads. The Special Representative noted that the Government was fighting the activities of the aforementioned death squads as vigorously as it could, although he did not rule out the possi-

bility that their activities might be tolerated by individual members of the State apparatus.

The guerrilla organizations, for their part, had persisted in the widespread and disturbing practice of *ajusticiamentos*, a practice which, in the opinion of the Special Representative, was incompatible with generally recognized human rights standards and was a constituent factor of summary executions.

Disturbing cases of *disappearances* of leftists, among them trade unionists, had been reported. While it was difficult to determine the identity of those responsible, the Special Representative did not rule out the possibility that the "death squads" were involved.

The guerrilla organizations had also abducted individuals, among others mayors belonging to the Christian Democrat Party. Most of the mayors had been released and had stated that they were not ill-treated during their abduction.

The Special Representative has encountered cases of intense psychological pressure, equivalent to inhumane or degrading treatment, during police *interrogation of political prisoners*. It was difficult to determine how common the practice was, although it was his belief that it was not widespread. The Special Representative likewise drew attention to a case involving the rape of a woman political prisoner during her administrative detention.

Activities of the *criminal justice* system to investigate and punish serious human rights violations remained highly unsatisfactory, although the Special Representative reported the hopes raised by the first words and deeds of the new Attorney-General of the Republic.

The judicial actions brought against individuals presumed guilty of collaborating with the armed opposition have been accelerated, resulting in a marked decline in the number of political prisoners.

As in 1986, the Salvadorian regular army was generally endeavouring to apply humanitarian standards in the conduct of hostilities, but that did not prevent unjustifiable civilian fatalities from time to time. Although the number of deaths was difficult to establish, it was appreciably lower than in 1985 and previous years. The Special Representative did not rule out the possibility that some of those casualties might have been caused by the explosion of contact mines. Mines placed by the guerrilla organizations were responsible for the highest number of casualties among the non-combatant population.

The guerrilla organizations have continued, to an alarming extent, to be responsible for maiming and killing civilians coming into contact with mines they planted. The Special Representative noted that the number of

persons seriously injured was appreciably higher than the number killed and that the average number of casualties was lower than last year.

As part of the process of democratic normalization, the constitutional authorities of the Republic of El Salvador continued to be firmly committed to a policy of respect for human rights. Further evidence of this could be seen in the signing of the Esquipulas II document and the beginning of its implementation, particularly by holding a dialogue with the FMLN-FDR which, in its initial stages, seemed to the Special Representative to be serious and constructive. At the beginning of 1988, however, the dialogue was deadlocked, which was a source of deep concern.

The commitment of the constitutional authorities of El Salvador to human rights was particularly reflected in the gradual decline in the number of attacks on human life. The Special Representative attributed the persistence of such attacks and other violations to the fact that the Government had not yet gained effective control over all agencies of the state apparatus. For its part, the FMLN has established a secretariat for the protection and promotion of human rights and, by accepting the basic principles of the Esquipulas II document, had committed itself to respect and promote those rights.

The Special Representative particularly recommends to the constitutional authorities of the Republic of El Salvador:

(a) The speedy repeal of the legislation that was incompatible with international human rights standards which were legally binding on the Republic, and the adoption of laws compatible with those standards, particularly with regard to the prosecution of political offences;

(b) Continued and increased monitoring of police interrogations of political prisoners, in order to ensure strict adherence to the standards referred to in subparagraph (a) above;

(c) The continuation and expansion of social reform, particularly judicial reform, subject to and based on the standards mentioned in subparagraph (a) above.

The Special Representative especially recommends to the FMLN:

(a) That it refrain from planting contact mines in a manner incompatible with the provisions of international law which were applicable to the conflict in El Salvador;

(b) That it refrain from attacking the economic structure of El Salvador.

4. SPECIAL REPRESENTATIVE ON THE HUMAN RIGHTS SITUATION IN THE ISLAMIC REPUBLIC OF IRAN⁴

By its resolution 1987/55 of 11 March 1987, the Commission on Human Rights decided to extend the mandate of its Special Representative, as contained in Commission resolution 1984/54 of 14 March 1984, for a further year, and requested the Special Representative to present an interim report on the situation of human rights in the Islamic Republic of Iran to the General Assembly at its forty-second session, and a final report to the Commission at its forty-fourth session.

The final report contained five sections: Introduction, Action taken by the Special Representative, Recent information, both oral and written, on alleged violations of human rights in the Islamic Republic of Iran, Examination of contentions presented by the Government of the Islamic Republic of Iran on several important issues and General considerations and conclusions.

The Special Representative welcomed the statement of the Iranian Government that some provisions of the International Covenant on Civil and Political Rights, particularly those which might be considered as *jus cogens*, are compatible with Islamic law. This statement cleared the normative basis for the examination of the concrete allegations of violations of human rights submitted to the attention of the Iranian Government. Disparate official statements on this subject had been registered, but it seemed that, with regard to the situation of human rights, the position officially communicated to the Special Representative should prevail. The Special Representative expressed the hope that the Iranian Government would increase the normative area of agreed application of norms concerning human rights in order to cover all the international instruments by which it was bound as a member of the United Nations and a party to the two covenants. This final outcome would entail the abandonment of the selective adherence to some provisions of the international instruments.

The views of the Iranian Government concerned a variety of subjects, from the qualification of groups that had acted as a medium for conveying information to the compatibility of international law with Islamic law. The Special Representative had been unable to agree on some of those views. There was no doubt that the original perception based on the system of international law on human rights differed from the original religious perception of the Iranian Government. Nonetheless, in the course of the oral and written dialogue some points had been identified upon which a kind of working understanding may exist. The Special Representative had tried to take the Iranian views into account as much as possible, to the extent these were

⁴ "Report on the human rights situation in the Islamic Republic of Iran . . ." (E/CN.4/1988/24).

consistent with the structure and operation of international instruments on human rights. Thus, a possible way was indicated to give some consideration to the Iranian desire to apply particular rules to the use of information provided by organized groups. The present use of such information was consistent with the practice of international organizations but there was no legal obstacle for the Commission to adopting particular rules in handling such information. It had also been acknowledged that the participation of Islamic scholars in the preparation of the Universal Declaration of Human Rights was relatively minor, considering the importance and extent of Islamic culture, without attributing any legal effect to that fact. A hypothesis had also been outlined according to which a working arrangement with respect to concrete cases might be worked out in order to overcome obstacles of a local character while ensuring compliance with international norms.

The Special Representative also expressed concern on account of communications referring to new cases of summary executions and of information according to which some prisoners were in danger of execution. Nevertheless, the Special Representative noted with satisfaction the information according to which five prominent members of the Baha'i faith who were arrested in Tehran in October 1987, including two former members of the National Baha'i Council of Iran who were alleged to be in danger of execution, were recently released from prison without any conditions. Information on growing economic pressure on Baha'is, such as cancellation of business licences, confiscation of property, dismissal from government jobs and loss of pensions, as well as denial of higher education, continued to be received in a consistent manner.

Information on maltreatment and torture in prisons continued to be received and was the subject of pathetic and moving declarations by witnesses who had direct experience of the conditions prevailing and the behaviour of officers in prisons. Some witnesses presented the physical effects of maltreatment that could be seen and interpreted by a layman. Medical doctors gave expert opinion linking those effects to torture. Moreover, information on irregularities of various kinds in the course of trials was abundant, consistent and convincing. Consequently, the Government might wish to initiate an urgent investigation of those complaints in order to take measures of redress.

The Special Representative continued to believe that acts still occurred in the Islamic Republic of Iran which were inconsistent with international instruments on human rights, and that the situation in that country justified continuing international concern, study and constant monitoring by the competent organs of the United Nations.

5. SPECIAL COMMITTEE TO INVESTIGATE ISRAELI PRACTICES AFFECTING THE HUMAN RIGHTS OF THE POPULATION OF THE OCCUPIED TERRITORIES

The Special Committee considered the question of the Israeli practices affecting the human rights of the population of the occupied territories at its 28th to 32nd and 34th meetings, from 17 to 22 and on 28 November 1988.

In the course of its deliberations, the Special Committee considered seven draft resolutions:

- (a) Draft resolution A/SPC/43/L.26;
- (b) Draft resolution A/SPC/43/L.27;
- (c) Draft resolution A/SPC/43/L.28;
- (d) Draft resolution A/SPC/43/L.29 and Rev.1;
- (e) Draft resolution A/SPC/43/L.30 and Rev.1;
- (f) Draft resolution A/SPC/43/L.31;
- (g) Draft resolution A/SPC/43/L.32.

The Special Committee also recommended for adoption to the General Assembly seven resolutions.

The draft resolutions and the resolutions are summarized in chapters II and III of the report.⁵

6. *AD HOC* WORKING GROUP OF EXPERTS OF THE COMMISSION ON HUMAN RIGHTS WITH RESPECT TO SOUTHERN AFRICA⁶

In accordance with the procedure established by the Group, Mr. Balanda was unanimously elected Chairman of the Group at its 689th meeting on 10 August 1987. Mr. Diaz Casanueva was elected Vice-Chairman of the Group to replace Mr. Branimir Janokovic.

In its resolution 1987/14, the Commission on Human Rights decided that the *Ad Hoc* Working Group of Experts should continue to investigate and study the policies and practices which violated human rights in South Africa and Namibia. The Commission also requested the Group, in cooperation with the Special Committee against *Apartheid* and other investigatory and monitoring bodies, to continue to investigate cases of torture and ill-treatment of detainees and the deaths of detainees in South Africa. Furthermore, the Commission requested the Group to continue to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he might deem appropriate, particularly serious violations of human rights in South Africa which might come to its attention during its studies.

⁵ Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/43/904).

⁶ Interim report of the *Ad Hoc* Working Group of Experts on Violations of Human Rights in southern Africa (E/CN.4/1988/8).

The Commission also requested the Group to submit its report to the Commission at its forty-fourth session.

In accordance with the practice followed since its establishment, the Group noted that, at the present stage, it was submitting an interim report containing neither conclusions nor recommendations. However, the Group intended to state its conclusions and recommendations in the final report which it would submit to the Commission at its forty-fifth session.

The Commission on Human Rights also renewed its request to the Government of South Africa to allow the Group to make on-the-spot investigations of the living conditions in prisons in South Africa and Namibia and of the treatment of prisoners in such a manner that:

(a) The Group would be guaranteed free, confidential access to any prisoner, detainee, ex-prisoner, ex-detainee or any other persons;

(b) The South African Government would provide a firm undertaking that any person providing evidence for such an investigation would be granted immunity from any State action arising from participation in the investigation (para. 29).

Concerning the situation of human rights in Namibia, the Commission on Human Rights, in resolution 1987/8, renewed its request to the Group to bring to the attention of the Chairman of the Commission on Human Rights, for whatever action he might deem appropriate, particularly serious violations of human rights in Namibia which might come to its attention and requested it to report to the Commission at its forty-fourth session on the policies and practices which violated human rights in Namibia and to submit appropriate recommendations (para. 25). The Commission also reiterated its request that South Africa allow the Group to make an on-the-spot investigation of living conditions in the prisons of Namibia and the treatment of prisoners.

In order to pursue the mandate assigned to it by the Commission on Human Rights in resolutions 1987/8 and 1987/14, and by the Economic and Social Council in resolution 1987/63, the Group met at Geneva from 14 to 18 August 1987, when it heard a number of witnesses; this enabled it to gather information on issues relating to policies and practices which violated human rights in South Africa and Namibia.

The Group held seven meetings, during which it re-examined its mandate in the light of its renewal, and decided on the organization of its work for 1987 and 1988. It also examined certain information on developments in the situation in South Africa and Namibia.

The report, prepared in accordance with the mandate laid down by the Commission on Human Rights and the Economic and Social Council, was

adopted by the *Ad Hoc* Working Group of Experts at meetings held at the United Nations Office at Geneva from 7 to 18 December 1987.

During the meetings the following points were examined:

1. Right to life, physical integrity and protection from arbitrary arrest and detention;
2. *Apartheid*, including bantustanization and forced population removals;
3. Right to education, freedom of expression and freedom of movement;
4. Right to work, the situation of black workers and trade-union rights;
5. Violations of human rights affecting individuals;
6. Consequences of the militarization in the territory;
7. Right to work;
8. Other manifestations of policies and practices of *apartheid* which constituted violations of human rights;
9. Information concerning persons suspected of being guilty of the crime of *apartheid* or of a serious violation of human rights.

The observations concerning these different points are summarized in the report of the Special Committee.

B. Thematic approach

1. SPECIAL RAPPOREUR ON THE QUESTION OF THE IMPLEMENTATION OF THE DECLARATION ON THE ELIMINATION OF ALL FORMS OF INTOLERANCE AND OF DISCRIMINATION BASED ON RELIGION OR BELIEF⁷

At its forty-third session, the Commission on Human Rights decided, in its resolution 1987/15, to extend for one year the mandate of the Special Rapporteur. This decision was approved by the Economic and Social Council in its decision 1987/143.

In accordance with that resolution, the Special Rapporteur submitted to the Commission on Human Rights a report entitled "Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief". The Special Rapporteur used the information he was able to obtain from various governmental, intergovernmental and non-governmental sources. He also sent some Governments a more specific request for clarifications in connection with allegations which con-

⁷ "Report on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief" (E/CN.4/1988/45 and Add.1 and Corr.1).

cerned these Governments in particular and were made available to him by various sources.

In accordance with the provisions of paragraph 14 of Commission on Human Rights resolution 1987/15, according to which the Special Rapporteur was invited, in carrying out his mandate, "... to bear in mind the need to be able to respond effectively to credible and reliable information that comes before him", a request for information dated 30 June 1987 was addressed in a note verbale to Governments and in letters to United Nations bodies, specialized agencies and interested intergovernmental and non-governmental organizations.

In addition to the request for information addressed to all Governments, more specific requests were addressed to the Governments of Albania, Bulgaria, the Islamic Republic of Iran, Pakistan, Turkey and the Union of Soviet Socialist Republics on 29 May 1987 and to the Government of Burundi on 20 July 1987. In these communications, the Special Rapporteur recalled that the main purpose of his mandate was to assess the implementation of the Declaration in practical terms by drawing attention to governmental policies and actions according to the extent of their consistency with the provisions of the Declaration and requesting comments on information concerning incidents and measures which appeared to be inconsistent with the provisions of the Declaration. Such information is summarized in annex III of the report.

The Special Rapporteur considers that, in the light of the incidents which have come to his attention, demonstrating the persistence of the problem of intolerance and discrimination based on religion or belief, the preparation of an international instrument dealing specifically with the elimination of this phenomenon would have undeniable advantages. The adoption of a convention would give a broader and more profound dimension to existing concepts by expanding the scope of religious rights and freedoms in their practical manifestations. Moreover, the mandatory nature of the provisions of such an instrument would impose on States parties a number of requirements, such as the submission of reports on the application of its provisions, which might encourage greater respect for religious rights and freedoms by such States.

For the purpose of elaborating such a convention, the international community might usefully draw upon the principles laid down in the 1981 Declaration, as well as on the practical experience acquired in recent years through the procedure introduced by the Commission on Human Rights in this regard.

The establishment, within the Commission on Human Rights, of an open-ended working group to consider the possibility of preparing a convention therefore seems altogether desirable, and such a group should be able to

count on broad participation by both States, non-governmental organizations and religious denominations.

It is, however, clear that the preparation of a convention on such a complex and delicate subject is not something which can be quickly achieved; consequently, at the same time as it establishes such a working group, the Commission on Human Rights should endeavour to maintain its vigilance and continue to apply the procedure it has introduced with a view to monitoring and, if possible, reducing incidents and measures inconsistent with the provisions of the 1981 Declaration.

On the basis of the information collected by the Special Rapporteur, it must be concluded that there was a persistence of incidents and governmental measures inconsistent with the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief during the period covered by this report, with infringements of freedom of religion or belief being committed in various forms and in practically all regions of the world.

Having endeavoured in his previous report to give a general idea of the various factors which impede the implementation of the principle of tolerance in matters of religion or belief, and to list the various forms religious intolerance can take and the threat it poses to the exercise of fundamental rights and freedoms, the Special Rapporteur has, in the present report, embarked on a new phase in the performance of his mandate. He has tried to initiate dialogue with the Governments concerned, transmitting to a number of them information regarding various alleged inconsistencies with the provisions of the Declaration and asking them to clarify these allegations. As can be seen from chapter II, section A, this procedure provoked a reaction from the authorities concerned in certain cases and led to a reply from them. The Special Rapporteur welcomed this constructive approach and the openness shown by certain countries, which give him reason to hope that Governments would take a growing interest in the issues within his frame of reference and their solution.

The proposal to elaborate new international norms for the protection and promotion of freedom of religion or belief should be kept under consideration. The formulation of an international convention on the elimination of all forms of intolerance and of discrimination based on religion or belief is clearly a lengthy task which will probably take years to complete. Action to achieve this goal should be taken at both the international and national levels.

At the international level, it would be desirable to establish within the Commission, in accordance with the procedure followed in several similar cases during recent years, an informal, open-ended working group responsible for considering a draft convention on freedom of religion or belief.

Also at the national level, States should endeavour to take measures to facilitate the formulation of international standards through adequate internal preparations and, at the same time, pending the availability of such a binding international instrument, to guarantee respect for the standards currently applicable, thus preventing or penalizing incidents and measures inconsistent with the standards concerned.

With regard to bilateral relations between countries divided by religious differences, it is desirable to encourage dialogue and cooperation in order to achieve a peaceful settlement of the points at issue between the two parties by means of negotiations. At the multilateral international level, special attention should be given to using the machinery now available for monitoring the implementation of international standards concerning questions of discrimination or intolerance in matters of religion or belief. Among such machinery, mention may be made of procedures established by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee to monitor the application of the rights and freedoms laid down in the International Convention on the Elimination of All Forms of Racial Discrimination and in the International Covenant on Civil and Political Rights, respectively.

Non-governmental organizations concerned with human rights and religious communities should continue the process of dialogue and communication between the various denominations at the national and international levels. These organizations can play an important role in formulating and disseminating suggestions for the promotion and protection of tolerance in matters of religion and belief and in giving widespread publicity to the existing international standards on the subject.

2. SPECIAL RAPPORTEUR ON THE QUESTION OF HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT⁸

At its forty-first session, the Commission on Human Rights, by resolution 1985/33, decided to appoint a special rapporteur to examine questions relevant to torture. On 12 May 1985, the Chairman of the Commission appointed Mr. Peter Kooijmans (Netherlands) Special Rapporteur. Pursuant to that resolution, the Special Rapporteur, *inter alia*, seeks and receives credible and reliable information concerning torture and responds effectively to such information.

At its forty-third session, the Commission had before it a report of the Special Rapporteur (E/CN.4/1987/13) and adopted resolution 1987/29, by which it again decided to continue the mandate of the Special Rapporteur for

⁸ Report of the Special Rapporteur, Mr. P. Kooijmans, pursuant to Commission on Human Rights resolution 1987/29.

another year, in order to enable him to submit further conclusions and recommendations to the Commission at its forty-fourth session. The Economic and Social Council endorsed that resolution by decision 1987/146.

In pursuance of paragraph 8 of resolution 1987/29, the Special Rapporteur addressed notes verbales to Governments on 3 July 1987 requesting that they provide information on measures taken or envisaged to prevent and/or combat torture. The Special Rapporteur also drew attention to the importance of the establishment of a system of periodic visits as well as training programmes for law enforcement and security personnel. Furthermore, he requested general information or observations in connection with his mandate.

As in previous years, the Special Rapporteur received numerous allegations of the practice of torture from different sources. After analysing them, letters with a summarized description of these allegations were transmitted to 29 countries for clarification. In addition, the Special Rapporteur decided to transmit, on 26 June 1987, allegations sent to 17 Governments in 1985 and 1986. At the time of preparation of his report, no replies to these reminders had been received from the Governments of Afghanistan, Burkina Faso, the Congo, Guatemala, the Islamic Republic of Iran, Israel, Mozambique, the Sudan, Suriname, the Syrian Arab Republic, Togo, Uganda, Zaire and Zimbabwe.

Following the established practice, the Special Rapporteur held consultations in Geneva during visits in April, June, July, September and December 1987. Private consultations with representatives of those Governments which expressed the wish to meet with him were maintained. He also met members of non-governmental organizations and private individuals who claimed to be victims of torture.

On several occasions the Special Rapporteur has expressed his readiness to travel to the territory of any Member State with the consent or at the invitation of the Government concerned for the purpose of carrying out on-site consultations. In this connection, the Special Rapporteur held preliminary talks in Geneva early in 1987 with representatives of Argentina, Colombia, Peru and Uruguay. He proposed a regional visit with the purpose of exchanging views with governmental authorities, focusing in particular on remedial and preventive measures aimed at assisting in the eradication of the phenomenon of torture. All four Governments invited the Special Rapporteur who initially planned his visit for 6 to 18 December 1987. By letter dated 27 October 1987, he formally transmitted to the above-mentioned Governments dates and programmes, which were acceptable to all except Peru, which expressed a preference for the visit to take place in January 1988 in view of the fact that, during the period suggested by the Special Rapporteur, few, if any, of the officials he wished to meet would be available.

The information received by the Special Rapporteur during the period under review confirms the picture given in the two previous reports: torture is still a widespread phenomenon. The fact that allegations continued to be received from some countries where, after a change of régime, the Government unequivocally stated that it would no longer tolerate torture proved how tenacious the practice of torture is. Manifestly harsh treatment of detainees, often amounting to torture, has become a way of life in some societies and it seemed to be extremely difficult to change those patterns of behaviour. Under such circumstances very strict retraining programmes and heavy penalties whenever torture actually occurred were vitally necessary. Also, visits to places of detention by external experts, who could make recommendations to the authorities after those visits, might contribute to a change of the prevalent climate.

The fact that torture was still widespread was partly the result of civil strife or internal war in a number of countries. As was pointed out in previous reports, such a situation easily lent itself to the practice of torture, since respect for human life and human dignity was generally low. The problem, however, was compounded by the fact that in many cases a state of emergency was declared for the regions which were particularly afflicted by civil unrest or, in some cases, for the whole country.

The Special Rapporteur has emphasized in his previous reports the importance of training and of re-education programmes for law enforcement and security personnel.

The Special Rapporteur stated that as long as there were situations in which human beings found themselves in the absolute power of other human beings, such situations would be conducive to the practice of torture. As such situations would always occur, it was highly important to develop a system with built-in checks and balances.

The importance of a system of visits as a preventive measure against torture and similar practices could hardly be exaggerated, even if initially it was realized only on a purely voluntary basis. It would be a highly effective form of advisory service, rendered on the spot. For this reason it should remain on the agenda of the United Nations even if, for the time being, it was not given a conventional basis.

Governments were reminded of the possibility of granting access to teams of the International Committee of the Red Cross to places of detention and imprisonment. Such visits were an important contribution to a greater respect for the human dignity of detainees.

Preventive effects might also be expected from a medical examination of detainees immediately after their arrest. If a detainee was certified to be in sound condition at the moment of his arrest, it would be more difficult to explain why his health had deteriorated during his period of detention. Such a

measure was also in conformity with rule 24 of the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955. The rule states that the medical officer (of the institution) shall see and examine every prisoner as soon as possible after his admission. In order to be really effective this examination should take place not only in official prisons but in all places where people are detained, for example for interrogation purposes.

Allegations of torture have continued to come in; their number did not show a tendency to decrease. New techniques of torture—sometimes horrifyingly sophisticated—were invented and new instruments for torture—sometimes specifically designed not to leave physical marks—were being developed. The cries of pain and anguish from the victims of torture were still louder than the cries of indignation at the practice of torture, although the former often cannot be heard.

The Special Rapporteur made a number of recommendations in his report. Some of those recommendations are summarized below:

(a) Since many alleged cases of torture are reported to have taken place during incommunicado detention, every effort should be made to declare incommunicado detention illegal;

(b) Each arrested person should be handed over without delay to the competent judge, who should decide on the legality of his arrest immediately and allow him to see a lawyer;

(c) Every person under arrest should undergo a medical examination as soon as possible after being arrested;

(d) Whenever a person dies while in detention, an autopsy should be held in the presence of a representative of his relatives. Minimum rules on autopsy with special reference to the phenomenon of torture should be drafted;

(e) Places of detention should be regularly inspected by external experts. A system of inspection on a national level should preferably be combined with periodic visits by international experts. To this end a panel of experts should be established within the context of the programme of advisory services of the Centre for Human Rights. Governments or States not party to a convention establishing a periodic system of visits could make use of the facility offered by the Centre for Human Rights;

(f) Training programmes for law enforcement and security personnel should reflect the view that detained persons are entitled to all the rights contained in the Universal Declaration of Human Rights and other legal instruments adopted by the international community. Instruction programmes and manuals on interrogation techniques should contain strict and explicit

rules with regard to the prohibition of torture and other cruel, inhuman or degrading treatment.

3. SPECIAL RAPPORTEUR ON THE QUESTION OF SUMMARY EXECUTIONS⁹

The present report was submitted pursuant to Economic and Social Council resolution 1987/60 entitled "Summary or arbitrary executions". This was the sixth report of the Special Rapporteur since he was first appointed in 1982 under Economic and Social Council resolution 1982/35.

The report described in chapters I (section C) and II allegations of imminent or actual executions which had been duly communicated to the Governments concerned, and the summarized replies from those Governments. The Special Rapporteur then analysed, in chapter III, the phenomenon of summary or arbitrary executions, in which two issues were dealt with, namely, (a) non-respect for the right to life by groups opposing the Government or not under its control; and (b) remedial and/or preventive measures for the protection of the right to life. In dealing with the latter issue the Special Rapporteur described, in particular, the developments so far achieved with regard to international standards designed to ensure proper investigation of all cases of death in suspicious circumstances.

In chapter III the Special Rapporteur reviewed the current situation in countries where summary or arbitrary executions had been widely reported and newly established Governments had publicly pledged their commitment to human rights.

Finally, the Special Rapporteur gave conclusions and recommendations based on his analysis of the information and consideration of feasible steps to be taken in the context of his mandate.

On 30 September 1987, a note verbale was sent to Governments seeking information concerning the question of summary or arbitrary executions. A similar request was sent by a letter of the same date to United Nations bodies, specialized agencies, intergovernmental organizations, liberation movements and non-governmental organizations.

The Special Rapporteur also sent letters or cables to Governments concerning allegations of summary or arbitrary executions in their countries as follows: on 24 July 1987 to 13 Governments, on 27 October 1987 to one Government, on 6 November 1987 to 10 Governments and on 4 December 1987 to 9 Governments. The letters and replies thereto are summarized in chapter II.

In the course of his investigations, the Special Rapporteur received information containing allegations of imminent or threatened summary execu-

⁹ "Summary or arbitrary executions" (E/CN.4/1988/22 and Add.1 and 2).

tions which appeared, *prima facie*, to be relevant to his mandate. In response, the Special Rapporteur addressed an urgent message by cable to the following Governments requesting information concerning those allegations: Colombia, El Salvador, Guinea, Haiti, Islamic Republic of Iran, Jamaica, Jordan, Kuwait, Nigeria, Somalia, Tunisia. Replies were received from the Governments of Colombia, Kuwait and Tunisia.

The appeals and replies received were summarized in chapter III of the report.

The Special Rapporteur, in the context of his mandate, visited Suriname from 16 to 24 August 1987 with the agreement of that Government.

At the conclusion of his mission, the Special Rapporteur made a report to the Secretary-General of the United Nations in which he made suggestions, recommendations and proposals that the Secretary-General, at his discretion, might wish to take into consideration with regard to the situation in eastern Suriname.

Regrettably, summary or arbitrary executions had occurred and continued to occur in Suriname. This was mainly attributed to the internal armed conflict in the eastern and southern parts of the country. The number of innocent civilians killed, including women, children and the aged, was in the hundreds rather than the thousands as some allegations affirmed. The section of the Surinamese society most affected is the "Bush Negroes".

The effect of the armed conflict had reached beyond the "Bush Negroes" and included the Amerindians and in fact the entire Surinamese population. There was no area of economic and social life which had not been adversely affected.

In order further to create conditions under which the phenomenon of summary or arbitrary executions could be reduced if not eliminated altogether, the new Government, in the opinion of the Special Rapporteur, would have to address itself to the following issues:

(a) It would have to find a peaceful way of ending the internal armed conflict and, in this regard, it was recommended that a cease-fire should be negotiated forthwith;

(b) It would have to think of policies and take measures which would create conditions under which the refugees in French Guyana would feel that they could return to Suriname and that their lives and properties would be secure and protected;

(c) A compensatory and rehabilitation programme for all those who had been displaced or had lost their property as a result of the internal conflict would have to be devised. Humanitarian aid for the dependants of those who died should also be considered. Special development programmes for those areas affected and in particular the eastern and southern parts of Suri-

name should be considered and implemented. The international community should assist as a priority in the whole programme envisaged under this paragraph;

(d) There should be deliberate and planned efforts aimed at national reconciliation involving the reintegration of the "Bush Negroes" and other marginalized communities in every aspect of national life and the decision-making processes;

(e) The Government should spare no effort to restore the faith, confidence and trust in institutions such as those concerned with law enforcement, investigation and prosecution, which should be restored to the civil authorities within the context of a constitutional separation of powers, with the corresponding checks and balances. The civil police and judicial authorities appeared to lack adequate facilities; such facilities, including preparation and training of personnel, would have to be provided to ensure that these authorities assumed their lawful responsibilities. All alleged killings should be investigated in an effort to establish responsibility and those responsible should be prosecuted in accordance with the applicable law;

(f) Finally, in the spirit of the separation of the powers of the State, appropriate measures should be taken to ensure that the armed forces resumed their constitutional responsibilities, in defence of the people and the territorial integrity of Suriname and under the control of the executive power.

The information received by the Special Rapporteur in the course of his present mandate included allegations of executions or deaths which might have taken place in the absence of the safeguards designed to protect the right to life embodied in various international instruments, such as the International Covenant on Civil and Political Rights (articles 4, 6, 7, 9, 14 and 15), the Standard Minimum Rules for the Treatment of Prisoners (ECOSOC 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), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 39/46 of 10 December 1984), and the Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the Economic and Social Council in resolution 1984/50.

This information generally related to allegations of the following nature:

(a) Actual or imminent executions:

(i) Without a trial;

- (ii) With a trial but without safeguards designed to protect the rights of the defendant as provided for in article 14 of the above-mentioned Covenant;
- (b) Deaths which took place:
 - (i) As a result of torture or cruel, inhuman or degrading treatment during detention;
 - (ii) As a result of abuse of force by police, military or any other governmental or quasi-governmental forces;
 - (iii) As a result of assault by paramilitary groups under official control;
 - (iv) As a result of assault by groups opposing the Government or not under its control.

A summary by country was contained in chapter II of the report.

In his report, the Special Rapporteur described summary or arbitrary executions both as a phenomenon and as specific cases with specific elements. As in the past, he found that the phenomenon persisted in all parts of the world; summary or arbitrary executions had most frequently taken place in situations of internal armed conflict or of excessive or illegal use of force by law enforcement agents, especially when detaining suspects. Furthermore, several persons were executed in a number of countries without a trial or with a trial but without the safeguards designed to protect the rights of the defendant as provided in article 14 of the International Covenant on Civil and Political Rights.

In the report, the Special Rapporteur took note of the alarming phenomenon of non-respect for the right to life and in particular the act of indiscriminate killing of unarmed civilians by groups opposing the Government or not under its control. He hoped that the international community would strengthen its concerted efforts to eliminate the root causes of such violence, to achieve peaceful solutions through dialogue and to take effective measures to prevent further loss of innocent lives.

In addition, the Special Rapporteur, taking note of the frequent absence of adequate investigation by the appropriate authorities into alleged summary or arbitrary executions, emphasized the need to develop international standards for proper investigation into all cases of suspicious death. Adequate investigation into cases of death in suspicious circumstances was essential, not only to bring those responsible to justice but also to prevent further occurrence of summary or arbitrary execution.

During the course of his mandate, the Special Rapporteur received several proposals concerning the elements to be included in such standards. He noted with satisfaction that the close cooperation established in this regard among United Nations organs and the contribution made by non-governmental groups of experts had led to remarkable progress in the formu-

lation of such standards. The Special Rapporteur hoped that this coordinated effort would bear fruit in the near future in the form of an international instrument to be adopted by the United Nations.

The Special Rapporteur made a number of recommendations in addition to those contained in his last report (E/CN.4/1987/20, paras. 246-248):

(a) As a matter of urgency, training programmes should be organized with a view to training or educating law enforcement officers in human rights issues connected with their work. Over the years it had been noticed that arbitrary deprivation of life most frequently took place in connection with the activities of law enforcement officers. It was therefore imperative that attention be drawn urgently to the training of such officers. The United Nations Centre for Human Rights and the United Nations Institute for Training and Research had over the years organized regional seminars and workshops in which government officers had been trained to draft reports under the various international human rights covenants. It was urged that similar seminars or workshops be started for law enforcement officers to train them to carry out their work with due respect for the human rights of the individual and to familiarize them with various international human rights instruments;

(b) Governments should ratify international human rights instruments and the Optional Protocol to the International Covenant on Civil and Political Rights and review national laws and regulations with a view to embodying in their laws and regulations the minimum requirements stipulated in the international human rights instruments with regard to law enforcement activities, inquiry procedures, judicial procedures, etc.;

(c) Governments should maintain the machinery for checking and controlling the practice of law enforcement organs, including military forces, with a view to ensuring that their activities conformed to the relevant laws and regulations;

(d) Governments and international organizations should support the efforts made in United Nations forums towards the adoption of an international instrument which would incorporate international standards for proper investigation of all cases of death in suspicious circumstances;

(e) Governments and international organizations should strengthen their efforts to find ways and means to bring about peaceful and lasting solutions to the situations of conflict in which indiscriminate killings often take place;

(f) Governments and international organizations should strengthen their efforts to assist, either bilaterally or multilaterally, in an efficient and effective manner, those Governments which, in their struggle to restore or raise the level of respect for human rights, were in need of technical and other assistance.

4. SPECIAL RAPPORTEUR ON THE QUESTION OF THE USE OF MERCENARIES AS A MEANS OF IMPEDING THE EXERCISE OF THE RIGHT OF PEOPLES TO SELF-DETERMINATION

Pursuant to resolution 1987/16 adopted on 9 January 1987 by the Commission on Human Rights, Economic and Social Council resolution 1987/144 of 29 May 1987 and General Assembly resolution 42/96 of 7 December 1987, the Special Rapporteur, Mr. Enrique Bernales Ballesteros, submitted for the consideration of the Commission on Human Rights a report¹⁰ on the question of the use of mercenaries. The report was necessarily preliminary in nature. Thus, the survey of mercenary activities in the past, the review of the current state of international law on the subject, the development of a typology of mercenary activities and the resulting conclusions and recommendations submitted at the end of the report were formulated with a view to informing the members of the Commission about the problems in relation to mercenary activities identified by the Special Rapporteur.

Despite the preliminary nature of the report, the Special Rapporteur had undertaken from the outset to adopt a rigorous working method which involved more than could be done in a few months, in the expectation that this work could be continued with the staff and material assistance that the project required. Thus, in complying with a mandate formulated in Commission resolution 1987/16, the Special Rapporteur felt it necessary to make an exhaustive analysis of cases of mercenary activities reported in the past together with a review of current international law on the subject (chapter III of the report). Chapter IV summarized the information received from the various sources consulted, in accordance with paragraph 3 of Commission resolution 1987/16. On the basis of the information received, chapter V attempted to deal with the difficult problem of defining the term "mercenary" by developing a typology of such activities. Finally, chapters VI and VII offered some preliminary conclusions and recommendations with a view to continuing the analysis of the problem until final proposals could be made.

Despite the repeated condemnation by the United Nations of mercenarism and its adoption of resolutions against mercenary activities and direct or indirect State participation in them, the problem of mercenaries continued to be as important a factor as ever in conflicts of various kinds. Moreover, the information received showed that mercenary practices had increased in volume and proportion, had spread from Africa to other continents and had become a more complex phenomenon by virtue of the manifold forms of organizations and intervention that had been developed.

¹⁰ "Report on the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination" (E/CN.4/1988/14).

The definition of “mercenary” contained in article 47 of Additional Protocol I to the Geneva Conventions of 1949 constituted the first attempt to spell out the notion of a mercenary in concrete terms and continued to be useful for international armed conflicts. However, on the basis of the information received regarding the development of mercenary practices and their widespread use, the definition had become inadequate. It was nevertheless taken as a starting point for other international documents. However, the new texts referred to mercenarism as a generic term covering all aspects of the phenomenon and to the mercenary as the individual responsible for actual operations.

New aspects of the current debate on mercenarism were: the determination of the State’s responsibility for such practices; the combination of many factors involved in determining the motive and benefit, depending on the mercenaries participating in the operation; the need to distinguish between different types of mercenary activity—those involving international armed conflicts and those involving non-international conflicts, such as internal armed conflicts or internal unrest; and establishment of the principle that all mercenary practices involved unlawful interference in the internal affairs of a State and a violation of its sovereignty.

A number of States informed the Special Rapporteur that their domestic law prohibited and punished mercenary activities, specifically describing them as such. Others drew attention to their prohibition of enlistment in foreign forces and military training of such forces within the national territory. In the legislation of many countries, however, gaps existed which have facilitated the spread of mercenary practices.

According to the information received by the Special Rapporteur, the treatment of mercenaries arrested and tried would not appear to be consistent in all cases with international rules and principles requiring the observance of human rights and the genuine enjoyment of legal guarantees. Abuses of this kind might be related to, or the consequence of, the lack of adequate domestic legislation.

From the information provided to the Special Rapporteur, it may be concluded that mercenary practices were still found in Africa, particularly in southern Africa, where they were reportedly organized and put into effect by the South African Government. Reports had also been received of the emergence of mercenary practices in Central America and Suriname. The gravity of the reports received rendered detailed examination of the question essential, in order to determine the scope of the reports, the nature of the mercenary practices involved and the responsibility, if any, of third States in such acts.

The Special Rapporteur was of the view that every possible effort should be made to reach a consensus leading to the effective elimination of the reprehensible practice of mercenarism. A number of recommendations

could be made concerning ways of arriving at an international consensus, adopting anti-mercenary policies, drafting an international convention against the use of mercenaries and strengthening national legislation by providing adequate penalties for persons guilty of the offence of mercenarism. Such penalties must be applied with due regard for procedural guarantees, the right to a fair trial and other fundamental rights of the individual. The penalties themselves should be severe, but should not extend to the death penalty, the abolition of which was desirable.

The reports of mercenary activities in two continents (Africa and Latin America) should be studied further in order to determine the scope and implications of such activities and the possible responsibility of third parties.

The Commission should strengthen its cooperation and coordination with the various concerned bodies at the international level, such as the *Ad Hoc* Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries, the United Nations High Commissioner for Namibia, the International Law Commission, the Organization of African Unity and the International Committee of the Red Cross.

5. WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES¹¹

The Working Group on Enforced or Involuntary Disappearances submitted its eighth report to the Commission on Human Rights. The account of the Group's activities during 1987 reflected therein again provided a telling picture of the persistence of the phenomenon worldwide. Indeed, the Group concerned itself with the situation in 40 countries, in 14 of which disappearances were reported to have occurred in 1987.

In 1987, the Working Group held three sessions: the twenty-first session in New York from 4 to 8 May, the twenty-second session in Geneva from 14 to 18 September and the twenty-third session in Geneva from 25 November to 4 December. During those sessions the Group held 13 meetings with representatives of Governments, one meeting with the Chairman of the Committee on Conventions and Recommendations of the Executive Board of the United Nations Educational, Scientific and Cultural Organization and 15 meetings with representatives of human rights organizations, families of missing persons and relatives or witnesses directly concerned with reports on enforced or involuntary disappearances.

In 1987 the Working Group received some 3,500 reports on enforced or involuntary disappearances and transmitted 1,094 newly reported cases to the Governments concerned; 261 of those cases were reported to have oc-

¹¹ Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1988/19 and Add.1).

curred in 1987 and 215 were processed under the urgent action procedure. The remaining reports were referred back to the sources because they lacked sufficiently detailed information. The Group also reminded Governments of the outstanding cases and, when requested, retransmitted the summaries of those cases to them; it also informed Governments about the clarification of or new information on previously transmitted cases as reported by the sources.

The Working Group's method of work is based on its mandate as stipulated in Commission on Human Rights resolution 20 (XXXVI) and is specifically geared to its main objective. That objective is to assist families in determining the fate and whereabouts of their missing relatives who, having disappeared, are placed outside the protective precinct of the law. To this end, the Working Group endeavours to establish a channel of communication between the families and the Governments concerned, with a view to ensuring that sufficiently documented and clearly identified individual cases which the families, directly or indirectly, have brought to the Group's attention, are investigated and the whereabouts of the missing person clarified. The Group's role ends when the fate and whereabouts of the missing person have been clearly established as a result of investigations by the Government or the search by the family, irrespective of whether that person is alive or dead. The Group's approach is strictly non-accusatory; it does not concern itself with the question of determining responsibility for specific cases of disappearance or for other human rights violations which may have occurred in the course of disappearances. In sum, the Group's activity is humanitarian in nature.

Information concerning enforced or involuntary disappearances in various countries received by the Working Group was summarized in chapters II and III of its report.

In many countries where there is a regular flow of information on missing persons, it is often found that the human rights infrastructure—in terms of non-governmental organizations, national commissions, citizens committees, etc.—is well established and that public opinion is well informed. Therefore, the Group reiterated the importance of fostering greater awareness of its objects and purpose as well as of its *modus operandi*. Groups of relatives of missing persons or human rights organizations might seek to establish a working relationship with it. Enhanced publicity might prevent erroneous ideas about what the Group was set up to do from taking root and avoid false expectations about what it could achieve. As a result, a more diversified flow of information might reach the Working Group from all corners of the globe, thereby remedying somewhat the geographical imbalance which had come to characterize the Group's output. It was suggested that the Commission might wish, to request the Secretary-General to

pay particular attention to the Working Group as part of the envisaged stepping-up of information activities in the field of human rights.

The Working Group was of the view that the need to insist on the investigation of all cases of disappearances lay at the very heart of its mandate. It did so exclusively bearing in mind the interest of those who had lost a spouse, a parent or a child and who would suffer anguish and bitterness as long as they could not be assured of the fate or whereabouts of their loved one. A Government, regardless of whether the disappearance had taken place during or before its administration, owed these relatives an answer. In helping them seek such an answer, the Group was not interested in establishing who the perpetrator had been in a given case of disappearance or in determining responsibility with regard to a specific allegation. In this respect its purview differed fundamentally from that of many human rights organizations. The Group was of course aware that in some countries clarification of a case and prosecution of those responsible went hand in hand. It was submitted, however, that they need not be inextricably linked under all circumstances.

For the first time in history, an international judicial body had been asked to sit in judgement on cases of disappearances. This was the Inter-American Court of Human Rights in San José (Costa Rica) which was about to conclude consideration of three cases that allegedly occurred on Honduran territory. Given their nature, the Court might be expected to pronounce itself on a number of interesting ramifications of the phenomenon of disappearance. The Court's verdict, therefore, might well be helpful for the Working Group, and indeed for the Commission on Human Rights, in studying questions of enforced or involuntary disappearances.

In addition to the recommendations made to the Commission in previous reports, the Working Group recommended that:

- (a) The Secretary-General be encouraged in his current efforts to improve the public information activities on the human rights programme, having regard also to the purpose and objectives of the Working Group;
- (b) Further consideration be given to the possibility of drafting an international instrument on enforced or involuntary disappearances;
- (c) The mandate of the Working Group be extended for two years, on the understanding that its annual reporting cycle would be maintained.

PART III

NATIONAL DEVELOPMENTS

Section A. States

1. ARGENTINA

Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights)*¹

In April 1988, a "Course on Human Rights: the Challenge and Proposals for Argentine and Latin American Education" was organized in cooperation with the Education Secretariat of La Rioja province and attended by 160 secondary school teachers from throughout the province.

In 1988, the Office of the Deputy Secretary for Human Rights also sponsored the Specialized Intensive Course on Human Rights, which was held at the Law and Social Sciences Faculty of the University of Buenos Aires, and is preparing a human rights course for secondary school teachers in cooperation with the Ministry of Education and Justice.

¹ Report submitted by State (E/1988/5/Add.4).

2. BANGLADESH

A. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article VI of the International Convention on the Suppression
and Punishment of the Crime of Apartheid)*²

Though Bangladesh is a multiracial country, it stands always against the concept of racial discrimination and gives active support to international measures to eradicate *apartheid*. Bangladesh has no racial problem and as such no special legislative and judicial measures are required to be taken for elimination of *apartheid*.

Bangladesh believes that *apartheid* is a gross violation of human rights. It is virtually a crime against humanity. So it strongly condemns the racist régime of South Africa and its illegal occupation of Namibia. Bangladesh fully supports all the United Nations resolutions on the question of *apartheid* in South Africa. It has no direct or indirect relationship with the South African Government.

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the Elimination
of All Forms of Racial Discrimination)*²

Article 29 of the Constitution ensures equality of opportunity for all citizens in respect of employment or office in the service of the Republic. No citizen of the State can be deprived of equal opportunity in this respect on grounds of religious belief, race, caste, sex or place of birth. However, there are some special provisions in the Constitution to bring backward sections of citizens on to an equal footing with others in respect of securing their adequate representation in the service of the Republic. These exceptions are made to the advantage of backward sections of people in order to resist discrimination and to maintain privilege of equality.

² Report submitted by State (E/CN.4/1988/30/Add.7).

To enjoy the protection of law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen of Bangladesh, and of every other person for the time being within Bangladesh, and in particular no action detrimental to life, liberty, body, reputation or property of any person shall be taken except in accordance with law. This is guaranteed by Articles 31 and 32 of the Constitution.

3. BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

A. Right to participate in cultural life

*(article 27 of the Universal Declaration;
article 25 of the International Covenant on Economic,
Social and Cultural Rights)³*

During the eighth session of the eleventh convocation of the Supreme Soviet of the Byelorussian SSR, the Act of the Byelorussian SSR "On popular discussion of important problems of the State life of the Byelorussian SSR" was adopted on 2 February 1988 (Collected Acts of the Byelorussian SSR, 1988, No. 4, p. 55). Under article 4 of this Act, citizens of the Byelorussian SSR are guaranteed free participation in the discussion of important problems of State and public life. The article forbids all direct or indirect restriction of the rights of citizens of the Byelorussian SSR to participate in such discussion on the basis of their origin, social or property status, race or nationality, sex, education, language, attitude to religion, length of residence in a given locality, or type or nature of occupation. Article 10 of the Act provides important guarantees as regards citizens' free and equal participation in popular discussions. Officials of state or public bodies who permit the Act to be violated and people who prevent citizens from freely exercising their right to participate in discussions are answerable for their actions as provided by law.

B. Freedom of peaceful assembly and association

*(article 20 of the Universal Declaration;
articles 21 and 22 of the International Covenant
on Civil and Political Rights)³*

The Constitution of the Byelorussian SSR guarantees citizens the freedom to organize meetings, rallies, processions and demonstrations (article 48). A Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 4 April 1988 (Collected Acts of the Byelorussian SSR, 1988, No. 10, p. 155) ratified the Regulation on the procedure for organizing and

³ Report submitted by State (CERD/C/172/Add.15).

holding meetings, rallies, processions and demonstrations. Authorized representatives of the workforce in enterprises, institutions and voluntary social organizations and of individual groups of citizens can apply to the executive committee of the local Soviet of People's Deputies for permission for workers or their organizations to use public buildings, streets, squares and other public places to hold such events.

C. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the Elimination
of All Forms of Racial Discrimination)³*

In order to ensure fuller implementation of Byelorussian citizens' constitutional right to work, the Presidium of the Supreme Soviet of the Byelorussian SSR made a number of amendments and additions to the Code of Labour Laws of the Byelorussian SSR on 26 February 1988. The Code was supplemented, in particular, by a chapter III-A entitled "Ensuring the Employment of Released Workers". Article 40 (1) sets out guarantees of released workers' right to work according to their former occupation, trade or skill and guarantees of the opportunity to study new vocations (trades) with the provision of appropriate work. Articles 40 (2) and 40 (3) establish for released workers allowances and benefits that are intended to reduce to a minimum interruptions to employment, temporary losses of wages and other difficulties that may arise from changes in labour activity.

D. Right to housing

*(article 25 (1) of the Universal Declaration;
article 5 (e) of the International Convention on the Elimination
of All Forms of Racial Discrimination)³*

In May 1988, the Central Committee of the Communist Party of Byelorussia, the Council of Ministers of the Byelorussian SSR and the Byelorussian Republican Council of Trade Unions approved a Comprehensive Programme to improve the housing conditions of the Republic's population during the twelfth five-year plan and in the period up to the year 2000 (Collected Acts of the Byelorussian SSR, 1988, No. 16, p. 268), in implementation of which it is intended to provide virtually every family with separate accommodation—a flat or an individual house—by the year 2000. Solving the housing problem in the Republic is seen as a task of particular political and social significance.

The Decision in question calls not only for a considerable increase in State housing construction, but also for expansion of the opportunities for individual and cooperative housing construction. In it, the relevant authorities were instructed to abolish the previously existing restrictions on the allocation of plots for individual housing construction, even in suburban areas.

4. CAMEROON

A. Right to self-determination

*(articles 1, 2, and 28 of the Universal Declaration;
article 1 of the International Covenant on Civil and Political Rights)⁴*

By acceding to the International Covenant on Civil and Political Rights, without any reservations or statements regarding its interpretation, the Republic of Cameroon agreed in advance to comply with its provisions. Hence, Cameroon considers itself bound by the obligation contained in article 1, paragraph 3, of the Covenant, i.e. firstly to promote the realization in Cameroon of the right of the Cameroonian people to self-determination, and then to assist in the realization of that right in territories which remain under colonial domination, such as Namibia.

B. Non-discrimination: equal rights for men and women

*(article 2 of the Universal Declaration;
article 3 of the International Covenant on Civil and Political Rights)⁴*

Equality of men and women, at both the political and the civil level, is guaranteed by the Constitution.

At the political level, women play an active part in the party and are represented in most modern sectors. Two ministerial portfolios in the present Government are held by women. The function of one of these Ministries, the Ministry of Social Affairs and the Status of Women, is among other things to promote measures which ensure respect for the rights of Cameroonian women in society, eliminate all forms of discrimination against them and strengthen the guarantees of equality in the political, economic, social and cultural fields. Similarly, women hold posts as ambassadors and sit in parliament.

⁴ Report submitted by State (CCPR/C/36/Add.4).

C. Limitations on the exercise of rights and freedoms: states of emergency

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on Civil and Political Rights)⁴*

In order to deal with the disturbances in our country immediately before and after its achievement of national sovereignty, the Cameroonian Government was compelled to decree a state of emergency throughout the country. At the present time, only a few areas are affected by this state of emergency, namely, part of the departments of Nkam, Ndé and Haut Nkam and the Mekenene district of Mbam. These regions remain insecure, as is shown by acts of flagrant banditry, attempts to re-establish disbanded associations and a high crime rate.

D. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on Civil and Political Rights)⁴*

Article 6 of the Covenant guarantees every human being the right to life and Cameroonian legislation contains provisions penalizing any violation of this right.

Article 22, paragraph 3, of the Criminal Code states that the death sentence shall not be carried out on pregnant women until after childbirth.

In some cases the pardon annuls the sentence absolutely and finally while in other cases it merely commutes the sentence, i.e. replaces it by a sentence of comparable severity, or releases the convicted person from the death penalty on certain conditions, as determined by the President of the Republic.

E. Protection of children

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic,
Social and Cultural Rights)⁴*

A juvenile under 10 years of age is considered fully irresponsible and hence may not be tried for offences he commits. Special custody or protection measures may be taken, but the penalties or safety measures applicable to other juvenile delinquents may never be applied.

A juvenile under 18 years of age may be sentenced, although he has the mandatory benefit of extenuating circumstances without any need for it

to be decided whether he understood what he was doing. However, even in such a case, a Cameroonian judge prefers, as far as possible, to avoid passing a sentence whose consequences might frustrate the desired aim of correction and re-education. These juvenile delinquents are placed in special centres, where they are given practical vocational training in order to further their rehabilitation and reintegration into society.

F. Equal protection of the law for nationals and aliens

*(articles 2 and 7 of the Universal Declaration;
article 13 of the International Covenant on Civil and Political Rights)⁴*

An alien permanently or temporarily resident in the national territory enjoys the guarantees laid down by the Constitution, without any restriction as to nationality. Similarly, our civil and criminal laws apply to all without discrimination. Hence, aliens permanently or temporarily resident in Cameroon enjoy extensive legal protection of their persons, lives and property, in accordance with the provisions of the International Covenant on Civil and Political Rights.

G. Administration of justice

*(articles 10 and 11 of the Universal Declaration;
articles 14 and 15 of the International Covenant on Civil
and Political Rights)⁴*

In Cameroon, justice—which, as the Constitution declares, is “done in the name of the Cameroonian people”—is administered by two main categories of courts: courts of traditional (or customary) law and courts of modern law; the latter category is subdivided into civil justice and administrative justice.

The Supreme Court, in addition to its constitutional functions, has the sovereign right of decision on the petitions of appeal allowed by the law against verdicts returned in last resort by the other tribunals and courts of the Republic, and it is the only court to which recourse may be made for compensation or with a charge of misuse of authority by the administrative authorities. The Supreme Court of Cameroon is entirely made up of professional members of the judiciary who have reached the top of their profession. However, when the Supreme Court is required to rule on constitutional affairs, its normal membership is supplemented by an equal number of persons selected by the President of the Republic for their competence and experience.

H. Protection against interference with privacy

(articles 6 and 12 of the Universal Declaration)⁴

The Cameroonian Constitution guarantees the inviolability of the home and correspondence in the following terms:

“The home is inviolable. No search may be carried out except in accordance with law.

“The secrecy of all correspondence is inviolable. It may only be breached by decision of the judicial authorities.”

Articles 299 to 301, 303, 305 and 307 of the Criminal Code punish breaches of personal privacy.

I. Freedom of thought, conscience and religion

*(article 18 of the Universal Declaration;
article 5 of the International Convention on the Elimination
of All Forms of Racial Discrimination)⁴*

Among the principles enshrined in the Universal Declaration of Human Rights and the United Nations Charter, to which the Republic of Cameroon acceded on gaining independence, the principle of freedom of religion or belief is one of the most important. The preamble to the Constitution stipulates that:

“No one may be harassed because of his origins or his religious, philosophical or political opinions or beliefs, subject to respect for public order”.

The preamble also states that “freedom of worship and practice shall be guaranteed”.

5. CHILE

Prohibition of torture and cruel, inhuman or degrading treatment or punishment

*(article 5 of the Universal Declaration;
article 7 of the International Covenant on Civil and Political Rights)⁵*

When Pinochet was defeated in the referendum of 5 October 1988, the entire repressive policy declined markedly and, as a result, there was a sharp drop in torture and cruel, inhuman or degrading treatment. CNI was dissolved shortly after the end of the previous régime.

The Government has withdrawn the fundamental reservations formulated by the dictatorship in September 1988, in ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations in 1984, and has also withdrawn the reservations formulated in regard to the Inter-American Convention to Prevent and Punish Torture, adopted by the Organization of American States.

⁵ Report submitted by State (CAT/C/7/Add.9).

6. DEMOCRATIC YEMEN

A. Right to an adequate standard of living

*(article 25 (1) of the Universal Declaration)*⁶

Since independence, our country's revolutionary Government has shown considerable concern for Yemeni citizens living in rural areas and has endeavoured to eliminate rural/urban differences, in accordance with article 28 of the Constitution, which stipulates that: "The State shall endeavour to improve conditions in backward areas, with a view to the gradual elimination of differences in the standard of living among the various areas of the Republic." The State is also showing special concern for nomads and is striving to improve their living conditions and to provide all the requisite facilities to ensure that they and their children enjoy a life of stability.

B. Right to work

*(article 23 of the Universal Declaration;
article 5 of the International Convention on the Elimination
of All Forms of Racial Discrimination)*⁶

Every citizen of our country has the right to work. In accordance with the Constitution, it is regarded as both a right and a duty of every able-bodied citizen to engage in work that accords with his ability, his qualifications and the public interest. Wages are determined in the light of the quality and type of work. The State guarantees this right by developing the economy, increasing the national income, providing democratic working conditions, ensuring the on-going development of the productive forces, raising the level of professional skills and expanding the scope of vocational training and education. Popular organizations also play an effective role in the regulation and improvement of working conditions and provide full protection for workers from arbitrary dismissal. (Article 37 of the Constitution.)

The labour legislation comprises legal safeguards in regard to the right of citizens to work. It guarantees the continuity of contracts of employment and prohibits the dismissal of a worker by the management on grounds other

⁶ Report submitted by State (CERD/C/158/Add.10).

than those prescribed by law and without the participation of the trade union committee.

C. Right to public health, medical care, social security and social services

*(articles 22 and 25 (1) of the Universal Declaration;
article 5 (e) of the International Convention on the Elimination
of All Forms of Racial Discrimination;
articles 9 and 12 of the International Covenant on Economic,
Social and Cultural Rights)⁶*

All citizens of our country have a right to health care. The State guarantees this right through the provision of free health services in all parts of the Republic and through its plans to create and preserve a healthy environment, to provide preventive health services, to promote occupational safety and health and to develop various types of hospitals, health institutions and people's clinics. The State attaches importance to the development of medical services and the dissemination of health awareness among citizens, with the effective collaboration of popular organizations. (Article 41 of the Constitution.)

D. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights;
article 5 (e) of the International Convention on the Elimination
of All Forms of Racial Discrimination)⁶*

Since the achievement of independence, considerable progress has been made in the construction of schools, technical and vocational training institutes and higher education establishments. Our country has witnessed far-reaching improvements in the field of education and there has been an increase in the number of students admitted to the various educational institutions. As already indicated in this report, education is regarded as a right which the Constitution guarantees to all citizens without any discrimination.

7. ECUADOR

Limitations on the exercise of rights and freedoms: states of emergency

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on Civil and Political Rights)*⁷

The state of national emergency has been declared in recent years particularly during the term of office of the previous president (1984-1988) and once during the term of office of the current president (1988-1990).

In May 1988, the Court of Constitutional Guarantees made the following recommendation to the then President of the Republic in which it stated: "... there was no state of emergency that could be described as a situation of serious domestic unrest to justify such a declaration, since strikes, stoppages, etc., can be dealt with and settled through the exercise of authority by means of ordinary legal procedures, without any need to resort to the state of emergency".

⁷Report submitted by State (CCPR/C/58/Add.9).

8. EGYPT

A. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the Elimination
of All Forms of Racial Discrimination)*⁸

It should be noted that the legal and social system in Egypt is based on the principle of national unity, equality among citizens with respect to their rights and obligations, and the impermissibility of applying or concurring in any form of classification of the people by race or religion or any discrimination between them on grounds of sex, origin or belief. The information media and the national and party newspapers are full of programmes and articles that advocate a spirit of intercommunal harmony and integration and condemn ideological extremism and racist propaganda. The legislation currently in force contains nothing that is inconsistent with the provisions of the Convention. All citizens have the right to attend schools and universities, to join clubs, societies and private associations and to benefit from all the facilities and services that the State provides for individuals and also from pension and the social insurance schemes, without any distinction on grounds of race, religion or colour.

B. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration;
article 3 of the International Convention on the Elimination
of All Forms of Racial Discrimination;
article IV of the International Convention on the Suppression
and Punishment of the Crime of Apartheid)*⁸

Egypt is also providing material and moral support for the struggle of the peoples of South Africa and Namibia, in accordance with the Charter and resolutions of the United Nations. It is helping to train technical and scientific personnel through the fellowships and academic facilities that it offers to students from South Africa and Namibia.

⁸ Report submitted by State (CERD/C/172/Add.12).

Egypt also reaffirms the need to impose a comprehensive economic and military boycott of the Government of South Africa in order to force it to abandon its racial policy.

**C. Limitations on the exercise of rights and freedoms:
states of emergency**

*(article 29 of the Universal Declaration;
article 4 of the International Covenant on Civil and Political Rights)*⁸

With regard to the applicability of the Emergency Act to foreigners, it should be noted that article 1 of the Emergency Act permits the proclamation of a state of emergency "whenever public security or order in the territory of the Republic or in any of its regions is endangered". A state of emergency can be proclaimed throughout the country or in a single region. However, a state of emergency can be proclaimed only for the reasons specified in that article, namely the existence of a danger resulting from the outbreak of war, a situation that threatens to lead to such an outbreak, the occurrence of internal disturbances or public disasters or the spread of an epidemic. If a state of emergency is proclaimed, its provisions apply to all residents and to offences committed within the area in which it is proclaimed. In this respect, no distinction is made between foreigners and nationals.

9. GERMANY, FEDERAL REPUBLIC OF

A. Elimination of racial discrimination; development and protection of certain groups or individuals belonging to them⁹

Since 1983, the Government of the Federal Republic of Germany has been supporting the Office of the Central Council of German Sinti and Romany in Heidelberg, with a total of DM 400,000 in 1988. This Office acts as the association representing the Sinti and Romany Gypsies, voices the problems of this group and brings them to the attention of the authorities. This independent organization is to be expanded at regional level.

B. Condemnation of racial segregation and *apartheid*

*(articles 1 and 2 of the Universal Declaration; articles II, III and VI of the International Convention on the Suppression and Punishment of the Crime of Apartheid)*⁹

On 23 June 1988, in talks in Bonn with a delegation of the Congress of South African Trade Unions (COSATU), the Federal Minister of Foreign Affairs of the Federal Republic of Germany, Mr. Genscher, described *apartheid* as a "particularly detestable form" of violation of human rights. In a Bundestag debate on the situation in southern Africa on 19 May 1988, the Minister of State of the Federal Foreign Office, Helmut Schäfer, declared on behalf of the Government of the Federal Republic of Germany that "The goal of our policy is clear—and I can see that I agree with all the previous speakers here: the only goal can be to abolish *apartheid* in all its forms and with all its effects. Our aim cannot be simply to reform *apartheid* to make it a little more tolerable. *Apartheid*, the discrimination of human beings because of their race and the colour of their skin, cannot be reformed. It is one of the most shameful violations of human rights".

⁹ Report submitted by State (CERD/C/172/Add.13).

10. MEXICO

Non-discrimination on the basis of sex

*(article 2 of the Universal Declaration;
article 3 of the International Covenant on Civil and Political Rights)*¹⁰

The Mexican Government policy for the improvement of the status of women, which is based on national experience and enhanced by the significant contribution of the United Nations Decade for Women has, in recent years, been conducted as part of the National Plan of Action for the Integration of Women in Development, which proposes action to be taken in various fields of community life and encourages direct and active participation by Mexican women in carrying out such action.

To promote the implementation of the National Plan of Action, the National Commission for Women was set up as the appropriate machinery to coordinate and evaluate sectoral activities and programmes.

The Commission, which is composed of representatives of the executive, legislative and judicial powers of the Union and of the State Governments, as well as of various social organizations and institutions of higher education, prepared an operational plan for the 1986-1988 triennium. Its work and initiatives have led to the increased participation of Mexican women in political, economic and cultural activities.

¹⁰ Report submitted by State (CCPR/C/46/Add.3).

11. MONGOLIA

A. Protection of the family

*(articles 16 (3) and 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic,
Social and Cultural Rights)¹¹*

Decree No. 162 of the Presidium of the Great Peoples' Khural, dated 26 December 1988, made the following additions to articles 27, 91, 96 and 102 of the Mongolian Family Code. Article 27 was supplemented by a provision permitting the dissolution of a marriage within a month of receipt of notification to this effect from persons who have agreed to dissolve their marriage and have no children aged under 18. Articles 91, 96 and 102 are concerned with registration and stamp duty.

B. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights;
article 5 (e) of the International Convention on the Elimination
of All Forms of Racial Discrimination)¹¹*

A Work Training Centre for schoolchildren belonging to the Pioneers was established by decision No. 216 of the Mongolian Council of Ministers, dated 1 September 1988. Branches of the centre are being set up in the Ulan Bator, Darkhan and Erdenet districts, and in individual *aimaks*.

¹¹ Report submitted by State (CCPR/64/Add.2).

12. NETHERLANDS

Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights;
article 5 (e) of the International Convention on the Elimination
of All Forms of Racial Discrimination)*¹²

Government policy on education takes account of the fact that children in the Netherlands are growing up in a multi-cultural society. The Primary Education Act, the Secondary Education Act (to be amended by Act of Parliament in 1988) and the Special Education (Interim) Act all require that schools take account of this fact when educating their pupils.

This has consequences for school curricula. Schools are required to state in their school work plan what relevance the multi-cultural society has for the education which they provide. The Government pursues a policy aimed at creating the necessary conditions for multi-cultural education. One of the specific objectives of the policy is the provision of intercultural education, which is designed to help the various sections of the population to adjust to the similarities and differences of other ethnic and cultural backgrounds, with a view to enabling people from different cultural backgrounds to live on an equal footing.

¹² Report submitted by State (CERD/C/158/Add.9).

13. NEW ZEALAND

Elimination of racial discrimination; development and protection of certain racial groups or individuals belonging to them

*(article 2 of the Universal Declaration;
article 27 of the International Covenant on Civil and Political Rights)*¹³

In 1988 education was extended to a third year of High School with the teaching of Form 5 on the island of Nukunonu for all of Tokelau. The villagers strongly encourage school attendance and it remains close to 100 per cent. In legislation recently approved for promulgation by the General Fono of Tokelau, attendance will become compulsory for all between the ages of 5 and 16 years.

A Tokelauan translation of the rights provisions of the Covenant was published in 1988 and distributed to the elders and officials on each island.

The entry into force of the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America was of major economic significance to Tokelau. It was implemented in Tokelauan law by the promulgation of the Tokelau (Exclusive Economic Zone) Fishing Regulations 1988. Tokelau will receive a share of the payment made by the United States under the Treaty on Fisheries, part of which is paid proportionately to all Pacific Island parties and the rest according to the quantity of fish caught within each maritime zone. Tokelau's share under the first part of this payment is currently \$US 115,000 per annum. Tokelau will also be entitled to assistance for approved economic development projects and may also receive technical assistance for fisheries development. This assistance will be funded by the United States, but administered by the Forum Fisheries Agency.

The Post Office Act 1959 is scheduled for early repeal by the draft Post Office regulations which were drawn up and approved by the General Fono in June 1988. The provisions for the protection of the post and private communications will be retained in the new regulations.

¹³ Report submitted by State (CCPR/C/37/Add.12).

14. NORWAY¹⁴

General legal framework

Norway ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 9 July 1986. No amendment of internal legislation was necessary before its ratification.

In addition to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Norway has ratified the International Covenant on Civil and Political Rights and the European Convention on Human Rights, and has signed the European Convention for the prevention of torture and inhuman or degrading treatment or punishment.

It can also be mentioned that a recent complaint against Norway to the European Court on Human Rights alleged among other things that the Norwegian authorities violated article 3 of the European Convention on Human Rights (Application No. 11701/85 by Steinar Eriksen against Norway and Decision of the Commission of 7 March 1988). Article 3 reads: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment". The applicant complained that his conditions during detention and treatment in prison from 1978 to 1988 amounted to a breach of article 3. The Commission, however, found this part of the application manifestly ill-founded within the meaning of article 27, paragraph 2, of the Convention, and thus not admissible.

The rules of article 3 of the Convention are already incorporated in Norwegian legislation. As regards extradition, the Act of 13 June 1975 relating to extradition of offenders contains the following provisions:

Section 6. Extradition shall not be granted where, on account of race, religion, nationality, political belief or other political circumstances there would presumably be a grave risk of the person in question being subjected to persecution with regard to his life or liberty or which is of an otherwise serious character.

Section 7. Extradition shall not be granted where it would be in conflict with fundamental humanitarian considerations, especially on account of the age, health condition or other private circumstances of the person concerned.

¹⁴ Report submitted by State (CAT/C/5/Add.3).

In a new Aliens Act, adopted by Parliament (Storting) in June 1988, similar rules are made concerning expulsion and return. Section 15 of the new Act reads as follows:

Protection against persecution

An alien must not according to this Act be expelled to any area where he may fear persecution such that would again give reason to consider him as a refugee, or to any area from where he might be sent further to an area where he might fear this kind of persecution. Aliens who, for similar reasons to those contained in the definition of a refugee, would be in danger of being executed or of other inhuman treatment shall have the same protection.

An alien who on reasonable grounds is considered as a threat to national security, or has been convicted of a serious crime and therefore is considered a threat to public safety, is not protected by this provision.

The general rules on extradition as mentioned will limit the last provision accordingly.

15. POLAND

A. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on Civil and Political Rights)¹⁵*

During the 1986-1988 period, the ordinary courts of law handed down the death sentence only in cases of murder (Penal Code, art. 148, para. 1). The number of death sentences was as follows: 13 in 1986, 3 in 1987, and one in 1988. No death sentence with the force of *res judicata* was handed down in 1989. In every case involving a death sentence with the force of *res judicata*, the Attorney-General submitted the case to the Council of State, together with a formal request for the right to a pardon. The Polish Penal Code rules out enforcement of the death sentence in the case of a pregnant woman or a person under 18 years of age. Under the Amnesty Act of 7 December 1989 (*Journal of Laws*, No. 64, item 390) death sentences were commuted to 25 years' imprisonment. No death sentence has been enforced since 1988.

A bill prepared by deputies and intended to do away with the death penalty has been submitted to the Diet during its present term of office. Following the first reading of the bill, it has been referred to the competent commission of the Diet. It is considered that the problem of application of the death penalty will be settled in the reform of the criminal law now under way.

B. Elimination of racial discrimination

*(article 7 of the Universal Declaration;
article 5 (a) of the International Convention on the Elimination
of All Forms of Racial Discrimination)¹⁵*

The accelerated procedure, whose scope was extended under the Act of 17 June 1988 amending certain provisions of the criminal law (*Journal of Laws*, No. 20, item 135), constitutes a considerable restriction on the guarantees relating to the defendant's trial and has been widely criticized. It has

¹⁵ Report submitted by State (CCPR/C/58/Add.10).

been deleted from the draft code of criminal procedure currently being formulated.

The possibility for a defendant to be assisted by a defence counsel in the context of an accelerated procedure is guaranteed by the Ordinance of the Minister of Justice of 18 August 1988 on the defendant's right to be assisted by counsel of his choosing under the accelerated procedure (*Journal of Laws*, No. 28, item 198), which was issued after consulting the Supreme Bar Council. However, legal defence in this situation remains very difficult, since examination of the case following the arrest of the perpetrator *flagrante delicto* or immediately afterwards is rapid, and many procedural guarantees are omitted.

The act of 17 June 1988 amending certain provisions of the criminal law and the law on misdemeanours transferred to the Code of Criminal Procedure the committal procedure previously applied under the Special Criminal Responsibility Act of 10 May 1985. The court may issue a committal order in the case of an offence which can be tried under a simplified procedure or of an offence punishable by a custodial penalty or a statutory fine. If the defendant objects, the order is quashed and the case is tried under an ordinary procedure. This undoubtedly controversial solution gives the defendant a choice between the possibility of examination of the case by the court or accepting the penalty imposed in the order, which is generally lighter.

16. REPUBLIC OF KOREA

Right to work

*(article 23 (1) of the Universal Declaration;
article 6 (1) of the International Covenant on Economic,
Social and Cultural Rights)*¹⁶

A minimum wage system was recently introduced in Korea, which came into effect as of 1 January 1988. All companies engaged in 28 manufacturing industries, including food, textiles, machinery and electrics, are required to observe the minimum wage system by the Labour Standard Act.

¹⁶ Report submitted by State (CERD/C/167/Add.1).

17. SWEDEN

Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the Elimination
of All Forms of Racial Discrimination)*¹⁷

The Government presented a Bill in the spring of 1987 proposing that the provision contained in chapter 16, section 8, of the Penal Code be made even more stringent. The Bill was approved by the Swedish Parliament in June 1988. The amendment entered into force on 1 January 1989. The purpose of the amendment was to check the activities of racist organizations still further. Thus a racist statement is now punishable without even having been made in public or spread to the public. It is sufficient for such a statement to have been disseminated within an organization or the like.

¹⁷ Report submitted by State (CERD/C/184/Add.1).

18. TOGO

Introduction¹⁸

As part of the role it plays in promoting human rights, the National Commission on Human Rights has organized the following seminars and lectures:

(a) The national seminar to provide information on and enhance awareness of human rights, which was organized in Lomé on 22 and 23 February 1988 and at which emphasis was placed on the purposes and principles of the Universal Declaration on Human Rights;

(b) The African Seminar, which was held in Lomé from 5 to 7 April 1988 and was organized by the National Commission in cooperation with the Togolese Government and with the assistance of the United Nations Centre for Human Rights, in connection with the celebration of the fortieth anniversary of the Universal Declaration of Human Rights;

(c) The training course organized in Lomé by the Commission with the assistance of the Centre for Human Rights from 8 to 15 April 1988 for training officers and officials responsible for the implementation of human rights legislation;

(d) The national human rights information and awareness tour, which visited all parts of Togo between 23 May and 16 June 1988.

A. Administration of justice

*(articles 10 and 11 of the Universal Declaration;
articles 14 and 15 of the International Covenant on Civil
and Political Rights)*¹⁸

Decisions by the judicial authorities at various levels may affect human rights, as for example, in the event of a miscarriage of justice or in the event of undue delay in the trial of a case.

¹⁸ Report submitted by State (CCPR/C/36/Add.5).

Togo's codes of procedure nevertheless make provision for the rectification of miscarriages of justice through criminal and civil appeal and review procedures.

Rulings by examining magistrates can have a very serious impact on human rights. This occurs when examining magistrates fail to comply with the requirements of the Code of Criminal Procedure concerning pre-trial detention and release on bail. Rulings by examining magistrates with regard to such matters may, however, be challenged in the Court of Appeal, which monitors such rulings.

B. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2 of the International Convention on the Elimination
of All Forms of Racial Discrimination)¹⁸*

Although the implementation of the Covenant does not require its provisions to be incorporated in internal legislation, the Togolese Government has undertaken, through the Commission to review legislation and regulations set up in the Ministry of Justice, to include the provisions of the Covenant in internal law in the near future. The Commission has already prepared a draft act on the punishment of racial and religious discrimination which is soon to be submitted to the National Assembly for final adoption. Other provisions of the Covenant may subsequently be made part of internal law.

The victim of a violation of the provisions of the Covenant cannot be denied an effective remedy, even when the violation was committed by a person acting in an official capacity. There are no specific texts in Togolese law which recognize this principle. It derives from the general principles of civil, criminal and administrative responsibility. If a person's official capacity was to constitute an obstacle to an effective remedy for the victim, there would have to be a special text derogating from the general principles of responsibility. However, such a text does not exist in Togolese law. Rather, any person whose rights and freedoms under the Covenant have been violated is entitled to an effective remedy, even where the violation was committed by persons acting in an official capacity.

C. Right to life

*(article 3 of the Universal Declaration;
article 6 of the International Covenant on Civil and Political Rights)*¹⁸

As stated in Part One of the Report, the right to life is one of the fundamental rights protected by article 6 of the Togolese Constitution which is based on the Universal Declaration of Human Rights.

The death penalty may be imposed only by means of a final judgement handed down by the Assize Court; the Special Court of the State Security Court, pursuant to article 5 of the Penal Code, states that "Penalties may be imposed only by judges empowered by law to do so in accordance with their competence and geographical jurisdiction."

The existence of the death penalty under Togolese legislation may on no account justify the crime of genocide, since the death penalty may be imposed only in the cases specified by law. It is highly unlikely that crimes punishable by the death penalty would be committed by a national, ethnic or religious group.

19. UKRAINIAN SOVIET SOCIALIST REPUBLIC

A. Condemnation of racial segregation and *apartheid*

(articles 1 and 2 of the Universal Declaration;
article IV of the International Convention on the Suppression
and Punishment of the Crime of Apartheid)¹⁹

On 8 May 1987 a decree of the Presidium of the Supreme Soviet of the Ukrainian SSR ratified the International Convention against *Apartheid* in Sports, which came into force on 3 April 1988.

B. Right to take part in cultural life

(article 27 of the Universal Declaration;
article 15 of the International Covenant on Economic,
Social and Cultural Rights)¹⁹

In furtherance of the processes of *perestroika* and democratization taking place in the Ukrainian SSR, and with a view to facilitating the participation of citizens in decision-making on major issues of State life, the Supreme Soviet of the Ukraine passed on 4 June 1988 an Act of the Ukrainian SSR entitled "Popular discussion of major issues of State life of the Ukrainian SSR" (*Vedomosti Verkhovnoho Soveta Ukrainiskoy SSR*, 1988, No. 24, p. 587). The Act specifically states that any restrictions on the rights of citizens to participate in discussion, *inter alia*, on grounds of racial or national origin, shall be prohibited (art. 4), and that officials of State or public organizations in breach of the Act and any persons who obstruct the free exercise of a citizen's right to participate in the discussion shall be held liable under the law (art. 10).

¹⁹ Report submitted by State (CERD/C/172/Add.14).

C. Elimination of racial discrimination

*(article 2 of the Universal Declaration;
article 2.1 (c) of the International Convention on the Elimination
of All Forms of Racial Discrimination)*¹⁹

Extending the system of guarantees of citizens' rights and freedoms while at the same time strictly complying with the constitutional principles of national and racial equality of rights, the Supreme Soviet of the Ukraine by a decree of 25 April 1988 added to the Code of Civil Procedure of the Ukrainian SSR a Chapter 31-A (articles 248 (1) to 248 (10)) entitled "Complaints against unlawful actions of officials infringing citizens' rights".

D. Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Covenant on Economic,
Social and Cultural Rights)*¹⁹

The April 1988 plenary meeting of the Central Committee of the Ukrainian Communist Party dealing with implementation of reforms in secondary and higher education in the Ukrainian SSR recommended that the Republic's public education authorities, the State Committee on Publishing and the Academy of Sciences should, among other things, publish teaching materials in the necessary quantities for pupils belonging to the national minorities.

The resolution of the April 1988 plenary meeting of the Central Committee of the Ukrainian Communist Party recommended that the Republic's party organs, trade unions and communist youth organizations should devote particular attention to fostering in young men and women high political standards and awareness concerning relations between nationalities, to strengthening patriotic and internationalist feelings and to developing bilingualism in the national language and Russian.

20. UNION OF SOVIET SOCIALIST REPUBLICS

Right to education

*(article 26 of the Universal Declaration;
article 13 of the International Convention on Economic,
Social and Cultural Rights)*²⁰

The system of vocational and technical education is also directed towards speeding up the social and economic development of the regions of the North, Siberia and the Far East. Of 250 vocational and technical schools newly established in our country during the period 1 January 1986 to 1 January 1988, 114, or 45.6 per cent, are situated in those regions.

Soviet mass media regularly put out large amounts of material to educate the public in a spirit of opposition to racism, racial discrimination and *apartheid*. The Soviet public has, in particular, been widely informed about the contents of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination.

²⁰ Report submitted by State (CERD/C/172/Add.6).

21. UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

A. Protection of the family

*(articles 16 (3) and 25 (c) of the Universal Declaration;
article 10 of the International Covenant on Economic,
Social and Cultural Rights)*²¹

The Department of Health and Social Security is promoting the expansion of self-help family centres—on which playgroups could be based and which could be a source of childminders—as a small part of the “Helping the Community to Care” initiative for which some £10 million in total is being made available between 1985-1986 and 1988-1989.

B. Protection of children

*(article 25 (2) of the Universal Declaration;
article 10 of the International Covenant on Economic,
Social and Cultural Rights)*²¹

An adoption order is irrevocable, and has the effect of making the child the legitimate child of the adopters. But an adult adopted person now has the right to information about his original birth record.

The Children Act 1975 contains provisions designed to discourage the adoption of children by one parent alone, step-parents, relatives and foster-parents. Legal custody is generally more suitable than adoption in such circumstances, and the Act has introduced a new “custodianship order” to enable people other than a child’s parents to obtain legal custody. It is proposed that similar provisions should be contained in the Draft Family Law Reform (Northern Ireland) Order which is due to be published in 1988.

²¹ Report submitted by State (E/1986/4/Add.23).

C. Right to an adequate standard of living: right to adequate food

(article 25 (1) of the Universal Declaration; article 11 of the International Covenant on Economic, Social and Cultural Rights)²¹

There are no laws, regulations or agreements, or court decisions bearing on the right of everyone to adequate food in the United Kingdom of Great Britain and Northern Ireland.

The result has been produced in other ways: by various food subsidies, either by virtue of European Economic Community (EEC) laws or by virtue of permitted State aids, and by social legislation providing for a guaranteed minimum wage in many trades and occupations and for various forms of social security for the unemployed, the sick, the aged and so on.

D. Right to work

(articles 22 and 25 of the Universal Declaration)²²

Further improvements in labour legislation have been made in a number of areas. The Employment (Amendment) (No.2) Ordinance 1988 provides for the extension of the Long Service Payment Scheme to cover workers who have to cease work because of old age or ill-health. The Employee's Compensation (Amendment) Ordinance 1988 affords greater protection to workers who have sustained occupational injury while working outside Hong Kong. Under the Occupational Safety and Health Council Ordinance 1988, an Occupational Safety and Health Council has been established as a statutory body with the purpose of fostering a safer and healthier working environment in Hong Kong.

E. Equal protection of the law for nationals and aliens

(articles 2 and 7 of the Universal Declaration; article 13 of the International Covenant on Civil and Political Rights)²²

A new policy was implemented on 16 June 1988 which involves the screening of all new Vietnamese boat arrivals seeking to enter Hong Kong on or after that date. Under the new policy, all Vietnamese boat people seeking to enter Hong Kong as economic migrants will be treated as illegal immigrants. Upon interception in Hong Kong waters, they will be warned of

²² Report submitted by State (CCPR/C/32/Add.15).

the possibility of their being detained as illegal immigrants pending repatriation to Viet Nam and, as now, given the opportunity to leave with the necessary replenishment. As soon as possible after arrival, they will be screened in accordance with UNHCR guidelines to determine whether they are genuine refugees in the terms of the 1951 United Nations Convention and 1967 Protocol. UNHCR will be permitted to observe screening. Those screened in as refugees will be accommodated in closed camps with other refugees already awaiting resettlement. However, the Hong Kong Government is in the process of preparing a progressive lifting of restrictions on the freedom of movement of the residents to leave the centres for purposes of education, employment, vocational training, and social and recreational purposes. With the gradual liberalization of the closed centres, it is envisaged that all refugees will eventually live in an open camp environment pending resettlement overseas. Those screened out as illegal immigrants will be detained in detention centres pending repatriation to Viet Nam. A Vietnamese boat person may object to the decision taken following screening and if he does so his objection will be considered by the Governor in Council. UNHCR will be permitted to be involved in appeals.

The unscreened Vietnamese boat people and those screened out as illegal immigrants are detained in detention centres by virtue of the authority conferred on the Director of Immigration under the Immigration Ordinance. Detention centres are under the control of the Correctional Services Department which will also provide recreational facilities and other essential services in the centres. Families in the detention centres are allowed to stay together and will not be split up.

F. Right to health.

*(article 25 (1) of the Universal Declaration;
article 12 of the International Covenant on Economic,
Social and Cultural Rights)²²*

A new Mental Health (Amendment) Ordinance 1988 was enacted in the Legislative Council on 22 June 1988. This Ordinance introduced certain new provisions to deal with areas of the existing Ordinance which were perceived to be defective.

The Amendment Ordinance (1988) contains the following major provisions:

- a mandatory requirement for a medical assessment before a patient is detained in a mental hospital for observation;
- a new definition of the term mental disorder which includes a definition of psychopathic disorder;

a system of guardianship for mental patients over the age of 18 years;
a system of conditional discharge with powers of recall for certain patients;
a channel of appeal for all patients, irrespective of whether they have committed an offence or not;
authority for a policeman to remove from any place a person who is suspected of being mentally disordered to a hospital for assessment by a medical practitioner;
a right, prior to committal to a mental hospital for observation and treatment, for a patient to be heard by a judge or magistrate, if he so wishes;
committal forms to be countersigned by a judge or magistrate; and
the exclusion from committal of those who suffer from mental retardation only.

22. YUGOSLAVIA

Administration of justice

*(articles 10 and 11 of the Universal Declaration;
articles 14 and 15 of the International Covenant on Civil
and Political Rights)*²³

In the period under review there have been no changes in Yugoslav legislation related to the administration of justice or in legal practice influencing the situation in regard to the implementation of the Convention.

All the rights which the States parties to the Convention have undertaken to ensure, guaranteeing that all shall be equal before the law, are ensured under the constitutions and laws of the Socialist Federal Republic of Yugoslavia. The acts prohibited under the Convention are considered to be crimes under Yugoslav criminal legislation, thus ensuring full protection as provided for under the International Convention on the Elimination of All Forms of Racial Discrimination.

The Supreme Courts of the socialist autonomous provinces are, as a rule, the highest judicial authorities in the respective province. However, in case of violation of federal law (e.g. the Law on Criminal Procedure or the Criminal Law of the Socialist Federal Republic of Yugoslavia), the parties may, under certain conditions, apply to the Federal Court, using the legal remedy provided.

²³ Report submitted by State (CERD/C/172/Add.9).

23. ZAIRE

A. Protection of the family, motherhood and childhood

*(articles 16 and 25 (2) of the Universal Declaration;
articles 23 and 24 of the International Covenant on Civil
and Political Rights)²⁴*

The Family Code, which was promulgated on 1 August 1987 and entered into force on 1 August 1988, has maintained the prohibition of polygamy and polyandry. It has also maintained the offence of bigamy and made polyandry an offence. This derives from articles 354 and 408 to 414 of the Code, and from the Penal Code.

B. Right to a just and favourable remuneration

*(article 23 (3) of the Universal Declaration;
article 11 of the International Covenant on Economic,
Social and Cultural Rights)²⁴*

The International Labour Office has noted that the provisions of article 30 of the National Collective Labour Agreement contravene Convention No. 100 in that they discriminate against female workers whose husbands are engaged in known employment.

According to this article, an unmarried woman or a woman whose husband is not engaged in any known employment enjoys all the benefits provided for in the Agreement, whereas a married female worker, whose spouse is working is deprived of certain social benefits, including family allowances and housing.

In view of the fact that a treaty obligation is involved, comments have been sent to the National Association of Enterprises of Zaire (ANEZA) and the National Union of Workers of Zaire (UNTZA) with the aim of securing from them the corrective action sought by ILO.

²⁴ CCPR/C/4/Add.11.

Section B. Trust and Non-Self-Governing Territories

A. TRUST TERRITORIES

Trust Territory of the Pacific Islands

The Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples considered the Trust Territory of the Pacific Islands on 1 August 1988. It adopted a set of conclusions and recommendations contained in the report of its Sub-Committee on Small Territories in which, *inter alia*, it expressed the view that it is the obligation of the Administering Authority to create such conditions in the Trust Territory as will enable its people to exercise freely, with full knowledge of all possible options and without any pressure or interference, their inalienable right to self-determination and independence; recalled the appeals addressed to the Administering Authority by the Special Committee that the people of the Trust Territory should be given the fullest opportunity to inform and educate themselves about the various options open to them in the exercise of their inalienable right to self-determination and independence and expressed the view that such programmes should be extended and reinforced; took note of the intention of the Administering Authority to seek the termination of the Trusteeship Agreement and urged the Administering Authority to ensure that such action should be taken in strict conformity with the Charter; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of the Trust Territory of the Pacific Islands to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources; took note of the interest of the people of the Trust Territory in the creation of a nuclear-free zone in the Pacific.

The Special Committee recommended to the General Assembly the adoption of a draft resolution on the question of the Trust Territory of the Pacific Islands.¹

¹ *Official Records of the General Assembly, Forty-third Session, Supplement No. 23 (A/43/23)*, part VI, chap. IX.

B. NON-SELF-GOVERNING TERRITORIES

1. American Samoa

The Special Committee considered the question of American Samoa on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and approved its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of American Samoa.¹

The draft was adopted on 22 November 1988 as resolution 43/43, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to American Samoa; called upon the Government of the United States of America, as the administering Power, to take all necessary steps, bearing in mind the rights, interests and wishes of the people of American Samoa as expressed freely in any act of self-determination, to expedite the process of decolonization of the Territory in accordance with the relevant provisions of the Charter of the United Nations and the Declaration and reaffirmed the importance of fostering an awareness among the people of American Samoa of the possibilities open to them in the exercise of their right to self-determination and independence; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of American Samoa to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources.

2. Anguilla

The Special Committee considered the question of Anguilla on 1 August 1988. It recommended to the General Assembly the adoption of a draft resolution on the question of Anguilla.¹

The draft was adopted on 22 November 1988 as resolution 43/36, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to Anguilla; urged the administering Power, in cooperation with the territorial Government, to continue the assistance necessary to increase employment of the local population in the civil service and other sectors of the economy.

3. Bermuda

The Special Committee considered the question of Bermuda on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of Bermuda.¹

The draft was adopted on 22 November 1988 as resolution 43/39, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to Bermuda; reaffirmed its strong conviction that the presence of military bases and installations in the Territory could constitute a major obstacle to the implementation of the Declaration and that it is the responsibility of the administering Power to ensure that the existence of such bases and installations does not hinder the population of the Territory from exercising its right to self-determination and independence in conformity with the purposes and principles of the Charter; further urged the administering Power, in cooperation with the territorial Government, to continue to provide assistance for increased employment of the local population in the civil service, particularly at senior levels.

4. British Virgin Islands

The Special Committee considered the question of the British Virgin Islands between 1 and 5 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the Territory.¹

The draft was adopted on 22 November 1988 as resolution 43/41, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the British Virgin Islands; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of the British Virgin Islands to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources; urged the specialized agencies and other organizations of the United Nations system, as well as the regional organizations concerned, to intensify measures to accelerate progress in the social and economic development of the Territory.

5. Cayman Islands

The Special Committee considered the question of the Cayman Islands on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of the Cayman Islands.¹

The draft was adopted as resolution 43/37 of 22 November 1988, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the Cayman Islands; reaffirmed the responsibility of the administering Power to promote the economic and social development of the Territory and recommended that priority should continue to be given to the diversification of the Territory's economy; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of the Cayman Islands to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources.

6. East Timor

The Special Committee considered the question of East Timor between 1 and 12 August 1988. It decided to continue consideration of the item at its next session, subject to any directives which the General Assembly might give in that connection at its forty-third session.

7. Falkland Islands (Malvinas)

The Special Committee considered the question of the Falkland Islands on 1 and 11 August 1988. On 2 February 1988, it adopted a decision on the question of the Falkland Islands (Malvinas).¹

On 17 November 1988 the General Assembly adopted a substantially identical resolution on the question (43/25), in which, *inter alia*, it reiterated its request to the Governments of Argentina and the United Kingdom of Great Britain and Northern Ireland to initiate negotiations with a view to finding the means to resolve peacefully and definitely the problems pending between both countries, including all aspects on the future of the Falkland Islands (Malvinas), in accordance with the Charter of the United Nations; also requested the Secretary-General to submit to the General Assembly at

its forty-fourth session a report on the progress made in the implementation of the present resolution.

8. Gibraltar

The Special Committee considered the question of Gibraltar on 12 August 1988. Taking into account the continuing discussions between the parties concerned, the Special Committee decided, without objection, to continue its consideration of the item at its next session, subject to any directives that the General Assembly might give in that connection at its forty-third session and, in order to facilitate consideration of the item by the Fourth Committee, to transmit the relevant documentation to the Assembly.¹

On 22 November 1988 the General Assembly adopted decision 43/411, in which, *inter alia*, it urged both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations.

9. Guam

The Special Committee considered the question of the Territory on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of Guam and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of Guam.¹

The draft resolution was adopted on 22 December 1988 as resolution 43/42, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to Guam; urged the administering Power to continue to take all necessary measures not to involve the Territory in any offensive acts or interference against other States and to comply fully with the purposes and principles of the Charter, the Declaration and resolutions and decisions of the General Assembly relating to military activities and arrangements by colonial Powers in Territories under their administration; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of Guam to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources.

10. Montserrat

The Special Committee considered the question of Montserrat on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of Montserrat.¹

The draft was adopted on 22 November 1988 as resolution 43/38, in which, *inter alia*, the Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to Montserrat; urged the administering Power, in cooperation with the territorial Government, to overcome shortages in human resources by providing appropriate incentives to assist nationals in finding better opportunities at home and to attract qualified nationals from abroad; reiterated the view that such factors as territorial size, geographical location, size of population and limited natural resources should in no way delay the speedy exercise by the people of the Territory of their inalienable right to self-determination and independence in conformity with the Declaration, which fully applies to Montserrat.

11. Namibia

The Special Committee considered the question of Namibia at various meetings between 3 and 8 August 1988.² On 8 August 1988, the Special Committee adopted the text of the consensus,³ in which, *inter alia*, it strongly rejected the policies of "constructive engagement" and "linkage", which have encouraged the racist régime of South Africa to continue its illegal occupation of Namibia, and called for their abandonment so that the resolutions and decisions of the United Nations on the question of Namibia could be implemented; reaffirmed its solidarity with, and support for, the South West Africa People's Organization, the sole and authentic representative of the Namibian people, and paid tribute to that organization for the sacrifices that it has made in the field of battle and also for the spirit of statesmanship, cooperation and far-sightedness which it has displayed in the political and diplomatic arena despite the most extreme provocations on the part of the racist Pretoria régime.

In its resolution 43/26 A adopted on 17 November 1988, the General Assembly, *inter alia*, also reaffirmed that the South West Africa People's

² *Ibid.*, chap. VIII.

³ A/AC.109/967.

Organization, the national liberation movement of Namibia, is the sole and authentic representative of the Namibian people and only with its direct and full participation can the genuine independence of Namibia be achieved; urged all Governments and the specialized agencies and other intergovernmental organizations to provide increased material assistance to the thousands of Namibian refugees who have been forced by the oppressive policies of the *apartheid* régime to flee Namibia, especially into the neighbouring front-line States.

12. Pitcairn

The Special Committee considered the question of Pitcairn on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and adopted the draft decision on the question of Pitcairn.⁴

The draft was adopted as decision 43/412 of 22 November 1988, in which, *inter alia*, the General Assembly urged the administering Power to continue to respect the life-style that the people of the Territory have chosen and to preserve, promote and protect it. The Assembly requested the Special Committee to continue to examine the question at its next session and to report thereon to the Assembly at its forty-fourth session.

13. St. Helena

The Special Committee considered the question of St. Helena on 1 August 1988. It adopted the draft decision contained in the report of its Sub-Committee on Small Territories giving an account of its consideration of the Territory. It recommended to the General Assembly the adoption of a draft decision on the question of St. Helena.⁴

The draft was adopted on 22 November 1988 as decision 43/413, in which, *inter alia*, the General Assembly urged the administering Power, in consultation with the Legislative Council and other representatives of the people of St. Helena, to continue to take all necessary steps to ensure the speedy implementation of the Declaration in respect of the Territory and, in that connection, reaffirmed the importance of promoting an awareness among the people of St. Helena of the possibilities open to them in the exercise of their right to self-determination; noted with deep concern the continued presence of military facilities on the dependency of Ascension Island and, in that regard, recalled all the United Nations resolutions and decisions

⁴ *Official Records of the General Assembly, Forty-third Session, Supplement No. 23 (A/43/23), part VI, chap. IX.*

concerning military bases and installations in colonial and Non-Self-Governing Territories.

14. Tokelau

The Special Committee considered the Territory on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and adopted the draft consensus. It recommended to the General Assembly the adoption of a draft decision on the question of Tokelau.⁴

The draft was adopted as resolution 43/35 of 22 November 1988, in which, *inter alia*, the General Assembly reaffirmed the inalienable right of the people of Tokelau to self-determination and independence in accordance with the Declaration on the Granting of Independence to Colonial Countries and Peoples; urged the administering Power, other Member States and organizations of the United Nations system to continue to extend to Tokelau the maximum assistance possible for the rehabilitation and reconstruction of the islands in order to overcome the losses incurred in natural disasters in 1987.

15. Turks and Caicos Islands

The Special Committee considered the question of the Turks and Caicos Islands on 1 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of the Turks and Caicos Islands.⁴

The draft was adopted as resolution 43/40, in which, *inter alia*, the General Assembly reaffirmed that it is the responsibility of the administering Power under the Charter of the United Nations to develop its dependent Territories economically and socially and urged the administering Power, in consultation with the Government of the Turks and Caicos Islands, to take the necessary measures to promote the economic and social development of the Territory and, in particular, to accelerate the diversification of the economy; urged the administering Power, in cooperation with the territorial Government, to take effective measures to safeguard and guarantee the inalienable right of the people of the Turks and Caicos Islands to own and dispose of the natural resources of the Territory, including marine resources, and to establish and maintain control over the future development of those resources.

16. United States Virgin Islands

The Special Committee considered the Territory between 1 and 5 August 1988. It adopted the report of its Sub-Committee on Small Territories containing an account of its consideration of the Territory and endorsed its conclusions and recommendations. It recommended to the General Assembly the adoption of a draft resolution on the question of the United States Virgin Islands.⁴

The draft was adopted on 22 November 1988 as resolution 43/44, in which, *inter alia*, the General Assembly approved the chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples relating to the United States Virgin Islands; reaffirmed that it is ultimately for the people of the United States Virgin Islands themselves to determine their future political status in accordance with the relevant provisions of the Charter of the United Nations, the Declaration and the relevant resolutions of the General Assembly and, in that connection, called upon the administering Power, in cooperation with the territorial Government, to facilitate programmes of political education in the Territory in order to foster an awareness among the people of the possibilities open to them in the exercise of their right to self-determination.

17. Western Sahara

The Special Committee considered the Territory between 1 and 9 August 1988. It decided to give consideration to the item at its next session, subject to any directives which the General Assembly might give in that connection at its forty-third session, and to transmit the relevant documentation to the General Assembly.⁴

On 22 November 1988 the General Assembly adopted resolution 43/33 on the question of Western Sahara. In that resolution, the Assembly, *inter alia*, welcomed the efforts of the current Chairman of the Assembly of Heads of States and Government of the Organization of African Unity and the Secretary-General of the United Nations to promote a just and definitive solution of the question of Western Sahara, in accordance with General Assembly resolution 40/50; requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara as a matter of priority and to report thereon to the General Assembly at its forty-fourth session.