

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1983/1/Add.2
12 January 1983

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Thirty-ninth session
31 January - 11 March 1983
Item 2 of the provisional agenda

ANNOTATIONS TO THE PROVISIONAL AGENDA

Prepared by the Secretary-General

1. Election of officers

Rule 15 of the rules of procedure of the functional commissions of the Economic and Social Council provides that at the commencement of its first meeting of a regular session the commission shall elect, from among the representatives of its members, a Chairman, one or more Vice-Chairmen and such other officers as may be required".

2. Adoption of the agenda

Rule 7 of the rules of procedure provides that "the commission shall at the beginning of each session, after the election of its officers, ... adopt the agenda for that session on the basis of the provisional agenda".

The Commission will have before it the provisional agenda (E/CN.4/1983/1 and Add.1) prepared by the Secretary-General in accordance with rule 5 of the rules of procedure. The Commission will also have before it the present annotations relating to the items included in the provisional agenda.

3. Organization of the work of the session

The thirty-ninth session will be preceded by meetings of informal open-ended working groups authorized by council resolutions 1982/38 (concerning the draft convention against torture and other cruel, inhuman or degrading treatment or punishment - see annotations to item 10 (a) below), and 1982/37 (concerning the draft convention on the rights of the child - see annotations to item 13 below). In addition, at its thirty-eighth session, the Commission, by resolution 1982/38, decided to establish at its thirty-ninth session an informal open-ended working group to continue consideration of the revised draft declaration on the right of persons belonging to national, ethnic, religious and linguistic minorities (item 21). The Commission also decided by resolution 1982/40 to establish at its thirty-ninth session, an informal open-ended working group to continue the ongoing work on the over-all analysis relating to the further promotion and encouragement of human rights and fundamental freedoms including the question of the programme and methods of work of the Commission and alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms. By the same resolution the Commission decided to consider the possibility of rationalizing its agenda and to establish, during its thirty-ninth session, an informal group of ten members to consider what might be done to that effect with regard to the agenda for its fortieth session (item 11).

The attention of the Commission is drawn to other provisions of its resolution 1982/40 by which it decided to consider at its thirty-ninth session, when considering its organization of work, the question of a time-limit on statements in order to ensure that adequate time is made available for the consideration of all items, and to examine the organization and functioning of the informal open-ended working groups.

The attention of the Commission is drawn to Economic and Social Council resolution 1982/50 of 28 May 1982, and the annex thereto, on the revitalization of the Economic and Social Council, in particular, to paragraph 1 (j) which reads as follows:

"All the subsidiary bodies of the Council are urged to exercise the utmost restraint in making requests of the Secretary-General for new reports and studies and to implement fully the provisions of the decisions of the Council and of the General Assembly with respect to the control and limitation of documentation."

The attention of the Commission is also drawn to the annex to Council resolution 1982/50, in particular to paragraphs 1 to 4 which read as follows:

"1. The Economic and Social Council, at its annual organizational session, should decide on ways to consider all the reports which have been requested for submission to it and/or its subsidiary machinery. In principle, all reports on subjects which are within the purview of an established subsidiary body should, in the first instance, be submitted to that body. ^{*/} The subsidiary body should include, in a separate chapter in its report to the Council and/or the General Assembly, specific recommendations on issues requiring action by the Council and/or the Assembly. Such recommendations should, whenever appropriate, be in the form of draft resolutions and/or decisions for action by the Council and/or the Assembly.

"2. As a general rule, all subsidiary bodies of the Council and the General Assembly should refrain from requesting the Secretary-General to submit reports directly to the Council and/or the Assembly. They should also refrain, to the extent possible, from transmitting reports submitted to them for consideration to the Council and/or the Assembly.

"3. Accordingly, on all subjects covered by a subsidiary body, the Council should have before it, as a general rule, only the report of that subsidiary body. In the consideration of such reports, the Council should, in order to avoid repetitious debates, confine its consideration as far as possible to matters which require its guidance and decisions. The same procedure should also apply to the consideration of reports of subsidiary bodies of the Assembly which are transmitted through the Council.

^{*/} According to this principle, even when there are legislative mandates for the submission of Secretariat or expert reports directly to the Council or through the Council to the General Assembly, the Council should in the first instance transmit such reports to the subsidiary body concerned for consideration.

"4. The documentation and programme of work of the subsidiary bodies of the Council and the General Assembly should also be streamlined in order to enable them to perform effectively the functions entrusted to them. The Council and the Assembly should continue to review, in accordance with Council resolution 1979/41 of 10 May 1979 and Assembly resolution 34/50 of 23 November 1979, the provisional agenda for their subsidiary bodies, together with the list of requested documentation, in order, inter alia, to establish greater consistency in the over-all request for documentation and its orderly consideration at the intergovernmental level, taking fully into account the medium-term plan and the programme budget. In doing so, the Council and the Assembly should also take into account the need for the consolidation of items and documentation for their subsidiary machinery."

It may be noted that except for the regional commissions, the commissions and committees of the Council shall not create either standing or ad hoc intersessional subsidiary bodies without prior approval of the Council (paragraph 2 of Rule 24 of the rules of procedure of the Council, E/5975).

The Commission's attention is also drawn to Council resolutions 1979/1, 1979/41 and 1979/69 concerning control and limitation of documentation.

Further, in paragraph 6 of its resolution 1981/83 of 24 July 1981, the Council requested the Secretary-General to bring to the attention of the intergovernmental and expert bodies, before decisions are adopted, any request for documentation that exceeds the ability of the Secretariat to prepare and process on time and within its approved resources.

4. Question of the violation of human rights in the occupied Arab territories, including Palestine

The Commission has been seized with the situation of human rights in the territories occupied by Israel as a result of the hostilities of June 1967, at every session since its twenty-fourth session. At its thirty-eighth session, the Commission adopted resolution 1982/1 A on 11 February 1982 by which it decided to place this item on the provisional agenda of its thirty-ninth session as a matter of high priority. Attention may also be drawn to resolutions ES-9/1 on the situation in the occupied Arab territories, adopted by the General Assembly at its ninth emergency special session, on 5 February 1982 and to resolution 37/88A-G adopted by the General Assembly on 10 December 1982.

In accordance with paragraphs 12, 13, 14 and 15 of resolution 1982/1 A the Commission will have before it:

- (i) A report of the Secretary-General pursuant to the Commission's request for relevant information concerning Arabs detained or imprisoned as a result of their struggle for self-determination and the liberation of their territories. (E/CN.4/1983/3).
- (ii) A report of the Secretary-General on the measures taken to bring the resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, the regional intergovernmental organizations and the international humanitarian organizations and to give it the widest possible publicity. (E/CN.4/1983/7).

- (iii) A note by the Secretary-General listing all United Nations reports issued since the thirty-eighth session of the Commission that deal with the situation of the population of the occupied territories, including Palestine. (E/CN.4/1983/6).
- (iv) A report of the Secretary-General on the seminar on "Violations of human rights in the Palestinian and other Arab territories occupied by Israel". (E/CN.4/1983/8).

In addition, the Commission will have before it any report which may have been received by the Secretary-General from the Government of Israel in accordance with paragraph 11 of resolution 1982/1 A on the implementation of paragraphs 4, 5 and 9 of the same resolution.

5. Question of human rights in Chile

This item has been considered by the Commission as a matter of high priority since its thirty-first session. At its thirty-fifth session, the Commission adopted resolution 11 (XXXV) of 6 March 1979 by which, pursuant to General Assembly resolution 33/173 of 20 December 1978, it appointed Mr. Abdoulaye Diéye as Special Rapporteur on the situation of human rights in Chile.

At its thirty-eighth session, the Commission had before it the report of the Special Rapporteur to the General Assembly (A/36/594) which had been brought up to date by the Special Rapporteur in an additional report contained in document E/CN.4/1484. It adopted resolution 1982/25 of 10 March 1982 by which it extended the mandate of the Special Rapporteur for another year, and requested him to report on further developments in the situation of human rights in Chile to the General Assembly at its thirty-seventh session and the Commission on Human Rights at its thirty-ninth session, as a matter of high priority. At its 28th plenary meeting, on 7 May 1982, the Economic and Social Council approved the Commission's resolution 1982/25 (Decision 1982/132).

At its thirty-seventh session the General Assembly had before it the report of the Special Rapporteur on the situation of human rights in Chile (A/37/564). On 17 December 1982 the General Assembly adopted resolution 37/183 by which it requested the Commission to study in depth the report of the Special Rapporteur at its thirty-ninth session with a view to taking the most appropriate steps in particular the extension of the mandate of the Special Rapporteur, and reporting on its consideration through the Economic and Social Council to the General Assembly at its thirty-eighth session. In this connection, reference may also be made to resolution 1982/19 adopted by the Sub-Commission on 8 September 1982.

At its thirty-ninth session the Commission will have before it the report of the Special Rapporteur to the General Assembly (A/37/564) which has been brought up to date by the Special Rapporteur in an additional report contained in document E/CN.4/1983/9.

6. Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts

The Ad Hoc Working Group of Experts was established by the Commission in accordance with resolution 9 (XXIII) of 6 March 1967. Its mandate was renewed regularly since then; the mandate of the Working Group was last renewed by the

Commission at its thirty-seventh session by resolution 5 (XXXVII) of 23 February 1981. By this resolution, the Commission requested the Working Group to report to it at its thirty-ninth session and to submit a progress report at its thirty-eighth session. This was further confirmed at the thirty-eighth session by Commission resolution 1982/8 of 25 February 1982.

At its thirty-ninth session the Commission will have before it the report of the Ad Hoc Working Group of Experts (E/CN.4/1983/10), prepared in accordance with Commission resolutions 5 (XXXVII) and 1982/8, and Economic and Social Council resolution 1982/40 of 7 May 1982.

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

This item has been considered by the Commission since its thirtieth session, when it was inscribed on the agenda of the Commission at the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The item has been regularly considered by the Sub-Commission and the General Assembly.

At its thirty-eighth session the Commission, by its resolution 1982/12 of 25 February 1982, welcomed the decision of the Sub-Commission to mandate its Special Rapporteur to continue to update the list of those whose activities constitute political, military, economic or other forms of assistance to the colonial and racist regimes in southern Africa, and to submit his revised report to the Commission through the Sub-Commission. The Commission further decided to consider the revised report at its thirty-ninth session. The decision of the Commission was endorsed by the Economic and Social Council in its decision 1982/128 of 7 May 1982.

At its thirty-fifth session in 1982 the Sub-Commission in its resolution 1982/16 of 7 September 1982, noted with satisfaction the updated report submitted by the Special Rapporteur (E/CN.4/Sub.2/1982/10) and invited him to continue annually to update the list and submit the updated report through the Sub-Commission to the Commission.

At its thirty-seventh session in 1982, the General Assembly, by resolution 37/39 adopted on 3 December 1982, expressed its appreciation to the Special Rapporteur for his revised report, and affirmed that the updating of the report was of the greatest importance in the cause of fighting apartheid and should continue to be an activity in the ongoing work programme for 1982-1983.

At its thirty-ninth session the Commission will have before it the updated report of the Special Rapporteur (E/CN.4/Sub.2/1982/10).

8. Question of the realization in all countries of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems which the developing countries face in their efforts to achieve these human rights, including:

- (a) Problems related to the right to enjoy an adequate standard of living; the right to development

- (b) The effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that this represents for the implementation of human rights and fundamental freedoms

By its resolution 2 (XXXI) of 10 February 1975 the Commission decided to keep this question on its agenda as a standing item with high priority. By its resolution 6 (XXXVI) of 21 February 1980 the Commission expanded the title of the item to include subitems (a) and (b).

At its thirty-fifth session the Commission had before it a study on the subject "The international dimensions of the right to development as a human right in relation with other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and fundamental human needs" (E/CN.4/1334). This study had been prepared by the Secretary-General pursuant to Economic and Social Council decision 229 (LXII) of 13 May 1977 endorsing the recommendation made by the Commission on Human Rights in paragraph 4 of its resolution 4 (XXXIII) of 21 February 1977.

By its decision 1979/29 of 10 May 1979 the Economic and Social Council endorsed a recommendation made by the Commission in paragraph 6 of its resolution 4 (XXV) of 2 March 1979 that the Secretary-General be invited to undertake a follow-up study on the regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of this right. At its thirty-seventh session the Commission had before it the first part of that study (E/CN.4/1421). The remaining parts were before the Commission at its thirty-eighth session (E/CN.4/1488).

By its decision 1981/149 of 8 May 1981 the Economic and Social Council approved the decision of the Commission in resolution 36 (XXXVII) of 11 March 1981 to establish a Working Group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographic distribution, to study the scope and content of the right to development and the most effective means to ensure the realization, in all countries, of the economic social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights.

At its thirty-eighth session the Commission had before it the report of the Working Group on its first three sessions (E/CN.4/1489). By its resolution 1982/17 of 9 March 1982 the Commission commended the report of the Working Group and took note of the conclusions and recommendations of the Seminar on the relations that exist between human rights, peace and development, held in New York in August 1981 (ST/HR/SER.A/10) as well as the second part of the Secretariat's study on the regional and national dimensions of the right to development (E/CN.4/1488). The Commission decided to reconvene the Working Group on the Right to Development with the same mandate in order to allow it to elaborate, on the basis of its report and all documents already submitted or to be submitted, a draft declaration on the right to development. It requested the Working Group to submit to the Commission at its thirty-ninth session a report and concrete proposals for a Draft Declaration on the right to development. The Commission also resolved to consider this question as a matter of high priority at its thirty-ninth session, with a view to taking a decision on the work undertaken on the Draft Declaration submitted by the Working Group. It decided to review, at its thirty-ninth session, the need for the Working Group to continue its activities.

By its decision 1982/141 of 7 May 1982 the Economic and Social Council, noting Commission resolution 1982/17, approved the Commission's request to the Working Group to hold two meetings of two weeks each at Geneva.

In this context attention is also drawn to General Assembly resolution 1982/20 of 18 December 1982 by which the Assembly commended the Commission and its

Working Group for their continuing efforts to elaborate the right to development, and to General Assembly resolution 1982/199 of 18 December 1982 which requested the Commission to take the necessary measures to promote the right to development, taking into account also the results of the Working Group, and welcomed the decision of the Commission that the Working Group should continue its work with the aim of presenting, as soon as possible a draft declaration on the right to development.

Attention may further be drawn to resolution 1982/6, 1982/7 and 1982/8 adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fifth session, which would appear to be relevant to the consideration of this item, and to the draft resolution recommended by the Sub-Commission for adoption (E/CN.4/1983/4, Chap.I-A, draft resolution II). At its thirty-ninth session the Commission will have before it the report of the Working Group of governmental experts on a draft declaration on the right to development (E/CN.4/1983/11).

The attention of the Commission is drawn to Assembly resolution 37/55 of 3 December 1982 by which the Assembly requested the Commission on Human Rights at its thirty-ninth session to consider the question of popular participation in its various forms as an important factor in development and in the realization of human rights, taking into account *inter alia* the results of the deliberations of the International Seminar on Popular Participation held at Ljubljana, Yugoslavia, from 17 to 25 May 1982. The Assembly requested the Commission to submit to the General Assembly through the Economic and Social Council appropriate suggestions for more complete realization of human rights. The report of the Seminar is available in document A/37/442.

9. The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation

By resolution 3 (XXXI) of 11 February 1975, the Commission decided to place the question of "The right of peoples to self-determination and its application to peoples under colonial and alien domination" on its agenda every year with priority. By Commission resolution 3 (XXXIV) of 14 February 1978 the title of the item was amended by the addition of the words "or foreign occupation".

At its thirty-eighth session the Commission adopted under this item resolution 1982/3 concerning the question of the Palestinian people, resolution 1982/13 concerning the question of Kampuchea, resolution 1982/14 concerning the question of Afghanistan, resolution 1982/15 concerning the question of Western Sahara and resolution 1982/16 concerning the question of Namibia.

At its first regular session of 1982, the Economic and Social Council, by its decision 1982/143 of 7 May 1982, endorsed resolution 1982/13 of the Commission on Human Rights regarding Kampuchea.

Attention may also be drawn to the following relevant resolutions adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fifth session: 1982/18, 1982/20, 1982/22 and to the draft resolution which is recommended to the Commission for adoption (E/CN.4/1983/4, Chap. I.A. draft resolution VII). Attention may further be drawn to resolutions 37/42 and 37/43 on the question of self-determination, adopted by the General Assembly at its thirty-seventh session.

At its thirty-ninth session the Commission will have before it:

(a) A list of recent publications prepared by the Division on Palestinian Rights (E/CN.4/1983/2).

(b) A note by the Secretary-General transmitting the review of materials and the summary records of the Sub-Commission relating to the situation in Kampuchea (E/CN.4/1983/12), pursuant to resolution 1982/22 of the Sub-Commission.

(c) The report of the Secretary-General on legislation against mercenaries, submitted pursuant to Commission resolution 1982/16 (E/CN.4/1983/13).

10. Question of the human rights of all persons subjected to any form of detention or imprisonment, in particular:

(a) Torture and other cruel, inhuman or degrading treatment or punishment;

(b) Question of enforced or involuntary disappearances

(a) Torture and other cruel, inhuman or degrading treatment or punishment

It may be recalled that following the adoption in 1975 of the Declaration on the Protection of All Persons from Being Subjected to Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (resolution 3452 (XXX)), the General Assembly at its thirty-second session requested the Commission on Human Rights to study the question of torture as well as steps for ensuring the effective observance of the Declaration and to draw up a draft convention against torture and other cruel, inhuman or degrading treatment or punishment in the light of the principles embodied in the Declaration (resolution 32/62 of 7 December 1977).

The question of the drafting of such a convention has been examined by the Commission at each of its sessions since its thirty-fourth session in 1978. Prior to each session, as authorized by the Economic and Social Council, the Commission established an informal open-ended Working Group to meet for one week with a view to completing the work on the Draft Convention, including provisions for its effective implementation. The Working Group, each year, continued its work during the Commission's sessions.

Up to the thirty-eighth session of the Commission in 1982, provisions in 14 substantive articles of the draft convention had been approved in first reading by the Working Group. The text of those provisions and a summary of the relevant debates are contained in the report of the Working Group to the thirty-eighth session of the Commission (E/CN.4/1982/30/Add.1, part A).

By resolution 1982/44 of 11 March 1982, the Commission noting with satisfaction the progress made by the open-ended Working Group on the Draft Convention, decided to accord the highest priority to the consideration of this question at its thirty-ninth session. On the recommendation of the Commission, the Economic and Social Council by resolution 1982/38 of 7 May 1982 again authorized a meeting of an informal open-ended Working Group for a period of one week prior to the thirty-ninth session of the Commission to complete the work on a Draft Convention.

Attention may also be drawn to General Assembly resolution 37/193 of 18 December 1982 by which the Assembly requested the Commission to complete as a matter of highest priority at its thirty-ninth session the drafting of the convention on torture and other cruel, inhuman or degrading treatment or punishment with a view to submitting a draft, including provision for the effective implementation of the future convention to the General Assembly at its thirty-eighth session.

Attention may further be drawn to General Assembly resolution 37/194 of 18 December 1982 entitled "Principles of Medical Ethics" by which the Assembly adopted a set of principles of medical ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment.

Also at the thirty-seventh session of the General Assembly a working group continued to elaborate a final version of the draft body of principles for the protection of all persons under any form of detention or imprisonment which had been transmitted to the Assembly by the Commission, through the Economic and Social Council. By decision 37/... adopted on .. December 1982 the Assembly decided that an informal open-ended working group would be established at the outset of its thirty-eighth session with a view to expediting the finalization of the draft body of principles. The Secretary-General was requested to circulate to Member States the reports of the open-ended working group established at the thirty-fifth, thirty-sixth and thirty-seventh sessions and to invite them to update the comments they submitted in accordance with Economic and Social Council resolution 1979/34 of 10 May 1979 or submit new comments on the basis of the above-mentioned reports. In its resolution 37/192, the Assembly requests the Commission to consider elaborating a draft of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

At its thirty-fifth session the Sub-Commission on Prevention of Discrimination and Protection of Minorities considered the question of the human rights of persons subjected to any form of detention or imprisonment and adopted the following resolutions which appear relevant to item 10 (a).

Sub-Commission resolution 1982/10 contains various recommendations addressed to Governments concerning the grounds for arrest and detention, desirable procedures in this regard, the duration and review of pre-trial detention, as well as the treatment of detained persons.

Sub-Commission resolution 1982/32, concerns the study prepared by Mrs. Nicole Questiaux, Special Rapporteur of the Sub-Commission on the implications for human rights of recent developments concerning situations known as states of siege or emergency. The Sub-Commission decided to transmit this study (E/CN.4/Sub.2/1982/15) to the Commission on Human Rights at its thirty-ninth session and to draw the Commission's attention to the Special Rapporteur's conclusions and recommendations, which the Sub-Commission endorsed. In this connection, attention should also be drawn to Sub-Commission resolutions 1982/5 and 1982/13. The Sub-Commission also recommended to the Commission a draft resolution, the text of which appears in the report of the Sub-Commission (E/CN.4/1983/4, I A, draft resolution VIII).

(b) Question of enforced or involuntary disappearances

The General Assembly, in its resolution 33/173 of 20 December 1978, expressed its deep concern about reports from various parts of the world relating to enforced or involuntary disappearances of persons, often while such persons were subjected to detention or imprisonment, and requested the Commission to consider the question with a view to making appropriate recommendations. Subsequently, the Assembly at its thirty-fifth session adopted resolution 35/193 and at its thirty-sixth session resolution 36/163 on the question of involuntary and enforced disappearances.

The Commission on Human Rights, at its thirty-sixth session, by its resolution 20 (XXXVI) of 29 February 1980, which was subsequently endorsed by the Economic and Social Council, decided, inter alia, to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, for the examination of matters relevant to enforced or

involuntary disappearances of persons. At its thirty-seventh session the Commission adopted resolution 10 (XXXVII) of 26 February 1981, by which it extended the mandate of the Working Group for one year. At its thirty-eighth session the Commission, by resolution 1982/24 of 10 March 1982, again extended the mandate for another year and requested the Working Group to submit to the Commission at its thirty-ninth session a report on its work, together with its conclusions and recommendations. The Economic and Social Council, by its decisions 1981/139 and 1982/131, approved the Commission's decisions to extend the mandate of the Working Group.

At its thirty-fifth session the Sub-Commission on Prevention of Discrimination and Protection of Minorities continued to consider the question of enforced or involuntary disappearances and adopted resolutions 1982/5 and 1982/12 to which the attention of the Commission is drawn. It also recommended a draft resolution to the Commission for adoption (E/CN.4/1983/4, Chap. I A, draft resolution V).

The attention of the Commission is also drawn to General Assembly resolution 37/180 of 17 December 1982 on the question of involuntary or enforced disappearances, and General Assembly resolution 37/181 of 17 December 1982 on Missing Persons in Cyprus which are relevant to the consideration of this subitem.

The Commission will have before it under this item:

In regard to subitem (a)

Draft Convention against Torture submitted by Sweden (E/CN.4/1285)

Revised Draft Convention submitted by Sweden (E/CN.4/WG.1/WP.1)

Draft Convention submitted by the International Association of Penal Law (E/CN.4/NGO/213)

Draft optional protocol to Draft Convention submitted by Costa Rica (E/CN.4/1409)

Draft preamble and proposed final provisions of Draft Convention submitted by Sweden (E/CN.4/1427)

Revised draft relating to implementation clauses of Draft Convention submitted by Sweden (E/CN.4/1493)

Study on the implications for human rights of recent developments concerning situations known as states of siege or emergency (E/CN.4/Sub.2/1982/15)

In regard to subitem (b)

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1983/14).

11. 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

The item on the Further Promotion and Encouragement of Respect for Human Rights and Fundamental Freedoms has been on the agenda of the Commission since its nineteenth session in 1963 (Commission resolution 8 (XIX)). The second part of the title was added pursuant to General Assembly resolution 32/130 of 16 December 1977 by which the General Assembly, *inter alia*, requested the Commission to undertake at its thirty-fourth session, as a matter of priority, an over-all analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms in the light of certain concepts stated in its resolution.

By its resolutions 33/104, 34/46, 35/174 and 36/133, the Assembly requested the Commission to continue the over-all analysis with high priority. Various resolutions have also been adopted by the Commission at previous sessions. On the recommendation of the Commission, the Economic and Social Council adopted resolution 1979/36, which, *inter alia*, increased the membership of the Commission to its present size. The attention of the Commission is drawn to the provisions of this resolution.

At the thirty-eighth session of the Commission an informal open-ended sessional working group was established to continue its ongoing work on the over-all analysis. By its resolution 1982/40 of 11 March 1982 the Commission took note with satisfaction of the report of this open-ended working group (E/CN.4/1982/30/Add.1, part B) and decided to recommend to the Economic and Social Council that it consider, at its first regular session in 1982, the possibility of rescheduling the annual session of the Commission and, if necessary, the Sub-Commission, with a view to enabling the Commission to meet later in the year. It resolved to consider at its thirty-ninth session the possibility of rationalizing its agenda, and to this end to establish during the session an informal group of 10 members to consider what might be done to that effect with regard to the agenda for the fortieth session.

The Commission also decided to consider at its thirty-ninth session the elaboration of its programme and methods of work, bearing in mind the concepts set forth in existing human rights instruments and relevant General Assembly resolutions, including General Assembly resolution 32/130, and in that context to consider the question of a time-limit on statements in order to ensure that adequate time was made available for the consideration of all items and to examine the organization and functioning of open-ended working groups. The Commission further decided to establish an informal open-ended working group during its thirty-ninth session, to continue the ongoing work on over-all analysis.

The Economic and Social Council at its second regular session of 1982 adopted decision 1982/156 of 28 July 1982, in which it decided to consider the question of rescheduling the annual session of the Commission at the Council's second regular session in 1983 in the context of its consideration of the draft calendar of conferences and meetings for the biennium 1984-1985.

On the question of the High Commissioner for Human Rights, the Commission by its resolution 1982/40 decided to inform the General Assembly, through the Economic and Social Council, that it intended to keep the proposal for the creation of this post under continued consideration, taking into account the work being done in the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In a related resolution (1982/22), the Commission requested the Sub-Commission to formulate a first study on possible terms of reference for the mandate of a High Commissioner for Human Rights, taking into account the provisions of the Charter of the United Nations and of pertinent international instruments concluded under United Nations auspices, the concepts contained in General Assembly resolution 32/130 of 16 December 1977, as well as the practice of the United Nations system for the promotion and protection of human rights, and to submit its proposals to the Commission at its thirty-ninth session. At its thirty-fifth session the Sub-Commission adopted resolution 1982/27 by which it decided to submit to the Commission a set of proposals concerning possible terms of reference for the mandate of a High Commissioner for Human Rights.

By resolution 1982/42, the Commission requested all Governments to continue their consideration of action to facilitate publicity regarding United Nations activities in the field of human rights, with particular reference to the work of the Commission on the setting and implementation of human rights standards. The Commission invited the Secretary-General to give increased attention to ways of facilitating the stimulation of public interest in the promotion and protection of human rights, particularly in the light of the commemoration of the thirty-fifth anniversary of the Universal Declaration of Human Rights, and to report thereon to the Commission at the present session. The Commission welcomed the launching of the proposed dissemination programme covering international instruments on human rights and requested the Secretary-General to report to it each year on the implementation of this programme. The Commission further decided to continue its consideration of the development of public activities in the field of human rights at its thirty-ninth session. The Commission will have before it the report of the Secretary-General on this question (E/CN.4/1983/15).

By resolution 1982/41, the Commission requested the Secretary-General, within the world-wide programme for the dissemination of basic international instruments on human rights, to disseminate widely, as a matter of priority and in as many languages as possible, the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The Commission further requested the Secretary-General to issue, as soon as possible, a pamphlet containing the text of the Declaration, together with the relevant articles of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, in the six official languages of the United Nations, and to give the widest dissemination to this pamphlet.

The General Assembly, at its thirty-seventh session considered the item on alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms and adopted resolutions 37/199 and 37/200 of 18 December 1982 under this item. By resolution 37/199 the Assembly, *inter alia*, reiterated its request to the Commission to continue its current work on the over-all analysis with a view to further promoting and improving human rights and fundamental freedoms, including the question of the Commission's programme and working methods, and on the over-all analysis of the alternative approaches and ways and means for improving the effective enjoyment

of human rights and fundamental freedoms, in accordance with the provisions and concepts of General Assembly resolution 32/130, and bearing in mind also other relevant texts. The Assembly requested the Commission to take the necessary measures to promote the right to development, taking into account also the results of the Working Group of Governmental Experts on the Right to Development, and welcomed the decision of the Commission that the Working Group should continue its work with the aim of presenting as soon as possible a draft declaration on the right to development.

By resolution 37/200 the Assembly, inter alia, requested the Commission to continue its efforts to improve the capacity of the United Nations system to take urgent action in cases of serious violations of human rights, bearing in mind the study submitted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities on possible terms of reference for the draft mandate of a High Commissioner for Human Rights. Both resolutions 37/199 and 37/200 contain further, extensive provisions, to which the attention of the Commission is drawn. The attention of the Commission is also drawn to Assembly resolutions 37/171 and 37/172 on regional arrangements for the promotion of human rights.

12. 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, including:

- (a) Question of human rights in Cyprus
- (b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 8 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) report of the Working Group established by the Commission at its thirty-eighth session

By its resolution 1164 (XLI) of 5 August 1966, the Economic and Social Council welcomed the decision of the Commission in its resolution 2E (XXII) of 25 March 1966 to consider, at its twenty-third session, the question of its tasks and functions and its role in relation to violations of human rights. In its resolution 2144 (XXI) of 26 October 1966, the General Assembly invited the Council and the Commission to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they might occur. Pursuant to these resolutions of the Assembly and the Council, the Commission, at its twenty-third session, adopted resolution 8 (XXIII) in which, inter alia, it decided to give annual consideration to an item on the question of violations of human rights and fundamental freedoms. The title of the item was later modified by the Commission. Subsequently, the Economic and Social Council adopted resolutions 1235 (XLII) and 1503 (XLVIII) on the question of violations of human rights and fundamental freedoms.

In its resolution 32/130 the General Assembly decided that in approaching human rights questions within the United Nations system, the international community should accord, or continue to accord priority to the search for solutions to mass and flagrant violations of human rights of peoples and persons affected by various situations referred to in the resolution. The Assembly reiterated those views in subsequent resolutions, including resolution 37/199 adopted at its thirty-seventh session. In its resolution 34/175 entitled "Effective Action against Mass and Flagrant Violations of Human Rights", the Assembly urged the appropriate United Nations

bodies, within their mandates, particularly the Commission on Human Rights, to take timely and effective action in existing and future cases of mass and flagrant violations of human rights. By its resolution 37/200, the General Assembly urged all States to co-operate with the Commission in its study of the violations of human rights and fundamental freedoms in any part of the world and requested the Commission, at its thirty-ninth session, to continue its efforts to improve the capacity of the United Nations system to take urgent action in cases of serious violations of human rights.

Pursuant to its own resolutions, as well, as in some instances, to resolutions of the General Assembly and the Economic and Social Council, the Commission will have before it under the present item, reports on the following situations:

(a) Report of the Commission's Special Envoy on the situation in Bolivia (E/CN.4/1983/22) (Commission resolution 1982/33).

(b) Report of the Commission's Special Representative on the situation in El Salvador (E/CN.4/1983/20) (Commission resolution 1982/28). The attention of the Commission is also drawn to General Assembly resolution 37/185 on this situation.

(c) The Report of the Commission's Special Rapporteur on Guatemala (E/CN.4/1983/21) (Commission resolution 1982/31). The attention of the Commission is also drawn to General Assembly resolution 37/184 on this situation.

(d) A report of the Secretary-General on the situation in Iran (E/CN.4/1983/19) (Commission resolution 1982/27).

(e) A report of the Secretary-General on the situation in Poland (E/CN.4/1983/18) (Commission resolution 1982/26).

The Commission will, further, have before it, a report of the Secretary-General on advisory services provided to the Government of Equatorial Guinea at its request (E/CN.4/1983/17) (Commission resolution 1982/34).

On the question of human rights and massive exoduses, it will be recalled that by its resolution 1982/32, the Commission, having considered the report of its Special Rapporteur on human rights and massive exoduses (E/CN.4/1503) inter alia, requested the Special Rapporteur to introduce his study to the General Assembly taking account of the views and observations of interested Governments, United Nations agencies or departments concerned, specialized agencies, international organizations and non-governmental organizations. At its thirty-seventh session, the General Assembly, having considered the study as introduced by the Special Rapporteur, adopted resolution 37/186 by which it renewed the invitation, contained in Commission on Human Rights resolution 1982/32, to Governments, United Nations agencies or departments, relevant specialized agencies, international organizations and non-governmental organizations to communicate their views on the study and the recommendations contained therein to the Secretary-General. The Assembly requested the Secretary-General to ensure the views expressed to date on the study and its recommendations by all interested parties - Governments, United Nations agencies or departments, relevant specialized agencies, international organizations and non-governmental organizations - together with those to be received in the meantime, are made available to the Commission on Human Rights at its thirty-ninth session and to the Group of Governmental Experts on International Co-operation to Avert New

Flows of Refugees to facilitate their further consideration of the study and its recommendations. The Assembly invited the Commission on Human Rights at its thirty-ninth session and the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees to give careful consideration to those aspects of the study of the Special Rapporteur falling within their respective mandates in the light of the views expressed by all interested parties. Furthermore, the Assembly requested the Secretary-General to pursue his examination of recommendations contained in the study, taking into account the views of Governments and other interested parties, the debates at the General Assembly at its thirty-seventh session, the deliberations of the Commission on Human Rights at its thirty-ninth session, and of the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees, and to submit a report thereon to the Assembly at its thirty-eighth session in order to enable the Assembly to continue its consideration of this matter. The Assembly finally decided to review the question of human rights and mass exoduses at its thirty-eighth session. Concerning the question of human rights and mass exoduses the Commission will have before it a note by the Secretary-General transmitting the views and recommendations referred to in General Assembly resolution 37/186 (E/CN.4/1983/33).

The question of arbitrary and summary executions was the subject of resolutions 35/172 and 36/22, adopted by the General Assembly. At its thirty-eighth session, the Commission adopted resolution 1982/29 by which it recommended a resolution on this question to the Economic and Social Council. On 7 May 1982 the Council adopted this resolution (1982/35), by which it decided to appoint, for one year, a Special Rapporteur to examine the questions relating to summary or arbitrary executions and to submit a comprehensive report to the Commission at its thirty-ninth session on the occurrence and extent of the practice of such executions together with his conclusions and recommendations. The Council requested the Commission to consider this matter under the present item at its thirty-ninth session, with high priority. In accordance with paragraph 3 of the Council's resolution, Mr. Amos Wako was appointed Special Rapporteur on this question.

Further, at its thirty-eighth session, the Assembly adopted resolution 37/182 entitled "Summary or arbitrary executions" in which it requested all Governments to co-operate with and to assist the Special Rapporteur in the preparation of his report. The Assembly also requested the Commission at its thirty-ninth session, on the basis of the report of its Special Rapporteur, to make recommendations concerning appropriate action to combat and eventually eliminate the practice of summary or arbitrary executions.

Concerning the question of summary or arbitrary executions, the Commission will have before it the report prepared by the Special Rapporteur (E/CN.4/1983/16). The attention of the Commission may also be drawn to resolution 1982/13 on this question adopted by the Sub-Commission at its thirty-fifth session, and resolutions 1982/1, 1982/17, 1982/18, 1982/19, 1982/21, 1982/22, 1982/25 and 1982/26 which also deal with aspects of this question.

Finally the attention of the Commission is drawn to chapter VII of the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its thirty-fifth session (E/CN.4/1983/4), which is relevant to item 12. The attention of the Commission is particularly drawn to a draft resolution proposed to it for adoption by the Sub-Commission entitled "The effects of gross violations of human rights on international peace and security" contained in chapter I A of the Sub-Commission's report (chapter I A, draft resolution IV).

(a) Question of human rights in Cyprus

It will be recalled that at its thirty-seventh session in 1981, the Commission decided to postpone debate on this subitem to its thirty-eighth session (Commission decision 5 (XXXVII)), it being understood that action required by previous resolutions of the Commission on the subject continued to remain operative, including the request to the Secretary-General to provide a report to the Commission regarding their implementation. At its thirty-eighth session, the Commission had before it a report by the Secretary-General (E/CN.4/1982/3); the Commission, by decision 1982/102, again decided to postpone debate on the question in the same terms as at the previous session. At its thirty-ninth session the Commission will have before it the report of the Secretary-General (E/CN.4/1983/23). In this connection, the attention of the Commission may also be drawn to General Assembly resolution 37/181 to which reference has been made under item 10 (b) above.

(b) Study of situations which appear to reveal a consistent pattern of gross violations of human rights as provided in Commission resolution 3 (XXIII) and Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII): report of the Working Group established by the Commission at its thirty-eighth session

The subitem has its origin in Commission resolution 3 (XXIII) of 16 March 1967 and Economic and Social Council resolution 1235 (XLII) of 6 June 1967. By its resolution 3 (XXIII), the Commission, *inter alia*, requested authority from the Council: (a) to examine, with the assistance of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, information relevant to gross violations of human rights and fundamental freedoms, contained in communications received by the United Nations and listed by the Secretary-General in confidential lists of communications pursuant to Council resolution 728 F (XXVIII); and, (b) to make a thorough study, on the basis of the information made available to it, of situations which reveal a consistent pattern of violations of human rights. By its resolution 1235 (XLII) the Economic and Social Council granted the authority sought by the Commission.

By its resolution 1503 (XLVIII) of 27 May 1970, entitled "Procedure for dealing with communications relating to violations of human rights and fundamental freedoms", the Council further regulated the procedure for dealing with communications. The resolution lays down a two-stage screening process of the relevant material (undertaken by the Sub-Commission's Working Group on Communications and the Sub-Commission itself) before a particular situation is referred to the Commission for consideration. Provisional criteria for determining the admissibility of communications are set out in Sub-Commission resolution 1 (XXIV) of 13 August 1971. The Commission on Human Rights is then called on to determine whether a particular situation thus referred to it by the Sub-Commission requires a thorough study or, with the consent of the Government concerned, an investigation by an *ad hoc* committee. The Sub-Commission's Working Group on Communications met for the first time in 1972. Particular situations referred to the Commission by the Sub-Commission under Council resolution 1503 (XLVIII) were for the first time before the Commission at its thirtieth session in 1974. According to paragraph 8 of Council resolution 1503 (XLVIII), all actions envisaged in the implementation of the resolution shall remain confidential until such time as the Commission may decide to make recommendations to the Council.

At its thirtieth session in 1974, the Commission decided, subject to the approval of the Economic and Social Council, to set up a working group of five of its own members, due account being taken of considerations of geographical distribution,

to examine the particular situations referred to the Commission under Council resolution 1503 (XLVIII) (Commission decision 3 of 6 March 1974). The Working Group met prior to the Commission's thirty-first session in 1975 and submitted its recommendations confidentially to the Commission. A working group of this nature, has since then been set up annually, with the approval of the Council, to examine the particular situations referred each year to the Commission and the situations of which the Commission is seized from earlier sessions.

At its thirtieth session the Commission also decided that the Governments concerned should henceforth be invited to submit written observations relating to the particular situations referred to the Commission (Commission decision 3 of 6 March 1974).

At its thirty-fourth session in 1978, the Commission decided to issue invitations, during the first week of each session, to the States directly concerned to send representatives to address the Commission and to reply to any questions put by the members of the Commission.

At its thirty-fifth session in 1979, the Commission decided to authorize its working groups in future, if they had been established to assist the Commission in examining documents reaching it in virtue of Council resolution 1503 (XLVIII), to communicate the text of the relevant recommendations as soon as possible to the Governments directly concerned, in order to facilitate their participation in the examination of the situations concerning their countries, as provided in Commission decision 5 (XXXIV) (Commission decision 14 (XXXV)).

At its thirty-sixth session in 1980, the Commission decided, having regard to its decision 5 (XXXIV), that the States invited to attend the closed meetings of the Commission under Council resolution 1503 (XLVIII) should have the right to attend and to participate in the entire discussion of the situation concerning them, and to be present during the adoption of the final decision taken in regard to that situation (Commission decision 9 (XXXVI)).

As in earlier years, the Commission decided at its thirty-eighth session in 1982 to set up a working group of its own to meet for one week prior to its thirty-ninth session to examine such particular situations as might be referred to the Commission by the Sub-Commission at its thirty-fifth session under Council resolution 1503 (XLVIII) and those situations of which the Commission is seized (Commission decision 1982/103 of 5 March 1982). The establishment of the Working Group, to meet from 24 to 28 January 1983, was approved by Economic and Social Council decision 1982/140 of 7 May 1982.

At its thirty-ninth session the Commission will have before it the report of its Working Group on Situations (E/CN.4/1983/R.5), as well as other confidential documents pertaining to the subitem, including the confidential report of the thirty-fifth session of the Sub-Commission (E/CN.4/1983/R.1 and addenda), observations received from Governments (E/CN.4/1983/R.2 and addenda) as well as any relevant Government replies received under Council resolution 728 F (XXVIII) (issued in document series E/CN.4/GR....). In addition, the Commission will have before it confidential reports pertaining to the implementation of decisions adopted at its last session under Council resolution 1503 (XLVIII) (E/CN.4/1983/R.3 and addenda and E/CN.4/1983/R.4). The above-mentioned confidential documents will be handed to the members of the Commission personally.

Chapter IX of the public report of the Sub-Commission on the work of its thirty-fifth session (E/CN.4/1983/4) is also relevant to this subitem.

13. Question of a Convention on the rights of the child

At its thirty-fourth session, the Commission decided to include in its agenda the question of a convention on the rights of the child. In resolution 1978/18 of 5 May 1978 adopted at its first regular session in 1978, the Economic and Social Council took note with satisfaction of the initiative taken by the Commission with a view to the conclusion of a convention on the rights of the child and to its adoption by the General Assembly. Since that time, the question of a convention on the rights of the child has been examined at each session of the General Assembly (resolutions 33/166 of 20 December 1978; 34/4 of 18 October 1979; 35/131 of 11 December 1980; 36/57 of 25 November 1981 and 37/190 of December 1982) and of the Commission (resolutions 20 (XXXIV) of 8 March 1978; 19 A (XXXV) of 14 March 1979; 36 (XXXVI) of 12 March 1980; 26 (XXXVII) of 10 March 1981 and 1982/39 of 11 March 1982).

Commission resolution 20 (XXXIV) contained in an annex, the text of a draft convention on the rights of the child submitted by Poland. Since 1979, as authorized by the Economic and Social Council, an informal open-ended working group of the Commission has met with a view to facilitating the work on the draft convention. The working groups have so far adopted the preamble and 12 operative paragraphs of a draft convention on the rights of the child. The texts already adopted may be found in the report of the working group contained in the annex to part C of the addendum to the report of the Commission on its thirty-eighth session (E/1982/12/Add.1), which is before the Commission.

At its thirty-eighth session, by resolution 1982/39 of 11 March 1982, the Commission on Human Rights decided to continue its work on the draft convention on the rights of the child as a matter of priority. By resolution 1982/37 of 7 May 1982, the Economic and Social Council authorized the establishment of an informal open-ended working group for a period of one week prior to the Commission's thirty-ninth session to facilitate the completion of the draft convention. The informal open-ended working group will meet from 24 to 28 January 1983.

The Economic and Social Council by resolution 1982/39 of 7 May 1982 entitled "Protection of the rights of children and parents in cases of removal or retention of children", called the attention of States to the proliferation of such cases. It invited the Commission on Human Rights, when drafting the convention on the rights of the child, to take into consideration the protection of the rights of the child in cases of unauthorized international removal. It further requested the Secretary-General to consult with Governments on this problem and to report to the Commission at its thirty-ninth session.

It may also be recalled that the Sub-Commission, by resolution 7 B (XXXII) of 5 September 1979, recommended the Commission on Human Rights to take into account the relevant documentation submitted to the Working Group on Slavery and to the Sub-Commission, and their debates on this question, in drafting the appropriate articles of the convention on the rights of the child.

The Commission may also note General Assembly resolution 37/190 of December 1982 by which it requested the Commission to give the highest priority at its next session to the question of the completing of the draft convention on the right of the child.

The following documents will be made available to the Commission at its thirty-ninth session:

- (i) Reports of the Working Group on Slavery at its sixth, seventh and eighth sessions (E/CN.4/Sub.2/447, E/CN.4/Sub.2/486 and Corr.1 and E/CN.4/Sub.2/1982/21 and Corr.1);
- (ii) The Study on the Exploitation of Child Labour, prepared by Mr. Abdelwahab Bouhdiba, the Sub-Commission's Special Rapporteur (E/CN.4/Sub.2/479/Rev.1);
- (iii) A note by the Special Rapporteur entitled "Concrete programme of action to combat violations of human rights through the exploitation of child labour" (E/CN.4/Sub.2/1982/29);
- (iv) The summary records of the relevant debates that took place at the thirty-fifth session of the Sub-Commission (E/CN.4/Sub.2/1982/SR.18, SR.19 and SR.31/Add.1);
- (v) The report of the Working Group on a draft convention of the rights of the child at the thirty-eighth session of the Commission on Human Rights (E/CN.4/1982/30/Add.1, part C).
- (vi) The report of the Secretary-General on the views, observations and suggestions on that draft convention submitted by Member States, competent specialized agencies, regional intergovernmental organizations and non-governmental organizations (E/CN.4/1324 and Corr.1 and Add.1-5);
- (vii) The text of a draft convention submitted by Poland on 5 October 1979 (E/CN.4/1349);
- (viii) Written statements by non-governmental organizations in consultative status submitted to the Commission for consideration (E/CN.4/NGO/265 and 276).
- (ix) Report under Council resolution 1982/39 on unauthorized international removal of children (E/CN.4/1983/).

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

Questions concerning the human rights of migrant workers have been the subject of attention at several sessions of the Commission. The Commission has also considered questions concerning the exploitation of labour through illicit and clandestine trafficking.

By resolution 32/120 of 16 December 1977, the General Assembly recommended that the Commission on Human Rights and the Economic and Social Council should consider that question fully and in depth at their next sessions, in collaboration with ILO, UNESCO and other interested agencies of the United Nations system. By resolution 34/172 of 17 December 1979, the General Assembly decided to create at its thirty-fifth session a working group open to all Member States to elaborate an international convention on the protection of the rights of all migrant workers and their families. Accordingly, at its thirty-fifth session the General Assembly established an open-ended Working Group on this topic, whose mandate has been renewed at the thirty-fifth, thirty-sixth and thirty-seventh sessions of the General Assembly.

The work so far done by the Working Group is reflected in the following reports: A/C.3/35/13; A/C.3/36/10; A/C.3/37/1; A/C.3/37/7 and Corr.1-2.

At its thirty-eighth session, the Commission adopted resolution 1982/35 by which, inter alia, it welcomed the progress made by the working group and requested the Secretary-General to inform the Commission at its thirty-ninth session on the progress achieved. The deliberations of the working group in 1982 are summarized in its report on its intersessional meetings of May 1982 (A/C.3/37/1) and in its report on its meetings during the thirty-seventh session of the General Assembly (A/C.3/37/7 and Corr. 1-2). By its resolution 37/170 of 17 December 1982, the General Assembly took note of the report of the Working Group and expressed its satisfaction with the substantial progress that the Working Group had so far made in the accomplishment of its mandate. The Assembly decided that, in order to enable the Working Group to complete its task as soon as possible, the Working Group should hold again an intersessional meeting of two weeks' duration in New York, immediately after the first regular session of the Economic and Social Council. The Secretary-General was invited to transmit the report of the Working Group to Governments so as to allow the members of the Working Group to continue their task during the intersessional meeting to be held in spring 1983, as well as to transmit the results obtained in that meeting in order that the General Assembly may consider them during its thirty-eighth session. The Assembly, furthermore, invited the Secretary-General to transmit the above-mentioned documents to the competent organs of the United Nations system and to international organizations concerned, for their information, so as to enable them to continue their co-operation with the Working Group. Finally, the Assembly decided that the Working Group should meet during the thirty-eighth session of the General Assembly, preferably at the beginning of the session, to continue and, if possible, to complete the elaboration of an international convention on the protection of the rights of all migrant workers and their families.

At its thirty-ninth session the Commission will have before it the 1982 reports of the General Assembly's working group (A/C.3/37/1 and A/C.3/37/7 and Corr. 1 and 2).

15. Human rights and scientific and technological developments

The International Conference on Human Rights (Teheran, 1968), in its resolution XI on human rights and scientific and technological developments adopted on 12 May 1968, recommended that the organizations of the United Nations family should undertake a study of the problems with respect to human rights arising from development in science and technology.

Since then this question has been examined by the General Assembly at various sessions (resolutions 2450 (XXIII), 2721 (XXV), 3026 A and B (XXVII), 35/130 A and B, 36/56 A, 37/188 and 189). It has also been on the agenda of the Commission as a standing item, since its twenty-seventh session (resolutions 10 (XXVII), 2 (XXX), 11 (XXXI), 10 A and B (XXXIII), 38 (XXXVII), 1982/5, 1982/6, 1982/7). At the request of human rights organs, various reports and studies have been prepared by the Secretary-General. Pursuant to General Assembly decision 36/413, a booklet, based on studies which were prepared by the Secretary-General pursuant to General Assembly resolution 2450 (XXIII) of 19 December 1968 and other relevant resolutions and submitted to the Assembly and the Commission on Human Rights, has been prepared by the Department of Public Information.

By its resolution 36/56 A, adopted on 25 November 1981, the General Assembly 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 Interests of Peace and for the Benefit of Mankind in order to promote human rights and fundamental freedoms under conditions of scientific and technological progress. The Assembly 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 requested the specialized agencies and other organizations of the United Nations system to take into account in their programme and activities the provisions of the Declaration. The Assembly requested the Commission on Human Rights to give special attention, in its consideration of the item entitled "Human rights and scientific and technological developments", to the question of the implementation of the provisions of the Declaration.

In its resolution 1982/4 of 9 February 1982, the Commission reiterated its request to the Sub-Commission (formulated in Commission resolution 38 (XXXVII) of 12 March 1981), 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. In its resolution 1982/7 of 19 February 1982, the Commission requested the Sub-Commission to carry out a study on the negative consequences of the arms race, particularly the nuclear arms race in all its aspects, for the implementation of economic, social, cultural as well as civic and political rights, the establishment of a new international economic order and, above all, of the inherent right to life, and to submit that study for consideration by the Commission at its fortieth session. It also requested the Secretary-General to bring Commission resolution 1982/7 to the attention of the Economic and Social Council, the General Assembly and other United Nations bodies concerned with disarmament matters.

By its resolution 37/189 A, the General Assembly again called upon all States, appropriate organs of the United Nations, specialized agencies, intergovernmental and non-governmental organizations concerned to take the necessary measures to ensure that the results of scientific and technological progress are used exclusively in the interests of international peace, for the benefit of mankind and for promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex language or religion. The Assembly requested the Commission on Human Rights in its future activities to stress the need to ensure the cardinal right of everyone to life, liberty and security of person, and to live in peace.

By its resolution 37/189B, the General Assembly again 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 Interests of Peace and for the Benefit of Mankind in order to promote human rights and fundamental freedoms and 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. It once again 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. It requested

the Commission on Human Rights to give special attention, in its consideration of the item entitled "Human rights and scientific and technological developments", to the question of the implementation of the Declaration.

As regards the question of persons detained on the grounds of mental ill-health, the Commission, at its thirty-third session in 1977, instructed the Sub-Commission to study, with a view to formulating guidelines, the question of the protection of persons detained on the grounds of mental ill-health (resolution 10 A (XXXIII) of 11 March 1977). At its thirty-third session in 1980, the Sub-Commission by its resolution 11 (XXXIII) of 10 September 1980 entrusted one of its members, Mrs. Erica-Irene Daes, with the task of elaborating guidelines and principles for the protection of the mentally-ill.

A preliminary report (E/CN.4/Sub.2/474 and annex) was prepared by the Rapporteur and submitted to the Sub-Commission at its thirty-fourth session. By its resolution 20 (XXXIV), adopted on 10 September 1981, the Sub-Commission requested Mrs. Daes to submit her final report and decided to establish, at its thirty-fifth session, a sessional Working Group to consider the above-mentioned body of guidelines, principles and guarantees with a view to adopting it at that session.

At its thirty-eighth session in 1982, the Commission noted with appreciation the preliminary report by Mrs. Daes and decided to consider the Rapporteur's final report at its thirty-ninth session (resolution 1982/6 of 19 February 1982).

At its thirty-fifth session in 1982 the Sub-Commission, by its resolution 1982/34 of 10 September 1982, having considered the report submitted by Mrs. Daes (E/CN.4/Sub.2/1982/16), and having examined the report of the sessional Working Group on the question of persons detained on the grounds of mental ill-health (E/CN.4/Sub.2/1982/17), submitted to the Commission a draft resolution by which the Commission would recommend to the Economic and Social Council that it request the Special Rapporteur to supplement her final report taking into account the basic views expressed in the Sub-Commission and Commission, and to include in the report any new reply which might be transmitted in the meantime; and that it also request the Sub-Commission to establish a sessional Working Group for a proper examination of the body of principles, guidelines, and guarantees and to submit the revised final report to the Commission at its fortieth session (E/CN.4/1983/4, chap. I A, draft resolution IX).

At its thirty-seventh session, the General Assembly urged the Commission on Human Rights and through it the Sub-Commission on Prevention of Discrimination and Protection of Minorities to continue and expedite their consideration of this question with a view to the Commission submitting its views and recommendations to the General Assembly at its thirty-ninth session, through the Economic and Social Council (resolution 37/188 of 17 December 1982).

On the question of guidelines in the field of computerized personal files, particularly as they affect the privacy of the individual, it may be recalled that in its resolution 10 B (XXXIII) adopted on 11 March 1977 the Commission had, inter alia, instructed the Sub-Commission to examine in the light of the provisions of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, studies relating to the implementation of those provisions. Accordingly, the Sub-Commission, by its

resolution 12 (XXXIII) of 11 September 1980, requested its Chairman to designate a member of the Sub-Commission to undertake a study on relevant guidelines in the field of computerized personal files. The Chairman of the Sub-Commission designated Mrs. Nicole Questiaux for this study. The study is being awaited in the Sub-Commission.

16. Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid

The International Convention on the Suppression and Punishment of the Crime of Apartheid was adopted by the General Assembly and opened for signature and ratification on 30 November 1973 (resolution 3068 (XXVIII)). It entered into force on 18 July 1976. As of December 1982 there were 67 States parties to the Convention. By resolution 12 (XXXVI) of 26 February 1980, the Commission decided to maintain this question on its agenda as a standing item.

At its thirty-eighth session, the Commission adopted resolution 1982/10 of 25 February 1982, concerning the report of the Group of Three, members of the Commission, appointed in accordance with article IX of the Convention (E/CN.4/1507) and decided that the Group should meet for a period of not more than five days prior to the thirty-ninth session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

The Group composed of the representatives of Bulgaria, Mexico and Zaire, appointed by the Chairman of the Commission at its thirty-eighth session, is scheduled to meet in Geneva from 24 to 28 January 1983. Its report will be before the Commission.

At its thirty-seventh session, the Commission, by resolution 5 (XXXVII) of 23 February 1981, also adopted several decisions to give effect, inter alia, to the Convention. The Commission decided that the Ad Hoc Working Group of Experts on southern Africa should continue to institute inquiries in respect of any persons suspected of having been guilty in Namibia of the crime of apartheid or any other serious violation of human rights and to bring the results of those inquiries to the attention of the Commission. The Ad Hoc Working Group informed the Commission at its thirty-eighth session of the status of its inquiries (E/CN.4/1485). The Group is expected to submit further information on the subject to the Commission at its thirty-ninth session.

By resolution 1982/8 of 25 February 1982, the Commission, inter alia, renewed its invitation to all Member States of the United Nations to make observations on the draft statutes of a possible International Penal Tribunal to deal inter alia with crimes of apartheid (E/CN.4/1426) in order to enable the Commission's Ad Hoc Working Group of Experts to continue its study on the ways and means of ensuring the implementation of international instruments such as the International Convention on the Suppression and Punishment of the Crime of Apartheid as requested by Commission resolution 12 (XXXVI).

At its thirty-seventh session, the General Assembly adopted resolution 37/47 of 3 December 1982, by which it requested the Commission on Human Rights to continue to undertake the functions set out in article X of the Convention and invited the Commission to intensify, in co-operation with the Special Committee against Apartheid, its efforts to compile periodically the progressive list of individuals, organizations, institutions and representatives of States deemed responsible for crimes enumerated in article II of the Convention, as well as of those against whom or which legal proceedings have been undertaken; requested the Commission on Human Rights to take into account General Assembly resolutions 33/23 of 29 November 1978 and 35/32 of

14 November 1980 as well as relevant documents of the Commission and its subsidiary organs reaffirming, inter alia, that States giving assistance to the racist régime of South Africa become accomplices in the inhuman practices of racial discrimination and apartheid; called upon all States parties to the Convention and United Nations organs to continue to provide the Commission, through the Secretary-General, with information relevant to the periodic compilation of the above-mentioned list as well as with information concerning the obstacles which prevent the effective suppression and punishment of the crime of apartheid; and requested the Secretary-General to distribute the above-mentioned list among all States parties to the Convention and all Member States and to bring such facts to the attention of the public by all means of mass communication.

At its thirty-ninth session the Commission will have before it:

(a) A note by the Secretary-General concerning the status of the Convention and of the submission of reports by States parties in accordance with article VII and containing reports received from States parties after the thirty-eighth session of the Commission (E/CN.4/1983/24 and Addenda).

(b) The report of the Group of Three (E/CN.4/1983/25).

17. The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service

This item has been considered by the Commission on Human Rights since its twenty-fifth session.

At its thirty-eighth session, the Commission adopted resolution 1982/36 on 11 March 1982 by which it requested the Secretary-General to submit to the Commission a progress report on the implementation of the Programme of Measures and Activities, in connection with International Youth Year. The Commission decided to examine at its fortieth session the question of the exercise by youths of their human rights and fundamental freedoms, including the right of education and work.

The question of conscientious objection to military service has been discussed by the Commission since its thirty-second session. A report had been prepared by the Secretary-General, pursuant to resolution 11 B (XXVII) (E/CN.4/1118 and Corr.1 and Add. 1-3).

At its thirty-seventh session in 1981, the Commission by resolution 40 (XXXVII) had requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the question of conscientious objection to military service in general. Accordingly, the Sub-Commission at its thirty-fourth session in 1981, by its resolution 14 (XXXIV), requested two of its members, Mr. Mubanga-Chipoya and Mr. Eide, to make an analysis of the various dimensions of conscientious objection to military service and its interrelationship with the promotion and protection of human rights. At the thirty-fifth session of the Sub-Commission in 1982, a preliminary report was submitted by Mr. Mubanga-Chipoya and Mr. Eide (E/CN.4/Sub.2/1982/24). By its resolution 1982/30 of 10 September 1982, the Sub-Commission requested Mr. Mubanga-Chipoya and Mr. Eide to prepare a final report based on the comments received on their preliminary report and to develop principles relating to the question of conscientious objection to military service.

At its thirty-ninth session the Commission will have before it the progress report prepared pursuant to its resolution 1982/36 (E/CN.4/1983/26). Attention may also be drawn to resolutions 37/48, 37/49 and 37/50 of 3 December 1982 on questions concerning youth which were adopted by the General Assembly at its thirty-seventh session.

18. (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination
- (b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination
- (a) Study in collaboration with the Sub-Commission on Prevention of Discrimination and Protection of Minorities of ways and means of ensuring the implementation of United Nations resolutions bearing on apartheid, racism and racial discrimination

By resolution 34/24 of 15 November 1979, the General Assembly adopted a four-year programme of activities designed to accelerate progress in the implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination. Paragraph 19 of the Programme of Activities provided that "In accordance with General Assembly resolution 3377 (XXX) of 10 November 1975, the Commission on Human Rights, in co-operation with the Sub-Commission on Prevention of Discrimination and Protection of Minorities, should undertake a study on ways and means of ensuring the implementation of the United Nations resolutions on apartheid, racism and racial discrimination and submit its conclusions to the Assembly at its thirty-seventh session through the Economic and Social Council".

By resolution 14 D (XXXVI) of 26 February 1980, the Commission on Human Rights requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to prepare this study and submit it together with its conclusions to the Commission at its thirty-eighth session.

By its resolution 4 D (XXXIII) of 5 September 1980 the Sub-Commission decided to discuss at its thirty-fourth session the preparation of this study. In this connection, it should be recalled that in resolution 3 (XXX) of 31 October 1977, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had requested the Secretary-General to prepare a preliminary document setting forth information from all available sources on how various United Nations instruments, including declarations and resolutions, have been used in national courts, administrative tribunals and domestic forums, including legislative forums, with suggestions for their effective future use in the specific field of racial discrimination. It had also requested the Secretary-General to prepare a preliminary document reporting on the use of those United Nations instruments, declarations and resolutions in private forums as well. The two documents requested under the resolution were submitted to the Sub-Commission at its thirty-first session (E/CN.4/Sub.2/L.679, E/CN.4/Sub.2/L.680). No specific action was taken concerning these two documents.

The Secretary-General submitted to the Sub-Commission at its thirty-fourth session a note (E/CN.4/Sub.2/468) containing references to documents which the Sub-Commission might wish to take into consideration while discussing the preparation of the study. At its thirty-fourth and thirty-fifth sessions, the Sub-Commission did not take any specific action concerning the preparation of the study. The discussion of this matter at the thirty-fourth session of the Sub-Commission is reflected in the report of the Sub-Commission on its thirty-fourth session (E/CN.4/1512, chap. IV, para. 54).

(b) Implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination

By its resolution 1982/11 of 25 February 1982, the Commission decided, inter alia, to discuss the preparations for the Second World Conference to Combat Racism and Racial Discrimination and the Commission's participation therein at its thirty-ninth session. The Commission also decided that it would be represented at the World Conference by the Chairman of its thirty-ninth session.

At its thirty-fifth session, the Sub-Commission considered the question of the implementation of the Programme for the Decade under the item "Measures to combat racism and racial discrimination and the role of the Sub-Commission". It had before it: (i) the final report by Mr. Justice Abu Sayeed Chowdhury, Special Rapporteur for the Study on discriminatory treatment of members of racial, ethnic, religious or linguistic groups at the various levels in the administration of criminal justice, such as police, military, administrative and judicial investigations, arrest, detention, trial and execution of sentences, including the ideologies or beliefs which contribute or lead to racism in the administration of justice, (prepared in accordance with Sub-Commission resolution 4 A (XXXIII) (E/CN.4/Sub.2/1982/7); (ii) a note by the Secretary-General on the immigration laws of member States (E/CN.4/Sub.2/1982/8 and Add.1 prepared in accordance with paragraph 2 of Sub-Commission resolution 3 (XXXIII) of 5 September 1980); and (iii) a report by the Secretary-General on recourse procedures available to victims of racial discrimination at national and local levels (E/CN.4/Sub.2/1982/9) (prepared in accordance with Sub-Commission resolution 4 C (XXXIII) of 5 September 1980).

By resolution 1982/4 of 7 September 1982, the Sub-Commission decided to transmit the study on discriminatory treatment against members of racial, ethnic, religious or linguistic groups at various levels in the administration of criminal justice proceedings, to the Commission on Human Rights.

The General Assembly, at its thirty-seventh session, adopted resolution 37/40 on 3 December 1982 dealing with the implementation of the Programme for the Decade. It again invited all Member States, United Nations organs, specialized agencies, intergovernmental organizations, national liberation movements, anti-apartheid and anti-racist organizations and other solidarity groups to strengthen and enlarge the scope of their activities in support of the objectives of the Programme for the Decade and invited Member States to continue to co-operate with the Secretary-General as part of the Programme for the Decade and the preparations for the Second World Conference to Combat Racism and Racial Discrimination: and invited the appropriate organs and bodies of the United Nations system to contribute to the preparations for the Conference.

The General Assembly also adopted resolution 37/41 on 3 December 1982 dealing with the Second World Conference to Combat Racism and Racial Discrimination. In this resolution, the Assembly decided to convene the Second World Conference to Combat Racism and Racial Discrimination at Geneva from 1 to 12 August 1983 and decided upon a number of arrangements to be made for the Conference including a request to the Secretary-General to invite, inter alia, the Commission on Human Rights to be represented at the Conference.

At its thirty-ninth session, the Commission will have before it:

- (i) The final report of Justice Abu Sayeed Chowdhury (E/CN.4/Sub.2/1982/7),

- (ii) The annual reports on racial discrimination submitted by the International Labour Organisation (1983/27) and the United Nations Educational, Scientific and Cultural Organization (1983/28) in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XVI).

19. Status of the International Covenants on Human Rights

By its resolution 1982/18 of 9 March 1982, the Commission requested the Secretary-General to submit to it at its thirty-ninth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, and to include in this report information on the work of the Economic and Social Council and its Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights. In this connection, the Commission will have before it a report by the Secretary-General (E/CN.4/1983/29).

The Commission may wish to note that the General Assembly at its thirty-seventh session adopted resolution 37/191 of 18 December 1982 concerning the International Covenants on Human Rights, in which it took note, *inter alia*, of Economic and Social Council resolution 1982/33 of 6 May 1982 concerning the review of the composition, organization and administrative arrangements of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights; invited all States which have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights as well as to consider acceding to the Optional Protocol; requested the Secretary-General to keep the Human Rights Committee informed of the activities of the Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination Against Women, and also to transmit the annual reports of the Human Rights Committee to these bodies; and took note with appreciation of the request of the Human Rights Committee that its official records be made available annually in bound volumes and requested the Secretary-General to consider making the arrangements within existing resources which he deemed the most suitable and economical for publishing these annual volumes.

20. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fourth session

At its thirty-seventh session, by resolution 17 (XXXVII) of 10 March 1981, the Commission requested the Sub-Commission in drawing up its annual report to the Commission to present and indicate clearly in an introductory chapter all matters requiring the approval of the Commission, including all resolutions and decisions of the Sub-Commission other than those bearing on internal procedural questions or those which follow up previously approved or specifically mandated courses of action.

At its thirty-eighth session, by resolution 1982/23 of 10 March 1982, the Commission requested the Sub-Commission to attach to its report in the future a complete list of the studies under preparation, with relevant information on the

legislative authority and the time-table for the completion of the studies. The list of studies appears in annex III to the report.

The report of the Sub-Commission on the work of its thirty-fifth session (E/CN.4/1983/4) was prepared in accordance with these resolutions. It contains 35 resolutions and 13 decisions. The resolutions and decisions that require action or consideration by the Commission are contained in chapter I of the report of the Sub-Commission.

Draft resolutions recommended by the Sub-Commission

Chapter I A of the report contains draft resolutions recommended by the Sub-Commission for adoption by the Commission. Some of these draft resolutions are before the Commission in the context of the items of the agenda to which they refer; appropriate reference has been made to these draft resolutions in the context of the annotations of the items concerned. They are:

- (i) In the context of item 8 above, draft resolution II entitled "The New International Economic Order and the promotion of human rights" (Sub-Commission resolution 1982/7)
- (ii) In the context of item 12 above, draft resolution IV entitled "The effects of gross violations of human rights on international peace and security" (Sub-Commission resolution 1982/11)
- (iii) In the context of item 10 (b) above, draft resolution V, entitled "Question of the human rights of persons subjected to any form of detention or imprisonment" (Sub-Commission resolution 1982/12)
- (iv) In the context of item 9 above, draft resolution VII entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII), Question of East Timor" (Sub-Commission resolution 1982/20)
- (v) In the context of item 10 (a) above, draft resolution VIII entitled "Question of Human Rights of persons subjected to any form of detention or imprisonment" (Sub-Commission resolution 1982/32)
- (vi) In the context of item 15 above, draft resolution IX entitled "Human rights and scientific and technological developments - Guidelines, principles and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder" (Sub-Commission resolution 1982/34).

In addition, the following draft resolutions recommended by the Sub-Commission for adoption by the Commission are before it under the present item. They are:

- (i) Draft resolution I entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)" (Sub-Commission resolution 1982/2).

- (ii) Draft resolution III entitled "Question of Slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism" (Sub-Commission resolution 1982/9). A statement of the administrative and programme budget implications appears in annex II to the report of the Sub-Commission (E/CN.4/1983/4).
- (iii) Draft resolution VI entitled "Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories" (Sub-Commission resolution 1982/14).
- (iv) Draft resolution X entitled "The status of the individual and contemporary international law" (Sub-Commission resolution 1982/35).

Provisions of resolutions of the Sub-Commission requiring consideration by the Commission

Chapter I B contains the text of those provisions of resolutions of the Sub-Commission that require consideration to the Commission. Of these, a number have been referred to elsewhere in these annotations in the context of the appropriate items. They are:

- (i) Resolution 1982/1, paras. 1 to 4, referred to under item 12
- (ii) Resolution 1982/5, paras. 3 to 6, referred to under item 10
- (iii) Resolution 1982/10, paras. 3, 4, 14, 15, 17 and 20, referred to under item 10
- (iv) Resolution 1982/13, paras. 3 and 4, referred to under item 10
- (v) Resolution 1982/16, para. 3, referred to under item 7
- (vi) Resolution 1982/17, paras. 3 to 5, referred to under item 12
- (vii) Resolution 1982/18, paras. 1 to 3, referred to under items 9 and 12
- (viii) Resolution 1982/19, paras. 1 and 2, referred to under item 12
- (ix) Resolution 1982/21, paras. 3 to 5, referred to under items 9 and 12
- (x) Resolution 1982/22, paras. 4 to 6, referred to under items 9 and 12
- (xi) Resolution 1982/25, paras. 3 and 4, referred to under item 12
- (xii) Resolution 1982/26, paras. 1 to 4, referred to under item 12
- (xiii) Resolution 1982/27, referred to under item 11

In addition to the foregoing, a number of these provisions are before the Commission in its consideration of the present item. They are:

- (i) Resolution 1982/9, paragraph 4, dealing with the report prepared by the Special Rapporteur of the Sub-Commission, Mr. Benjamin Whitaker, entitled "Updating of the Report on Slavery submitted to the Sub-Commission in 1966" and recommending to the Commission that it transmit the report to the competent United Nations organs, in particular to the subsidiary organs of the Economic and Social Council and the UNDP, drawing attention to and

requesting comments on the conclusions and recommendations in the report for transmission to the Special Rapporteur. The attention of the Commission is also drawn to paragraph 2 by which the Sub-Commission decided to transmit the Special Rapporteur's study to the Commission and to draw the attention of the Commission to the conclusions and recommendations and to paragraph 3 by which the Sub-Commission requested the Special Rapporteur to present his report to the Commission at its thirty-ninth session.

- (ii) Resolution 1982/15, paras. 1 to 4 and 9 to 20 dealing with the question of slavery containing a number of recommendations. Among these the attention of the Commission is drawn in particular to operative paragraphs 1, 9, 11 and 17.

In operative paragraph 1, the Sub-Commission decided to request the Commission to appeal to eligible Member States which have not signed or ratified the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, of 1956, and the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, of 1949, to do so as soon as possible, or to explain in writing why they feel unable to do so, and also to request States to report regularly upon compliance with and enforcement of the provisions of the Convention.

In operative paragraphs 9, 11 and 17, the Sub-Commission urged, recommended or requested that studies be undertaken to deal with the question of debt bondage (para. 9) with the most serious exploitation of women - a study to be undertaken together with the Commission of the Status of Women (para. 11) and with the problem of female sexual mutilation (para. 17).

- (iii) Resolution 1982/31, paragraph 6, dealing with the work of the Working Group on Indigenous Populations, by which the Sub-Commission decided to request the Commission on Human Rights and the Economic and Social Council to establish a fund for the purpose of allowing representatives of indigenous populations to travel to Geneva to participate in the work of the Working Group on Indigenous Populations.
- (iv) Resolution 1982/33, paragraph 1, dealing with the study prepared by the Special Rapporteur of the Sub-Commission, Mr. Abdelwahab Boudhiba, entitled "Concrete Programme of Action to combat violations of human rights through the exploitation of child labour" by which the Sub-Commission decided to submit to the Commission on Human Rights for its consideration the recommendations of the Special Rapporteur for a programme of action.
- (v) Resolution 1982/3, paragraph 7 (not listed in chapter I B) would also call for consideration by the Commission. The resolution is entitled "Encouragement of universal acceptance of human rights instruments": by paragraph 7, the Sub-Commission decided to include the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others in the list of instruments in paragraph 1 of Sub-Commission resolution I B (XXXII), the text of which will be made available to the Commission.
- (vi) Resolution 1982/23, paragraph 1, regarding the right of everyone to leave any country, including his own, and to return to his country, is drawn to the attention of the Commission. By this resolution, the Sub-Commission designated one of its members, Mr. Mubanga-Chipoya, to prepare an analysis of current trends and developments in respect of the right of everyone to leave any country and to present it with recommendations at its thirty-seventh session. A statement of the administrative and programme budget implications of resolution 1982/23 is contained in annex II of the report of the Sub-Commission (E/CN.4/1983/4).

Documentation

At its thirty-ninth session the Commission will have before it the report of the Sub-Commission (E/CN.4/1983/4). The confidential part of the report of the Sub-Commission will also be before the Commission and is referred to under item 12 above.

The Commission will also have before it:

(a) the report submitted by the Special Rapporteur, Mr. Benjamin Whitaker (E/CN.4/Sub.2/1982/20 and Add.1) in connection with Sub-Commission resolution 1982/9;

(b) the programme of action submitted by the Special Rapporteur, Mr. Abdelwahab Bouhdiba (E/CN.4/Sub.2/1982/29) in connection with Sub-Commission resolution 1982/33.

21. The rights of persons belonging to national, ethnic, religious and linguistic minorities

At its thirty-fourth session in 1978, the Commission, having taken note of Sub-Commission resolution 5 (XXX) recommending that the Commission consider drafting a declaration on the rights of members of minority groups, within the framework of the principles set forth in article 27 of the International Covenant on Civil and Political Rights, established an informal open-ended working group to consider questions related to drafting such a declaration, on the basis of a draft declaration on the rights of persons belonging to national, ethnic, religious and linguistic minorities, proposed by Yugoslavia (E/CN.4/L.1367/Rev.1), and meant to serve as a starting point for an exchange of views.

The Commission continued to examine this question at each of its subsequent sessions (resolutions 14 A (XXXIV), 21 (XXXV), 37 (XXXVI), 21 (XXXVII), 1982/38). At each of these sessions an informal open-ended working group was established by the Commission to consider the matter.

The Sub-Commission also examined the question, in accordance with Commission resolution 21 (XXXV) and 37 (XXXVI), at its thirty-second and thirty-third sessions (Sub-Commission decisions 1 (XXXII) and 1 (XXXIII)).

A revised consolidated text of the draft declaration was further prepared by the Chairman/Rapporteur of the Working Group in accordance with Commission resolution 37 (XXXVI) (E/CN.4/Sub.2/L.734).

At its thirty-eighth session, the informal open-ended Working Group established by the Commission during that session adopted provisionally the preamble of the draft declaration and began consideration of article 1 of the operative part. The text of the part of the draft declaration on which preliminary agreement has been reached may be found in E/CN.4/1982/30/Add.1.

At its thirty-ninth session the following additional documents will be made available to the Commission:

- (1) The revised draft declaration on minorities prepared by the Chairman/Rapporteur of the Working Group in accordance with Commission resolution 37 (XXXVI) (E/CN.4/Sub.2/L.734);
- (2) A note by the Secretary-General on the provisions of international instruments relevant to the problem of the rights of persons belonging to national, ethnic, religious or linguistic minorities (E/CN.4/Sub.2/L.735).

22. Measures to be taken against all totalitarian or other ideologies and practices, including nazi, fascist and neo-fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences

The item "Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred" was first included in the agenda of the Commission at the twenty-eighth session, in accordance with General Assembly resolution 2839 (XXVI) of 18 December 1971. In that resolution, the Assembly also decided to keep this question under continuing review. It also urged other competent organs of the United Nations to do likewise, so that appropriate measures could be taken promptly as required.

At its thirty-fifth session the General Assembly adopted resolution 35/200 of 15 December 1980, entitled "Measures to be taken against nazism, fascist and neo-fascist activities and all other forms of totalitarian ideologies and practices based on racial intolerance, hatred and terror". In that resolution the Assembly inter alia urged all States to give due consideration to implementing the provisions laid down in United Nations General Assembly resolution 2839 (XXVI) in accordance with the provisions of the Universal Declaration of Human Rights and especially to take the necessary measures against activities of groups and organizations practising nazism, fascism, neo-fascism or other ideologies based on racial intolerance, hatred and terror, in accordance with the national constitutional systems, and requested all States to provide the Secretary-General with their comments on those problems and on measures that should be taken on the national and international levels to eradicate nazism, fascism, neo-fascism and related ideologies based on racial intolerance, hatred and terror. By the same resolution, the Assembly requested the Commission on Human Rights to consider this subject at its thirty-seventh session under the item of its agenda "Question of measures to be taken against ideologies and practices based on terror or incitement to racial discrimination or any other form of group hatred"; and requested the Secretary-General to submit through the Economic and Social Council to the General Assembly at its thirty-sixth session a report in the light of the discussion that would take place in the Commission on Human Rights and on the basis of comments provided by States.

At its thirty-seventh session, the Commission considered this question and adopted resolution 3 (XXXVII) of 23 February 1981. In that resolution, the Commission, inter alia, condemned all totalitarian or other ideologies and practices, in particular Nazi, fascist and neo-fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which had such consequences; appealed to States which had not yet done so to become parties to the International Covenants on Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of all Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and other relevant international instruments; and decided to consider this question, including the possibility of elaborating a draft declaration, at its thirty-eighth session.

In accordance with General Assembly resolution 35/200, the Secretary-General submitted, through the Economic and Social Council, to the General Assembly at its thirty-sixth session a report drawn up in the light of the discussion that took place in the Commission on Human Rights and on the basis of comments provided by States (A/36/209 and Add.1).

At its thirty-sixth session, the General Assembly adopted resolution 36/162 of 16 December 1981, by which it welcomed Commission resolution 3 (XXXVII) of 23 February 1981 and requested the Commission to continue consideration of that subject at its thirty-eighth session under the title appearing above. The Assembly requested the Secretary-General to submit a report through the Economic and Social Council to the Assembly at its thirty-seventh session in the light of the discussion that would take place in the Commission and on the basis of comments provided by States and international organizations.

At its thirty-eighth session, the Commission, by its decision 1982/105 of 11 March 1982 decided to defer discussion and action on the item until its thirty-ninth session, when the item would be accorded high priority.

In accordance with General Assembly resolution 36/162, the Secretary-General submitted, through the Economic and Social Council, to the General Assembly at its thirty-seventh session a report drawn up in the light of the action by the Commission at its thirty-eighth session and on the basis of comments provided by States (A/37/188 and Add.1).

At its thirty-seventh session, the General Assembly adopted resolution 37/179 on the subject. By this resolution the Assembly, inter alia, again condemned all totalitarian or other ideologies and practices, in particular Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms, or which have such consequences. It urged all States to draw attention to the threats to democratic institutions by the above-mentioned ideologies and practices and to consider taking measures, in accordance with their national constitutional systems and with the provisions of the Universal Declaration of Human Rights and the International Covenants on Human Rights, to prohibit or otherwise deter activities by groups or organizations or whoever practised those ideologies. The Assembly called upon the appropriate specialized agencies as well as intergovernmental and international non-governmental organizations to initiate or intensify measures against the ideologies and practices described above. The Assembly called once again upon all States to provide the Secretary-General with their comments on this question and reiterated its request to the Commission on Human Rights to consider this subject at its thirty-ninth session under the title: "Measures to be taken against all totalitarian or other ideologies and practices, including Nazi, Fascist and neo-Fascist, based on racial or ethnic exclusiveness or intolerance, hatred, terror, systematic denial of human rights and fundamental freedoms; or which have such consequences". The Secretary-General was requested to submit a report, through the Economic and Social Council, to the General Assembly at its thirty-eighth session in the light of the discussion that would take place in the Commission on Human Rights and on the basis of comments provided by States and international organizations.

23. Advisory Services in the Field of Human Rights

In accordance with General Assembly resolution 925 (X) and Economic and Social Council resolutions 684 (XXVI) and 1008 (XXVII), the Commission will have before it the report of the Secretary-General on the Programme of Advisory Services in the Field of Human Rights for 1981 (E/CN.4/1983/30).

The Commission will also have before it the report of the Seminar on National, Local and Regional Arrangements for the Promotion and Protection of Human Rights in the Asian Region, held in Colombo, Sri Lanka, from 21 June to 2 July 1982 (ST/HR/SER.A/12). Pursuant to General Assembly resolution 36/154 of 16 December 1981 the report was submitted to the General Assembly at its thirty-seventh session for its consideration (see A/37/422).

Having considered the Secretary-General's report, the General Assembly adopted two resolutions 37/171 and 37/172. In resolution 37/171 the Secretary-General was requested to transmit the report of the seminar to States members of the Economic and Social Commission for Asia and the Pacific and to invite their comments thereon and to submit the report of the seminar together with the comments received thereon to the Commission on Human Rights at its fortieth session for its consideration, and report through the Economic and Social Council to the thirty-ninth session of the General Assembly; and it also decided to consider this question further at its thirty-ninth session.

In resolution 37/172 the Secretary-General was requested to compile and update his reports on the status of regional arrangements for the promotion and protection of human rights; and to include therein a review of the exchanges of experience and information between the United Nations and regional organs and organizations for the promotion and protection of human rights as well as ways and means to further these exchanges and to report to the General Assembly at its thirty-eighth session.

The attention of the Commission is also drawn to a report of the Secretary-General on Assistance to Uganda (E/CN.4/1983/31) prepared in pursuance of its resolution 1982/37.

The Commission's attention is also drawn to General Assembly resolution 36/169 of 16 December 1981 concerning the observance of the thirty-fifth anniversary of the Universal Declaration of Human Rights and the annex to the resolution, containing suggested measures for the celebration of the thirty-fifth anniversary.

24. Communications concerning human rights

In accordance with Economic and Social Council decision 79 (LVIII) of 6 May 1975, the members of the Commission are furnished with the monthly confidential lists of communications and confidential documents containing the replies of Governments thereon, prepared by the Secretary-General in accordance with Economic and Social Council resolutions 728 F (XXVIII) and 1503 (XLVIII). The Commission will also have before it a confidential document of a statistical nature, prepared by the Secretary-General in accordance with Commission resolution 14 (XV).

Council resolution 728 F (XXVIII) - as did Council resolution 75 (V) of 5 August 1947 - also envisaged the distribution of a non-confidential list of communications dealing with the principles involved in the promotion of universal respect for and observance of human rights, which may be reviewed annually by an ad hoc committee of the Commission meeting shortly before each session. No such ad hoc committee has been established by the Commission for over 30 years and a non-confidential list has not been issued since the Commission's thirty-third session in 1977. All communications received and dealt with since then under Council resolution 728 F (XXVIII) have been summarized in the monthly confidential lists of communications.

The attention of the Commission is again drawn to Economic and Social Council resolution 1980/39 of 2 May 1980 by which the Commission was requested to submit to the Council, at its first regular session of 1982, its views on how communications relating to the status of women should be handled, taking into account the procedures of the Commission. The Commission did not give consideration to this matter at its thirty-eighth session and the Economic and Social Council decided at its first regular session in 1982 to request the Commission at its thirty-ninth session, in response to Council resolution 1980/39, to provide its views on how communications relating to the status of women should be handled, taking into account its own procedures, and to submit its views to the Council at its first regular session of 1983 (Economic and Social Council decision 1982/122 of 4 May 1982). When taking this decision, the Council had before it a note by the Secretary-General containing background information regarding existing procedures on communications within the United Nations system (document E/1982/34 and Corr.1 and Add.1 and 2) and a draft resolution contained in the report of the Commission on the Status of Women on its twenty-ninth session (see document E/1982/14, chap.I, sect.A, draft resolution X).

25. Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

This item was included in the provisional agenda of the thirty-ninth session of the Commission on the proposal of Ireland, the Netherlands and the United States of America in accordance with rule 5, paragraph 2 (c) of the rules of procedure of the functional commissions of the Economic and Social Council (see E/CN.4/1983/1/Add.1). In making this proposal the Governments concerned stated that "the inscription of this item [is] a logical follow-up to the adoption and proclamation by the United Nations General Assembly on 25 November 1981 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (General Assembly resolution 36/55)".

The attention of the Commission is drawn to General Assembly resolution 37/187 of 17 December 1982 by which the Assembly requested the Secretary-General to bring the Declaration to the attention of the appropriate specialized agencies, including the United Nations Educational, Scientific and Cultural Organization and other appropriate bodies within the United Nations system for the consideration of measures to implement the Declaration; the Assembly requested the Secretary-General to report to the Commission at its thirty-ninth session on views expressed. Accordingly the Commission will have before it a note by the Secretary-General transmitting the views referred to in the resolution (E/CN.4/1983/34).

By the same resolution the Assembly requested the Commission to consider what measures may be necessary to implement the Declaration and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief and to report through the Economic and Social Council to the General Assembly at its thirty-eighth session.

26. Draft provisional agenda for the fortieth session

Pursuant to paragraph 3 of Economic and Social Council resolution 1894 (LVII) of 1 August 1974, the Commission will have before it the draft provisional agenda for its fortieth session, with an indication in respect of each agenda item as to the documents to be submitted under that item and the legislative authority for their preparation, in order to enable the Commission to consider those documents from the point of view of their contribution to the work of the Commission, and their urgency and relevance in the light of the current situation.

In accordance with Council resolution 1979/41 of 10 May 1979, which was endorsed by General Assembly resolution 34/50 of 23 November 1979, the draft provisional agenda of the Commission at its fortieth session will be submitted to the Council. In paragraph 1 (e) of that resolution, the Council decided that the provisional agenda for its subsidiary bodies, together with the list of requested documentation, should be submitted to the Council for its review in order, inter alia, to establish greater consistency between the documentation of those bodies and the over-all documentation requested by the Council and other subsidiary bodies and greater consistency between the requests for documentation and the medium-term plan and the programme budget.

Further, the Economic and Social Council, in its resolution 1981/83 of 24 July 1981:

"5. Instructs the subsidiary bodies of the Council to take urgent measures to streamline their agendas and programmes of work and to bring about a substantial reduction in their requests for documents, bearing in mind the duration and cycles of their meetings, and to report to the Council on measures adopted, taking strictly into account the guidelines set forth in the pertinent resolutions and decisions of the Economic and Social Council and the General Assembly;

"6. Requests the Secretary-General to bring to the attention of intergovernmental and expert bodies, before decisions are adopted, any request for documentation that exceeds the ability of the Secretariat to prepare and process on time and within its approved resources;"

The annotations to item 2 of the provisional agenda are also relevant to the Commission's consideration of this item.

27. Adoption of the report of the Commission at its thirty-ninth session

In accordance with rule 37 of the rules of procedure, the Commission reports to the Economic and Social Council on the work of each session.

The attention of the Commission is drawn to Economic and Social Council resolution 1979/69 of 2 August 1979 entitled "Control and limitation of documentation", by which the Council decided to approve the revised guidelines for the format and contents of the reports of the functional commissions set out in a note by the Secretariat (E/1979/94 Annex) on the understanding that, in conformity with these revised guidelines, functional commissions will be able to introduce specific adjustments in their reporting and recording procedures, in the light of their established functions and of the questions dealt with by them.