



UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/Sub.2/1982/12
30 June 1982

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Thirty-fifth session

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND
FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD,
WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER
DEPENDENT COUNTRIES AND TERRITORIES

Elements for a draft body of principles on the
right and responsibility of individuals, groups
and organs of society to promote and protect
human rights and fundamental freedoms

Report by the Secretary-General prepared in
accordance with Commission on Human Rights
resolution 1982/30

CONTENTS

| | <u>Paragraphs</u> | <u>Pages</u> |
|--|-------------------|--------------|
| INTRODUCTION | 1 - 9 | 3 |
| A. Mandate | 1 -2 | 3 |
| B. Approach adopted | 3 -9 | 3 |
| Chapters | | |
| I ELEMENTS RELATING TO THE RIGHT OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS | 10 - 29 | 5 |
| A. General affirmation of this right | 10 - 15 | 5 |
| B. Specific affirmation of the right to promote and protect human rights | 16 - 18 | 6 |
| C. The question of limitations | 19 - 22 | 7 |
| D. Means of strengthening enjoyment of the right to promote and protect human rights and fundamental freedoms | 23 - 29 | 8 |

| | <u>Paragraphs</u> | <u>Pages</u> |
|--|-------------------|--------------|
| II. ELEMENTS RELATING TO THE RESPONSIBILITY OF INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS | 30 - 48 | 10 |
| A. General affirmation of the responsibility to promote and protect human rights | 30 - 33 | 10 |
| B. Specific affirmation of the responsibility to promote and protect human rights | 34 - 38 | 10 |
| C. Persons and entities towards which responsibilities for the promotion and protection of human rights should be exercised | 39 - 48 | 12 |

INTRODUCTION

A. Mandate

1. By its resolution 1982/30 of 11 March 1982, the Commission on Human Rights requested the Secretary-General to present to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, at its thirty-fifth session, elements for a draft body of principles on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms. It requested the Sub-Commission, on the basis of these elements, to prepare, for submission to the Commission at its fortieth session, a report containing principles on the right and responsibility of individuals, groups and organs of society to promote and protect universally-recognized human rights and fundamental freedoms taking into account the particular responsibility of States in promoting human rights, as well as the interdependent nature of civil, political, economic, social and cultural rights. The Commission decided to undertake, at its fortieth session, on the basis of the Sub-Commission's report, and as a matter of priority, work on a draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally-recognized human rights and fundamental freedoms.

2. The present report of the Secretary-General, which is in no way exhaustive, contains some elements which may be taken into account for the elaboration of a body of principles on the right and responsibility of individuals, groups and organs of society to promote and protect universally-recognized human rights and fundamental freedoms.

B. Approach adopted

3. The mandate given to the Secretary-General in Commission on Human Rights resolution 1982/30 calls not for an exhaustive report but for the presentation of "elements for a draft body of principles" concerning the right and responsibility of various entities in the field of human rights. The present report must accordingly be limited in scope. Thus it does not deal with the broader questions of the individual's duties to the community and the limitations on the exercise of human rights, per se. These matters have already been analysed in depth in the study on "the individual's duties to the community and the limitations of human rights and freedoms under article 29 of the Universal Declaration of Human Rights", prepared by Mrs. Erica-Irene Daes, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/432/Rev.1 and Add.1-7). Nevertheless, several references are made in this report to that study since it sheds considerable light on the subject of the right and responsibility of individuals and groups to promote and protect human rights and fundamental freedoms.

4. In terms of the approach to be adopted in the preparation of this report, neither the report of the Commission on Human Rights on its thirty-eighth session nor the relevant summary records appear to offer any specific guidance beyond that contained in the resolution itself.

5. In accordance with paragraphs 2 and 4 of resolution 1982/30 the term "human rights and fundamental freedoms" is restricted to those which are "universally-recognized". For this reason only limited reference is made in this report to regional human rights instruments and other non-United Nations instruments.

6. In accordance with paragraph 4 of the resolution, and with the third preambular paragraph in which Commission resolution 5 (XXXIII) of 28 February 1977 is reaffirmed, the present analysis takes into account the interdependent nature of civil, political, economic, social and cultural rights.

7. The intimate relationship between the concept of "right" and that of "responsibility" is a central one in the over-all approach to human rights developed by the United Nations. Thus, article 29 (1) of the Universal Declaration of Human Rights proclaims that "everyone has duties to the community in which alone the free and full development of his personality is possible". More recent instruments, such as General Assembly resolutions 32/130 and 34/46 as well as the American Convention of 1969 and the African Charter on Human and Peoples' Rights of 1981, have further stressed the indivisibility of the two notions of "right" and "responsibility" in the field of human rights. For the sake of clarity of presentation, however, the present report treats the issues of rights and responsibilities in two parts.

8. Resolution 1982/30 makes reference to four different entities as the subjects of rights and responsibilities in the field of human rights: individuals, groups, organs of society and States. However, the body of principles which the Sub-Commission has been requested to prepare is to focus on the right and responsibility of the first three of these entities "to promote and protect universally-recognized human rights and fundamental freedoms". Paragraph 3, which requests the preparation of the present report, does not refer to States. However, "the particular responsibility of States in promoting human rights" is fully recognized in paragraph 4. This responsibility is emphasized in all human rights instruments of the United Nations. In the present state of International Law, save some limited exceptions, only Governments are accountable on human rights matters before international organs. The present report has been prepared in accordance with paragraph 3, with full awareness of the importance of State responsibilities.

9. Reference is made in the preambular paragraphs of resolution 1982/30 to some previous instruments and resolutions of the United Nations where the terms "individuals", "groups" and "organs of society" were used in reference to human rights questions. The first preambular paragraph recalls that the General Assembly, in the Universal Declaration of Human Rights, proclaimed that every individual and every organ of society, keeping the Declaration constantly in mind, shall strive by teaching and education to promote respect for the rights and freedoms contained therein. In the fourth preambular paragraph the Commission recalled that both it and the Economic and Social Council have repeatedly and consistently emphasized the importance of the role of individuals, groups and organs of society in the promotion and protection of human rights. However, the difference between groups and organs of society is not entirely clear in all instances. The Preamble to the Universal Declaration of Human Rights does not use the term "groups". Where that term is used in the Universal Declaration (articles 26 (2) and 30) or where the word "community" is employed (articles 27 (1) and 29 (1)), they are never contrasted with the term "organs of society". This terminology might perhaps suggest some tendency in the Declaration to focus on a substantial overlapping between the concepts of "group" and of "organs of society". Nevertheless, the use

of the two terms side by side in subsequent United Nations resolutions confirms that they are not interchangeable. Whereas all "organs of society" could enter into the broad category of "group", various groups do not reach the level of public acceptance and institutionalization which seems to be required to be considered as "organs of society".

I. Elements relating to the right of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms

A. General affirmation of this right

10. The first element relating to rights which could be included in a draft body of principles is a general affirmation or reaffirmation of the right of individuals groups and organs of society to promote and protect the rights and freedoms recognized in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and all other relevant international instruments.

11. The term "reaffirmation" may be the most appropriate one since it may be considered that this general principle is already included, with varying degrees of clarity, in some existing instruments. Reference may be made, in particular, to the Preamble of the Charter of the United Nations which proclaims inter alia that the "peoples of the United Nations... have reaffirmed their faith in fundamental human rights... and have determined to promote social progress and better standards of life in larger freedom". Explicit references were made to the Charter Preamble in the preambular clauses of the Universal Declaration and the Covenants. The Declaration of Teheran of 13 May 1968, in its final provision, "urges all peoples and Governments... to redouble their efforts to provide for all human beings a life consonant with freedom and dignity and conducive to physical, mental, social and spiritual welfare".

12. General provisions in the same spirit could be found in the Constitutions and basic instruments of the specialized agencies. Thus, the Declaration of Philadelphia adopted by the International Labour Conference in 1944, stresses in a clear affirmation the right to promote human rights as well as the interdependence of all categories of human rights. It reads as follows:

"all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity." ^{1/}

13. A general reaffirmation of the right to promote and protect human rights would, as noted in Commission resolution 1982/30, be without prejudice to the provisions of articles 29 and 30 of the Universal Declaration of Human Rights, which are examined below.

^{1/} The Declaration of Philadelphia is contained in an Annex to the Constitution of the International Labour Organisation (Geneva, ILO, 1977) p.24, Part II (a).

14. Another general principle which is directly complementary to the first and which could also be considered for inclusion in the draft body of principles is that the imposition of limitations other than those contemplated in the relevant United Nations instruments, (see section C below) or the persecution or punishment of anyone exercising individually or collectively, his universally-recognized human rights and fundamental freedoms is at variance with the obligations of States under these instruments to work for the full and effective enjoyment of human rights and fundamental freedoms.

15. This principle is recognized in resolution 1982/30, in the preamble of which the Commission on Human Rights also deplored all attempts to prevent individuals, groups and organs of society from promoting and protecting the enjoyment of universally-recognized human rights and fundamental freedoms. Similarly, in the preamble of resolution 28 (XXXVII) of 11 March 1961 the Commission expressed its profound concern that there "remain in many parts of the world flagrant breaches of the right of individuals, groups and organs of society to promote the effective observance of human rights". Comparable concern was expressed by the Inter-American Commission on Human Rights which, in its Annual Report for 1980-1981, recommended to the General Assembly of the Organization of American States that it "recommend to the governments of the Member States that the autonomous activities of national human rights entities be guaranteed, as well as the safety and liberty of the officials of those organizations". 2/

B. Specific affirmation of the right to promote
and protect human rights

16. The general principles mentioned in A above are given specific content by reference to the definition of various human rights set forth in United Nations instruments. The question may be considered whether the identification and recognition of each of the human rights and fundamental freedoms in international instruments of universal scope does not carry, even implicitly, an affirmation of the specific right of individuals and of various other entities to take appropriate steps for implementation. This may be the case not only as regards instruments such as the Universal Declaration and the International Covenant on Civil and Political Rights, the language of which tends to focus on the beneficiaries of each right ("everyone...", "All", "All persons" etc.) but also for the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other instruments which are formulated mainly in terms of State obligations. Under all instruments, it is generally understood that States, individually or collectively, are the only entities directly accountable to international organs, but that implementation of human rights requires the sustained efforts of individuals, groups, institutions and various organs of society, in harmony with appropriate State policies.

17. In various instances, at any rate, existing instruments identify the holders of the right to promote and protect human rights and the broad modalities of action which they are invited to pursue. Thus, Article 13 (3) and (4) of the Covenant on Economic, Social and Cultural Rights recognize the liberty of parents to choose freely the type of schooling they wish for their children, especially in respect of religious and moral education, subject to minimum educational standards, as well as the freedom of individuals and bodies to establish educational institutions. The Declaration on the Rights of the Child recognizes the right, as well as the responsibility, of "parents, men and women as individuals, ... voluntary organizations, local authorities and national Governments... to strive for the observance [of the Declaration] by legislative and other measures progressively taken". The Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and

2/ Organization of American States doc. OEA.Ser.L/V/II.54 doc. 9, rev.1, also issued as E/CN.4/1982/2, p.130.

Understanding between Peoples, in Principle V, stresses the right of "national and international associations of young people..." to promote the purposes of the United Nations, including the final abolition of colonialism and of racial discrimination and other violations of human rights.

18. The Sub-Commission may consider whether, or to what extent, it wishes to engage in a specific right-by-right analysis for possible incorporation into the Draft Body of Principles.

C. The question of limitations

19. In drafting a body of principles on the right and responsibility of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms, full account must be taken of the general limitations provided for in articles 29 and 30 of the Universal Declaration of Human Rights. Thus in its resolutions 1982/30, 28 (XXXVII) and 23 (XXXVI) the Commission on Human Rights has, on each occasion, stated that its reiteration of the right and responsibility of the three entities to promote and protect the rights recognized in the relevant instruments is "without prejudice to articles 29 and 30 of the Universal Declaration of Human Rights".

20. Article 29 states:

"1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations".

21. Article 30 states:

"Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein".

22. It is not proposed in the present report to duplicate the thorough analysis of the question of limitations which is contained in the aforementioned study by Mrs. Erica-Irene Daes (E/CN.4/Sub.2/432/Rev.1 and Add.1-7). It is appropriate, however, to recall that the following fundamental principles governing limitations or restrictions on individuals' rights or freedoms are proposed in paragraphs 1518 to 1535 of that study: (a) the principle of respect for individual dignity; (b) the principle of legality; (c) the principle of the rule of law; (d) the principle that human rights and freedoms are absolute and that limitations or restrictions are the exceptions; (e) the principle of equality and non-discrimination; (f) the principle of non-retroactivity of criminal law; (g) the principle of a fair and public hearing in judicial proceedings; (h) the principle of proportionality; and (i) the principle of prohibition of the abuse of a right or power. The Sub-Commission had taken note of Mrs. Daes' study with appreciation, and it may wish to take it fully into account in preparing several provisions of its Body of Principles. The Sub-Commission may wish, in particular, to pay full attention to the qualifications of Article 29 (2) concerning the determination of limitations "by law" and the need for satisfying "just" requirements in a "democratic society".

D. Means of strengthening enjoyment of the right to promote
and protect human rights and fundamental freedoms

23. Other elements which may be considered appropriate for inclusion in the draft body of principles relate to the measures which can be taken to strengthen the enjoyment of the right to promote human rights and fundamental freedoms. In determining what measures might be most appropriate, the Sub-Commission will wish, in accordance with Commission resolution 1982/30, to take into account the particular responsibility of States in promoting human rights.

24. Exercise of the right to promote and protect human rights can be facilitated significantly by measures to ensure the wide availability of adequate remedies and easy access by all to competent review organs, in the event of a violation of that right. It is thus important that States take all appropriate measures in accordance with article 2 (3) of the International Covenant on Civil and Political Rights:

"(a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted."

25. Another element, related to the preceding one, which could be reflected in the body of principles is the need, as recently reaffirmed by the General Assembly in resolution 36/134, to establish, or where they already exist, to strengthen national institutions for the promotion and protection of human rights. Such institutions are of potentially major importance in facilitating the exercise of the right of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms. In this regard the Sub-Commission may wish to take into account the guidelines on the structure and functioning of national and local institutions for the promotion and protection of human rights as endorsed by the General Assembly in its resolution 33/46. 3/

26. Moreover, in view of the obstacles which have sometimes been faced by various institutions working in the field of human rights, the Sub-Commission may wish to consider spelling out the importance of these institutions and the responsibility of the various power-holders not to impede their activities.

3/ See Report of the Seminar on National and Local Institutions for the Promotion and Protection of Human Rights, Geneva, 18-29 September 1978, ST/HR/SER.A/2, Chap.V; and the study by the Secretary-General on "National institutions for the promotion and protection of human rights", A/36/440.

27. A further element which can strengthen the ability of various entities to promote and protect human rights is the ready availability of the texts of human rights instruments, including international covenants and conventions, in relevant national and local languages. As stressed in article 13 of the Covenant on Economic, Social and Cultural Rights and in various United Nations and UNESCO resolutions, educational and other measures designed to enhance knowledge and understanding of the concept of human rights in general and of the content of international human rights instruments in particular can significantly improve the enjoyment of the right to promote and protect human rights.

28. Another element, albeit of a different nature from those noted above, is the importance of according sympathetic attention to requests for asylum presented by those individuals who have become refugees as a consequence of exercising their right to promote and protect human rights and fundamental freedoms. This would appear to be in accord with the definition of the term "refugee" set forth in the Convention Relating to the Status of Refugees, and the Protocol thereto of 1967 ^{4/} which includes any individual who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." The Declaration on Territorial Asylum of 14 December 1967 may also be referred to.

29. The Declaration on Social Progress and Development, adopted by the General Assembly in resolution 2542 (XXIV) contains an important statement of the necessity to strengthen the enjoyment of the right to promote and protect economic, social and cultural human rights. In particular article 5 (c) reaffirms the need to promote "the active participation of all elements of society, individually or through associations, in defining and in achieving the common goals of development with full respect for the fundamental freedoms embodied in the Universal Declaration of Human Rights". The importance of respecting the right of individuals, groups and organs of society to promote and protect human rights and fundamental freedoms is illustrated by the observation in the report of the thirty-second session of the Sub-Commission that "many of the victims of civil and political rights violations were those working to promote the realization of economic, social and cultural rights by deprived groups". ^{5/}

^{4/} Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.78.XIV.2) pp. 86 and 93 respectively.

^{5/} E/CN.4/1350, para. 56.

II. ELEMENTS RELATING TO THE RESPONSIBILITY OF INDIVIDUALS;
GROUPS AND ORGANS OF SOCIETY TO PROMOTE AND PROTECT
HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

A. General affirmation of the responsibility to
promote and protect human rights

1. General responsibility to refrain from committing violations of human rights

30. This responsibility is provided for in article 30 of the Universal Declaration which stipulates that "nothing in the Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth in the Declaration". A provision similar but couched in more comprehensive terms is contained in paragraph 1 of article 5 of the International Covenants which states that "nothing in the Covenants may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized therein, or at their limitation to a greater extent than is provided for in the Covenants."

2. General responsibility to strive for the promotion and protection of
human rights and fundamental freedoms

31. Individuals, groups, organs of society and States share, furthermore, the responsibility to act in a positive manner for the promotion and protection of human rights and fundamental freedoms. This general responsibility is referred to in the provisions of various international and regional instruments. It might be regarded as implicit in the preamble of the Charter of the United Nations which refers to "the peoples of the United Nations, determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to promote social progress and better standards of life in larger freedom, etc..." Articles 55 and 56 of the Charter set forth the responsibility of Member States to take "action" for the promotion of the principles and objectives of the United Nations in the field of human rights.

32. The responsibility to deploy one's efforts for the observance of human rights is proclaimed explicitly in the eighth preambular paragraph of the Universal Declaration of Human Rights which states that "every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for the rights and freedoms contained in the Declaration and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction".

33. Similarly, in the fifth preambular paragraphs of both International Covenants, it is recognized that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized therein.

B. Specific affirmation of the responsibility
to promote and protect human rights

34. As was observed in Part I of this report in respect of the right to promote and protect human rights the general principle of responsibility in that field is given specific content by reference to the statements of duties contained in various

provisions of existing human rights instruments. The question arises whether the identification and recognition of a human right and the proclamation of a general duty to implement it, contained in such instruments, does not subsume to a certain extent more specific obligations - juridical or moral - for various persons, groups, and institutions.

35. Furthermore, in a number of provisions, the duty-bearers as well as the nature of their duties are specifically mentioned. Thus, under article 10 of the International Covenant on Economic, Social and Cultural Rights, the States Parties recognize that the widest possible protection and assistance should be accorded to the family, particularly while it is responsible for the care and education of dependent children. To take another series of examples, in the fields of education and culture, reference may be made, for instance, to article 13 (3) of the International Covenant on Economic, Social and Cultural Rights which sets forth the duty of parents, in exercising their free choice of schools, to conform to minimum educational standards and to bear in mind the over-all human rights purposes of education. Principle V of the Declaration on Youth proclaims the responsibility of youth associations to take all appropriate measures within their respective fields of activity in order to make their contribution without any discrimination to the work of educating the young generation in accordance with the ideals contained in the Declaration. Such organizations, in conformity with the principle of freedom of association, should promote the free exchange of ideas in the spirit of the Declaration. The UNESCO Declaration of the Principles of International Cultural Co-operation proclaims certain duties to be fulfilled by "Governments, authorities, organizations, associations and institutions responsible for cultural activities".

36. Similarly, as regards civil and political rights, several provisions of the Covenant set forth or clearly imply specific duties for various individuals, groups, and institutions. For instance, article 7 imposes upon everyone, and particularly upon physicians, the duty not to practise medical or scientific experimentation without the free consent of the person involved. Article 14 involves a duty for the Courts to judge in a competent, independent and impartial manner. The Declaration Against Torture of 1975 as well as the Code of Conduct for Law-Enforcement Officials impose duties specifically upon members of the judiciary and the police.

37. The last preambular paragraph of the Universal Declaration, read together with Articles 1 and 2, suggest a duty of every individual and every organ of society to strive by teaching and education to promote equality and combat discrimination. The Declaration on the Elimination of All Forms of Racial Discrimination, in its Article 2, stresses the responsibility of all "States, institutions, groups or individuals" to refrain from practising racial discrimination. Article 10 of that instrument calls upon "the United Nations, the specialized agencies, States and non-governmental organizations ... to promote energetic action which, by combining legal and other practical measures, will make possible the abolition of all forms of racial discrimination". The Programme of the United Nations Decade against Racial Discrimination seeks to raise public consciousness and to mobilize the efforts of all persons, groups, institutions, organs of society and Governments to eradicate these gross violations of human rights and promote inter-racial harmony.

38. The Sub-Commission may wish to contemplate the possibility of a further attempt to identify and clarify the responsibilities involved in the promotion and protection of specific human rights.

C. Persons and entities towards which responsibilities for
the promotion and protection of human rights should be
exercised

1. Responsibility towards individuals

39. The Universal Declaration contains, in its article 29 (2) a provision stipulating that "in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others...".

40. This responsibility in relation to other individuals is reaffirmed in the fifth preambular paragraphs of both International Covenants which recognize that "the individual, having duties to other individuals, is under a responsibility to strive for the promotion and observance of the rights recognized in the Covenants".

41. The Sub-Commission may wish to consider the extent to which an active duty to provide co-operation and assistance to others, aside from a passive obligation to respect their rights, could be proclaimed in the light of the above-cited provisions.

2. Responsibility towards the local and national community

42. The principle of responsibility towards the community is recognized for "everyone" -- individuals and groups -- in Article 29, para. 1, of the Universal Declaration. This provision emphasizes the close relationship between the fulfilment of such duties and the promotion of human rights, since it proclaims that "everyone has duties to the community in which alone the free and full development of his personality is possible."

43. Article 29 of the Declaration further specifies, in paragraph 2, that "everyone shall be subject only to such limitations as are determined by law solely for the purpose of ... meeting the just requirements of morality public order and the general welfare in a democratic society". The fifth paragraph of both Covenants recognizes, similarly, that the individual has duties "to the community to which he belongs".

44. The Sub-Commission may wish to explore the possibility of elaborating upon the above principles and upon the essential relationship between duties to the community, respect for the Rule of law and protection of human rights. Reference to Mrs. Daes' study may be very valuable in this regard.

3. Responsibility towards mankind and the international community
in the field of human rights

45. Some attention may be devoted to the question whether some of the provisions mentioned above, notably the Preamble to the Charter addressed to "the Peoples" and the Preamble to the Universal Declaration could not be regarded as suggesting the direct responsibility of individuals, groups and organs of society as well as States and international organizations towards mankind as a whole in the field of human rights. Thus, the question arises whether the last preambular paragraph of the Universal Declaration and Article 29, when read together, do not proclaim an obligation at least a moral one -- for all individuals and organs of society to strive by teaching

and education to promote the achievement of "an international order in which the rights and freedoms set forth in this Declaration can be fully realized". Consciousness of such a global responsibility has deepened since the Second World War, as all peoples and nations have become increasingly independent.

46. This trend towards global responsibility was reflected in various instruments adopted by the United Nations after the proclamation of the Universal Declaration. Numerous resolutions of the General Assembly, for instance General Assembly resolution 36/9, call upon all States, intergovernmental organizations and non-governmental groups to strive for the achievement of the human right of self-determination everywhere and to give assistance to colonial peoples struggling for their independence. An equally strong emphasis is placed on world-wide multilateral co-operation by many resolutions concerning development and the New International Economic Order. Recent international pronouncements and views concerning development as a human right, including General Assembly resolution 36/133 and Commission resolutions 4 and 5 (XXXV), 6 and 7 (XXXVI) and 36 (XXXVII), encompass the notions of global interdependence and responsibility as essential components of that right. The question of the responsibility of individuals, groups, organs of society and States as regards the right to live in peace has also been raised, as for instance in Commission resolutions 4 (XXXV) and 7 (XXXVI).

47. It should further be recalled that International Law recognizes, albeit in limited instances, the principle of the international criminal responsibility of individuals and groups for crimes against peace, war crimes and crimes against humanity, whether or not they are acting in an official capacity and regardless of superior orders. Reference must be made in this regard, in particular, to the Charters and Judgements of the International Military Tribunals of Nuremberg and Tokyo, the Genocide Convention, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the Convention on the Suppression and Punishment of the Crime of Apartheid, and General Assembly resolutions 3 (I), 95 (I), 170 (II) and 3074 (XXVIII).

48. The Sub-Commission may wish to consider elaborating some provisions, in its Draft Body of Principles, regarding the responsibility of individuals, groups and organs of society towards mankind and the international community.