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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-second session
Agenda item 13 (c)

CONCLUDING ITEMS:

ADOPTION OF THE REPORT ON THE FIFTY-SECOND SESSION

Draft report of the Sub-Commission on the Promotion
and Protection of Human Rights

Rapporteur: Mr. Rajendra Kalidas GOONESEKERE

CONTENTS*

<u>Chapter</u>	<u>Page</u>
II. RESOLUTIONS AND DECISIONS ADOPTED BY THE SUB-COMMISSION AT ITS FIFTY-FIRST SESSION	
A. <u>Resolutions</u>	
2000/5 Creation of a pre-sessional working group on the administration of justice	

* Documents E/CN.4/Sub.2/2000/L.10 and Addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights will be contained in documents E/CN.4/Sub.2/2000/L.11 and Addenda.

CONTENTS (continued)A. Resolutions

2000/6	The Social Forum
2000/7	Intellectual property rights and human rights.....
2000/8	Promotion of the realization of the right to drinking water and sanitation
2000/9	Optional protocol to the International Covenant on Economic, Social and Cultural Rights
2000/10	Traditional practices affecting the health of women and the girl child.....
2000/11	Situation of women and girls in territories controlled by Afghan armed groups
2000/12	United Nations Voluntary Trust Fund on Contemporary Forms of Slavery
2000/13	Systematic rape, sexual slavery and slavery-like practices
2000/14	Working Group on Indigenous Populations
2000/15	International Decade of the World's Indigenous People.....
2000/16	The rights of minorities
2000/17	The death penalty in relation to juvenile offenders
2000/18	Question of enforced disappearances

B. Decisions

2000/106	Report of the Chairperson of the Sub-Commission to the Commission on Human Rights
2000/107	Draft principles and guidelines for the protection of the heritage of indigenous peoples
2000/108	Update to the final working paper on indigenous peoples and their relationship to land
2000/109	The human rights problems and protections of the Roma.....

A. Resolutions

2000/5. Creation of a pre-sessional working group on the administration of justice

The Sub-Commission on the Promotion and Protection of Human Rights,
Recalling its decisions 1996/103 of 6 August 1996, 1996/119 of 29 August 1996,
1997/102 of 5 August 1997 and 1998/110 of 26 August 1998,

Concerned that the reduction in length of the annual session of the Sub-Commission will have serious adverse effects on the effectiveness of the sessional working group on the administration of justice,

Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2000/5 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, recommends the following draft decision to the Economic and Social Council for adoption:

‘The Economic and Social Council decides to authorize the Sub-Commission on the Promotion and Protection of Human Rights to convene a working group on the administration of justice for two days prior to the Sub-Commission’s session. The Council requests the Office of the High Commissioner for Human Rights to provide the working group with all the necessary assistance.’”

25th meeting
17 August 2000

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

2000/6. The Social Forum

The Sub-Commission on the Promotion and Protection of Human Rights,
Recalling the Universal Declaration of Human Rights and the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Recalling also the reports on the realization of economic, social and cultural rights submitted by many special rapporteurs to the Sub-Commission and the Commission on Human Rights, in particular those submitted by Mr. Danilo Türk, Mr. Asbjørn Eide,

Mr. Mustapha Mehedi, Mr. Leandro Despouy, Mr. El Hadji Guissé, Mr. Joseph Oloka-Onyango and Ms. Deepika Udagama, and Mr. David Weissbrodt, as well as many other important studies in this field, and the study on income distribution submitted by Mr. José Bengoa,

Taking into account Commission on Human Rights resolutions 1999/53 and 2000/17 and Sub-Commission resolution 1999/10 on the establishment of a forum for economic, social and cultural rights, to be called the Social Forum,

1. Decides to hold in Geneva a pre-sessional or intersessional forum on economic, social and cultural rights, to be known as the Social Forum, for three days, with the participation of 10 members of the Sub-Commission, taking into consideration equitable geographical representation and expertise in the field;

2. Requests the Commission on Human Rights and the Economic and Social Council to endorse the holding of the Social Forum;

3. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, noting resolution 2000/6 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, decides to endorse the decision of the Sub-Commission to hold in Geneva a pre-sessional or intersessional forum on economic, social and cultural rights, to be known as the Social Forum, for three days, with the participation of 10 members of the Sub-Commission, taking into consideration equitable geographical representation and expertise in the field.”

25th meeting
17 August 2000

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

2000/7. Intellectual property rights and human rights

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming that, as declared in article 28 of the Universal Declaration of Human Rights, everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration can be fully realized,

Stressing the need to work towards the realization for all people and communities of the rights, including to food, housing, work, health and education, enshrined in the International Covenant on Economic, Social and Cultural Rights,

Recalling its resolutions 1998/8, 1998/12, 1999/8, 1999/29 and 1999/30, and resolution 1999/59 of the Commission on Human Rights,

Noting the statement of the Committee on Economic, Social and Cultural Rights to the Third Ministerial Conference of the World Trade Organization (Seattle, 30 November-3 December 1999) (E/C.12/1999/9),

Welcoming the preliminary report submitted by J. Oloka-Onyango and D. Udagama on globalization and its impact on the full enjoyment of human rights (E/CN.4/Sub.2/2000/13),

Noting the Convention on Biological Diversity, which echoes the International Covenant on Economic, Social and Cultural Rights on the right to self-determination and on the balance of rights and duties inherent in the protection of intellectual property rights, and its provisions relating to, inter alia, the safeguarding of biological diversity and indigenous knowledge relating to biological diversity, and the promotion of the transfer of environmentally sustainable technologies,

Aware of the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), and of its current review by the World Trade Organization Council on TRIPS,

Aware also of the panel discussion organized by the World Intellectual Property Organization on 9 November 1998 on "Intellectual property and human rights",

Noting the Human Development Reports 1999 and 2000, which identify circumstances attributable to the implementation of the TRIPS Agreement that constitute contraventions of international human rights law,

Noting also that members of the Working Group on Indigenous Populations, participants at the World Intellectual Property Organization Roundtables on Intellectual Property and Indigenous Peoples (23-24 July 1998 and 1-2 November 1999), and representatives of indigenous peoples have called for adequate protection of the traditional knowledge and cultural values of indigenous peoples,

Noting further that actual or potential conflicts exist between the implementation of the TRIPS Agreement and the realization of economic, social and cultural rights in relation to, inter alia, impediments to the transfer of technology to developing countries, the consequences for the enjoyment of the right to food of plant variety rights and the patenting of genetically

modified organisms, “bio-piracy” and the reduction of communities’ (especially indigenous communities’) control over their own genetic and natural resources and cultural values, and restrictions on access to patented pharmaceuticals and the implications for the enjoyment of the right to health,

1. Affirms that the right to protection of the moral and material interests resulting from any scientific, literary or artistic production of which one is the author is, in accordance with article 27, paragraph 2, of the Universal Declaration of Human Rights and article 15, paragraph 1 (c), of the International Covenant on Economic, Social and Cultural Rights, a human right, subject to limitations in the public interest;

2. Declares, however, that since the implementation of the TRIPS Agreement does not adequately reflect the fundamental nature and indivisibility of all human rights, including the right of everyone to enjoy the benefits of scientific progress and its applications, the right to health, the right to food, and the right to self-determination, there are apparent conflicts between the intellectual property rights regime embodied in the TRIPS Agreement, on the one hand, and international human rights law, on the other;

3. Reminds all Governments of the primacy of human rights obligations over economic policies and agreements;

4. Requests all Governments and national, regional and international economic policy forums to take international human rights obligations and principles fully into account in international economic policy formulation;

5. Requests Governments to integrate into their national and local legislations and policies, provisions, in accordance with international human rights obligations and principles, that protect the social function of intellectual property;

6. Requests intergovernmental organizations to integrate into their policies, practices and operations, provisions, in accordance with international human rights obligations and principles, that protect the social function of intellectual property;

7. Calls upon States parties to the International Covenant on Economic, Social and Cultural Rights to fulfil the duty under articles 2, paragraph 1, 11, paragraph 2, and 15 paragraph 4, to cooperate internationally in order to realize the legal obligations under the Covenant, including in the context of international intellectual property regimes;

8. Requests the World Trade Organization, in general, and the Council on TRIPS during its ongoing review of the TRIPS Agreement, in particular, to take fully into account the existing State obligations under international human rights instruments;
9. Requests the Special Rapporteurs on globalization and its impact on the full enjoyment of human rights to include consideration of the human rights impact of the implementation of the TRIPS Agreement in their next report;
10. Requests the United Nations High Commissioner for Human Rights to undertake an analysis of the human rights impacts of the TRIPS Agreement;
11. Encourages the Committee on Economic, Social and Cultural Rights to clarify the relationship between intellectual property rights and human rights, including through the drafting of a general comment on this subject;
12. Recommends to the World Intellectual Property Organization, the World Health Organization, the United Nations Development Programme, the United Nations Conference on Trade and Development, the United Nations Environment Programme and other relevant United Nations agencies that they continue and deepen their analysis of the impacts of the TRIPS Agreement, including a consideration of its human rights implications;
13. Commends the Conference of Parties to the Convention on Biodiversity for its decision to assess the relationship between biodiversity concerns and intellectual property rights, in general, and between the Convention on Biological Diversity and TRIPS, in particular, and urges it also to consider human rights principles and instruments in undertaking this assessment;
14. Encourages the relevant civil society organizations to promote with their respective Governments the need for economic policy processes fully to integrate and respect existing human rights obligations, and to continue to monitor and publicize the effects of economic policies that fail to take such obligations into account;
15. Requests the Secretary-General to submit a report on this question to the Sub-Commission at its fifty-third session;
16. Decides to continue consideration of this question at its fifty-third session under the same agenda item.

25th meeting
17 August 2000

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

2000/8. Promotion of the realization of the right to drinking water and sanitation

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the indivisibility, interdependence and interrelated nature of economic, social and cultural rights and civil and political rights,

Mindful that the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and a wide range of other texts provide unequivocally that all persons are entitled to the full realization of economic, social and cultural rights,

Taking note of the Declaration on the Right to Development (General Assembly resolution 41/128 dated 4 December 1986, annex),

Recalling that in section I, paragraph 10, of the Vienna Declaration and Programme of Action (A/CONF.157/23), the World Conference on Human Rights reaffirmed the right to development as a universal and inalienable right and an integral part of human rights, and urged States and the international community to promote effective international cooperation for the realization of the right to development and the elimination of obstacles to development,

Taking account of the results of the World Summit for Social Development, held in Copenhagen from 6 to 12 March 1995, especially the recommendations in its Programme of Action (A/CONF.166/9, annex II) concerning the United Nations system to strengthen United Nations operational activities for development in order to ensure the implementation of the World Summit outcome, as well as the United Nations system's capacity for gathering and analysing information and developing indicators of social development, taking into account the work carried out by different countries, in particular by developing countries (para. 99 (e)),

Recalling resolutions I (Assessment of water resources), II (Community water supply), III (Agricultural water use), IV (Research and development of industrial technologies), VIII (Institutional arrangements for international cooperation in the water sector) and IX (Financing arrangements for international cooperation in the water sector) adopted at the United Nations Water Conference held in Mar del Plata, Argentina, from 14 to 25 March 1977 (United Nations Publication, Sales No. E.77.II.A.12, chap. I),

Taking particular account of the International Drinking Water Supply and Sanitation Decade (1981-1990) and the celebration, on 22 March of each year, of the World Day for Water, proclaimed by the General Assembly in its resolutions 35/18 of 10 November 1980 and 47/193 of 22 December 1992, respectively,

Bearing in mind the objectives of a “20:20”-type compact concerning in particular the access of all to drinking water supply and sanitation services, as stated in the UNDP Human Development Report 1994,

Recalling its resolution 1997/18 of 27 August 1997, in which it decided to entrust to Mr. El Hadji Guissé the task of drafting, without financial implications, a working paper on the question of the promotion of the realization of the right of access of everyone to drinking water supply and sanitation services,

Reaffirming the fundamental principles of equality, human dignity and social justice, and the right to drinking water supply and sanitation for every woman, man and child,

Convinced of the urgent and persistent need for increased attention and commitment by all decision-makers to the right of everyone to drinking water supply and sanitation,

Bearing in mind the Protocol on Water and Health to the 1992 Convention on the Use of Transboundary Watercourses and International Lakes, adopted in London in 1999 under the auspices of the Economic Commission for Europe, which refers to the principle of equitable access to water which should be provided for all members of the population (art. 5 (l)),

Bearing in mind also the principles of the Madeira Declaration on the sustainable management of water resources, adopted by the European Council on Environment Law on 17 April 1999, and the resolution on drinking water adopted by the Council on 28 April 2000,

Taking into consideration the working paper on the promotion of the realization of the right of everyone to access to drinking water supply and sanitation services prepared by Mr. El Hadji Guissé (E/CN.4/Sub.2/1998/7),

Recalling Commission on Human Rights decision 1999/108 dated 27 April 1999 on the right to drinking water supply and sanitation services,

Deeply concerned to note that more than one billion people in the world are still deprived of access to drinking water supply and that almost four billion are not living in decent conditions of sanitation,

1. Takes note of the annex to the note by the Secretariat (E/CN.4/Sub.2/2000/16), which constitutes a supplement to the working paper on the right of everyone to drinking water supply and sanitation services (E/CN.4/Sub.2/1998/7) prepared by Mr. El Hadji Guissé;

2. Subscribes to the remarks of the expert to the effect that various obstacles linked to the realization of the right of everyone to drinking water supply and sanitation seriously

impede the realization of economic, social and cultural rights, and that equality is an essential element for effective participation in the realization of the right to development and the right to a healthy environment;

3. Recommends to the Commission on Human Rights that it authorize the Sub-Commission to appoint Mr. El Hadji Guissé as Special Rapporteur to conduct a detailed study on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation, at both the national and international levels, taking also into account questions related to the realization of the right to development, in order to determine the most effective means of reinforcing activities in this field;

4. Requests the Special Rapporteur to define as accurately and as fully as possible the content of the right to water in relation to other human rights;

5. Also requests the Special Rapporteur to submit to the Sub-Commission a preliminary report at its fifty-third session, a progress report at its fifty-fourth session and a final report at its fifty-fifth session;

6. Requests the Secretary-General to invite Governments, United Nations bodies, the specialized agencies and interested non-governmental organizations to provide the Special Rapporteur with information relevant to the preparation of his report;

7. Also requests the Secretary-General to provide the Special Rapporteur with any assistance necessary to enable him to fulfil his mandate, including providing him with the assistance of a consultant specialized in this field;

8. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of Sub-Commission on the Promotion and Protection of Human Rights resolution 2000/ ... of ... August 2000, endorses the decision to appoint Mr. El Hadji Guissé as Special Rapporteur to conduct a detailed study on the relationship between the enjoyment of economic, social and cultural rights and the promotion of the realization of the right to drinking water supply and sanitation, at both the national and international levels, taking also into account questions related to the realization of the right to development, in order to determine the most

effective means of reinforcing activities in this field, and defining as accurately and fully as possible the content of the right to drinking water in relation to other human rights, and also endorses the decision to request the Special Rapporteur to submit to the Sub-Commission a preliminary report at its fifty-third session, a progress report at its fifty-fourth session and a final report at its fifty-fifth session. The Commission requests the Secretary-General to provide the Special Rapporteur with any assistance necessary to enable him to fulfil his mandate, including providing him with the assistance of a consultant specialized in this field.”

25th meeting
17 August 2000

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

2000/9. Optional protocol to the International Covenant
on Economic, Social and Cultural Rights

The Sub-Commission on the Promotion and Protection of Human Rights,

Guided by the principles relating to economic, social and cultural rights enshrined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights,

Reaffirming the need to reinforce the realization of economic, social and cultural rights through the provision of adequate mechanisms and remedies in the event of their violation,

Bearing in mind its call for the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights to consider communications from individuals made in its resolution 1996/13 of 23 August 1996,

Welcoming the comments made by 16 States on the report submitted by the Committee on Economic, Social and Cultural Rights on a draft optional protocol for the consideration of communications in relation to the Covenant (E/CN.4/1997/105, annex) but concerned that the vast majority of States that have ratified the Covenant have not yet submitted their comments,

Recalling the decision of the Commission on Human Rights in resolution 2000/9 of 17 April 2000 to request the High Commissioner for Human Rights to invite all States to submit their comments both on the report mentioned above and on the options relating to the proposal for a draft optional protocol contained in the report of the High Commissioner (E/CN.4/2000/49),

Recalling also the decision of the Commission on Human Rights in the same resolution to encourage the High Commissioner to strengthen the research and analytical capacities of her Office in the field of economic, social and cultural rights and to share her expertise, inter alia through the holding of expert meetings,

1. Reiterates the call made in Commission resolution 2000/9 for all States to submit their comments on the report by the Committee on Economic, Social and Cultural Rights on a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights and on the options relating to the proposal for a draft optional protocol contained in the report of the High Commissioner for Human Rights (E/CN.4/2000/49);
2. Suggests that the Commission on Human Rights establish an open-ended working group entrusted with the further study of a draft optional protocol;
3. Requests the High Commissioner for Human Rights to organize an expert meeting on a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights and to submit the report of this meeting to it at its fifty-third session;
4. Decides to monitor progress towards the further elaboration and the adoption of a draft optional protocol to the International Covenant on Economic, Social and Cultural Rights at its fifty-third session.

25th meeting
17 August 2000

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

2000/10. Traditional practices affecting the health of women and the girl child
The Sub-Commission on the Promotion and Protection of Human Rights,
Recalling resolution 1999/13 of 25 August 1999,
Affirming once again that female genital mutilation is a cultural practice which profoundly affects the physical and mental health of the girl child and of the women who are its victims,

Stressing that other practices equally harmful to the health of women and the girl child exist and are being perpetuated,

Recalling that the Universal Declaration of Human Rights, in its article 5, and the International Covenant on Civil and Political Rights, in its article 7, proclaim that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

Emphasizing the centrality of the Plan of Action adopted by the Sub-Commission (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1) to the elimination of harmful traditional practices and the relevance of the conclusions reached at the regional seminars held in Burkina Faso (E/CN.4/Sub.2/1991/48) and Sri Lanka (E/CN.4/Sub.2/1994/10/Add.1 and Corr.1),

Deeply regretting that the Special Rapporteur is encountering serious difficulties in performing her important task because of the absence of replies from numerous Governments concerned by harmful traditional practices on measures taken to implement the Plan of Action for the Elimination of Harmful Traditional Practices,

Noting with satisfaction General Assembly resolution 54/133 on traditional or customary practices affecting the health of women and girls,

Strongly encouraging the specialized agencies and organs of the United Nations, in particular the United Nations Children's Fund, the United Nations Population Fund and the World Health Organization, to continue to devote particular attention to the question of harmful traditional practices affecting the health of women and girls, particularly in the context of their regional and national programmes,

Expressing its satisfaction to national and international non-governmental organizations for the numerous activities they are undertaking in the field to develop the awareness of the populations concerned with a view to the eradication of harmful traditional practices such as female genital mutilation,

Considering that efforts to combat harmful traditional practices should be continued through, inter alia, further development of the awareness of Governments and all national protagonists concerned by these practices,

1. Takes note with satisfaction of the fourth report on the situation regarding the elimination of traditional practices affecting the health of women and the girl child (E/CN.4/Sub.2/2000/17) submitted by the Special Rapporteur, Ms. Halima Embarek Warzazi, and shares her concern about the perpetuation of certain harmful traditional practices, in particular dowry-related violence, domestic violence and crimes of honour;

2. Appeals to all States concerned to intensify efforts to develop awareness of, and mobilize national public opinion concerning, the harmful effects of all forms of harmful traditional practices, in particular through education, information and training, in order to achieve the total eradication of these practices;

3. Requests all non-governmental organizations dealing with women's issues to continue to devote part of their activities to the study of the various harmful traditional practices and ways and means of eradicating them, and to inform the Special Rapporteur of any situation which merits the attention of the international community;

4. Welcomes the progress made in combating harmful traditional practices, including female genital mutilation, through the impetus of non-governmental organizations, in particular the Inter-African Committee, which should be given maximum encouragement;

5. Appeals to the international community to provide material, technical and financial support to the non-governmental organizations and groups working with dedication to achieve the total elimination of these cultural practices which are harmful to girl children and women;

6. Calls upon all Governments to give their full attention to the implementation of the Plan of Action and requests the Secretary-General to invite them to submit information regularly to the Sub-Commission on the situation regarding harmful traditional practices in their country;

7. Considers that one of the most effective means of developing the awareness of the Governments concerned regarding the problems of harmful traditional practices and appropriate solutions would be to organize regional seminars on the question;

8. Reiterates its proposal that three seminars be held in Africa, Asia and Europe in order to review progress achieved since 1985, and ways and means of overcoming the obstacles encountered in the implementation of the Plan of Action for the Elimination of Harmful Traditional Practices, and appeals for funding for these activities;

9. Decides to extend the mandate of the Special Rapporteur, Ms. Halima Embarek Warzazi, for two more years and to request her to submit updated reports to the Sub-Commission at its fifty-third and fifty-fourth sessions;

10. Decides to continue consideration of the question at its fifty-third session, under the same agenda item;

11. Decides to recommend the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2000/10 of 17 August 2000, of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the decision of the Sub-Commission to extend the mandate of the

Special Rapporteur, Mrs. Halima Embarek Warzazi, for two more years and to request the Special Rapporteur to submit updated reports to the Sub-Commission at its fifty-third and fifty-fourth sessions.”

25th meeting
17 August 2000

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

2000/11. Situation of women and girls in the territories controlled by Afghan armed groups

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 1999/14,

Taking note with appreciation of the report of the Secretary-General

(E/CN.4/Sub.2/2000/18), containing substantive information and recommendations,

Recalling that the fundamental rights of women and girls in the territories controlled by Afghan armed groups must be respected in all circumstances and that deliberate policies discriminating against women and girls in that country on the grounds of sex constitute gross and flagrant violations of the international instruments relating to human rights,

Regretting that, according to the report of the Secretary-General, the situation of women and girls overall has largely remained unchanged,

1. Condemns all forms of discrimination and violation affecting women and girls in the territories controlled by Afghan armed groups, who are deprived of the enjoyment of civil and political rights and the rights to health, employment, freedom of movement and security;

2. Notes, in particular, with concern the lack of any official commitment on the part of the Taliban to education for girls and the fact that, in the areas controlled by the Taliban, only boys have access to educational facilities;

3. Notes in this connection that this situation is totally at variance with the precepts of Islam, which imposes on Muslims the duty to acquire an education and to pursue knowledge;

4. Notes with concern that, by being confined to their homes, women, whose sole resources derive from agriculture and home-based crafts, are exploited by men and that the situation of those women who have had employment opportunities provided by non-governmental organizations and United Nations agencies is likely to worsen following the promulgation of prohibitory edicts;

5. Considers it essential that the international community continue to follow very closely the situation of women and girls in the territories controlled by Afghan armed groups and bring the necessary pressure to bear so that all the restrictions imposed on women, which constitute flagrant and systematic violations of all the internationally recognized economic, social, cultural, civil and political rights, are removed;

6. Congratulates the United Nations agencies and non-governmental organizations on the measures and programmes adopted with a view to lending support and assistance to women and girls in the territories controlled by Afghan armed groups and strongly encourages them to continue their efforts despite the difficulties encountered;

7. Supports United Nations activities aimed at promoting the fundamental rights of women and girls in the territories controlled by Afghan armed groups, and also efforts to find possibilities of constructive engagement at the community level in the context of community projects;

8. Considers that it is the duty of these groups to respect the fundamental rights of the individual and particularly those of women, in conformity with international law and humanitarian law;

9. Requests the Commission on Human Rights to insist that the Afghan armed groups abide by international human rights standards in relation to women, which entails the repeal of all edicts and the end to all forms of discrimination on the grounds of sex;

10. Considers that any diplomatic recognition and any financial agreement with the Taliban regime would reinforce the discriminatory treatment which the latter is reserving for women, whereas it must be induced to end such treatment;

11. Requests the Secretary-General to continue to make available all the information that can be compiled on this question;

12. Decides to continue consideration of this question at its fifty-third session under the same agenda item.

26th meeting

17 August 2000

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

2000/12. United Nations Voluntary Trust Fund on
Contemporary Forms of Slavery

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling General Assembly resolution 46/122 of 17 December 1991 by which it established the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery to assist representatives of non-governmental organizations to participate in the deliberations of the Working Group on Contemporary Forms of Slavery by providing them with financial assistance and to extend, through established channels of assistance, humanitarian, legal and financial aid to individuals whose human rights have been severely violated as a result of contemporary forms of slavery,

Recalling also the close relationship between the mandate and activities of the Working Group and those of the Board of Trustees of the Trust Fund and the necessary cooperation between them,

Concerned at the insufficiency of contributions to the Fund,

1. Notes with satisfaction the participation of a growing number of representatives of non-governmental organizations financed by the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and their valuable contribution to the work of the Working Group on Contemporary Forms of Slavery at its twenty-fifth session;
2. Expresses its appreciation to the donor Governments, non-governmental organizations and individuals, in particular new donors;
3. Encourages the activities of those non-governmental organizations financed by the Fund;
4. Expresses its support for the work of the members of the Board of Trustees of the Fund, in particular their fund-raising activities;
5. Urges all Governments, non-governmental organizations, other private and public entities and individuals to contribute annually to the Fund in order to enable the Fund to fulfil its mandate effectively;
6. Encourages all donors who have pledged a contribution to the Fund to contribute as soon as possible;
7. Emphasizes the need for contributions to the Fund on a regular basis and, if possible, before the end of the current year, in order to enable the Board of Trustees to recommend grants to assist representatives of organizations to participate in the deliberations of

the Working Group on Contemporary Forms of Slavery at its twenty-sixth session and to finance projects of humanitarian assistance by non-governmental organizations in the field;

8. Encourages the Board of Trustees of the Fund to finance non-governmental organizations from all the geographical regions in order to provide the widest possible view of contemporary forms of slavery in the world;

9. Invites the members of the Board of Trustees of the Fund in a position to do so to participate at the twenty-sixth session of the Working Group;

10. Decides to continue to examine the situation and the activities of the Fund at its fifty-third session.

26th meeting

17 August 2000

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

2000/13. Systematic rape, sexual slavery and slavery-like practices

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 1993/24 of 25 August 1993 and its decision 1994/109 of 19 August 1994, establishing the mandate and the framework for the study on systematic rape, sexual slavery and slavery-like practices during armed conflicts, including internal armed conflict, as well as Commission on Human Rights decision 1994/103 of 4 March 1994,

Recalling also its decision 1997/114 of 27 August 1997, in which it decided to entrust Ms. Gay J. McDougall with the task of completing the study and submitting it to the Sub-Commission at its fiftieth session,

Recalling further its resolution 1999/16 of 26 August 1999, in which it requested the Special Rapporteur to submit to the Sub-Commission at its fifty-second session a report containing the updated information presented at its fifty-first session, with a view to wide distribution of the entire study in all the official languages, including to Governments, competent bodies of the United Nations, specialized agencies, regional intergovernmental organizations, the established international tribunals and to the Assembly of States Parties of the International Criminal Court,

Recalling its resolution 1998/18 of 21 August 1998 on systematic rape, sexual slavery and slavery-like practices during armed conflicts, including internal armed conflict,

Recalling also that the Rome Statute of the International Criminal Court specifically recognizes that sexual violence and sexual slavery committed in the context of either an internal or an international armed conflict may constitute crimes against humanity and war crimes falling within the jurisdiction of the Court,

Encouraged that the Rome Statute of the International Criminal Court also devotes useful attention to the protection and rehabilitation of victims of sexual violence, along with significant protections for the collection of evidence and the testimony of witnesses in cases involving gender-related violence and sexual slavery,

Recalling the final report of the Special Rapporteur on systematic rape, sexual slavery and slavery-like practices during armed conflicts, including internal armed conflict (E/CN.4/Sub.2/1998/13),

Reaffirming its resolution 1999/16 of 26 August 1999 addressing systematic rape, sexual slavery and slavery-like practices during armed conflicts, including internal armed conflict,

Welcoming the update to her final report submitted by the Special Rapporteur (E/CN.4/Sub.2/2000/21),

1. Expresses its deep appreciation to the Special Rapporteur for having submitted the updated information in a timely fashion and at a crucial point in the development of international criminal law;
2. Takes note of the report of the High Commissioner for Human Rights on systematic rape, sexual slavery and slavery-like practices during armed conflict (E/CN.4/Sub.2/2000/20);
3. Calls upon the High Commissioner for Human Rights to monitor the implementation of the present resolution as well as resolution 1999/16 and to submit a report to the Sub-Commission at its fifty-third session on the issue of systematic rape, sexual slavery and slavery-like practices in situations of ongoing conflict, including information on the status and implementation of the recommendations made by the Special Rapporteur in her report on systematic rape, sexual slavery and slavery-like practices during armed conflicts (E/CN.4/Sub.2/1998/13) and the update thereto (E/CN.4/Sub.2/2000/21);
4. Recommends that the Commission on Human Rights endorse the principles stated in the present resolution at its fifty-seventh session;
5. Decides to consider the issue under the same agenda item at its fifty-third session;

6. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2000/13 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, decides to recommend to the Economic and Social Council the following decision for adoption:

‘The Economic and Social Council decides to request the Secretary-General to publish, in all official languages, the report and updated report of the Special Rapporteur of the Sub-Commission for the Promotion and Protection of Human Rights on systematic rape, sexual slavery and slavery-like practices during armed conflicts, including internal armed conflict (E/CN.4/Sub.2/1998/13 and E/CN.4/Sub.2/2000/21), and to transmit it to Governments, competent bodies of the United Nations, specialized agencies, regional intergovernmental organizations, the established international tribunals and to the Assembly of States Parties of the International Criminal Court, in order to ensure that it receives wide distribution.’”

26th meeting
17 August 2000

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

2000/14. Working Group on Indigenous Populations

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling its resolution 1999/20 of 26 August 1999,

Reaffirming the urgent need to recognize, promote and protect more effectively the rights of indigenous peoples, including their human rights and fundamental freedoms,

Recalling Economic and Social Council resolution 1982/34 of 7 May 1982, in which the Council authorized the Sub-Commission to establish annually a working group on indigenous populations,

Taking note with deep appreciation of the report of the Working Group on Indigenous Populations on its eighteenth session (E/CN.4/Sub.2/2000/24) and, in particular, of its conclusions and recommendations,

Recalling Commission on Human Rights resolution 1993/30 of 5 March 1993, in which the Commission recommended to all thematic rapporteurs, special representatives, independent experts and working groups to pay special attention, within the framework of their mandates, to the situation of indigenous people,

Welcoming the discussions in the Working Group on Indigenous Populations during its eighteenth session on the principal theme “Indigenous children and youth” and the fruitful debate on standard-setting, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and the International Decade of the World’s Indigenous People,

Welcoming also the contribution made by the workshop on indigenous children and youth convened by non-governmental organizations at the United Nations Office at Geneva from 19 to 21 July 2000 to the debate on the principal theme of the eighteenth session,

Mindful of the relevant recommendations adopted by the World Conference on Human Rights, in particular those contained in Part I, paragraph 20, and Part II, paragraphs 28 to 32, of the Vienna Declaration and Programme of Action,

1. Expresses its deep appreciation to all members of the Working Group on Indigenous Populations, and in particular to its Chairperson-Rapporteur, Mr. Miguel Alfonso Martínez, for the important and constructive work accomplished during its eighteenth session;
2. Requests the Secretary-General to transmit the report of the Working Group on its eighteenth session to the United Nations High Commissioner for Human Rights, indigenous organizations, Governments and intergovernmental and non-governmental organizations concerned, as well as to all thematic rapporteurs, special representatives, independent experts and working groups;
3. Requests that the report of the Working Group be made available to the Commission on Human Rights at its fifty-seventh session;
4. Recommends that the Working Group, upon request, cooperate as a body of experts in any conceptual clarification or analysis which might assist the open-ended inter-sessional working group established by the Commission on Human Rights in its resolution 1995/32 of 3 March 1995 to elaborate further the draft United Nations declaration on the rights of indigenous peoples;

5. Also recommends that the Office of the High Commissioner for Human Rights organize, in cooperation with indigenous organizations, the United Nations Children's Fund, the Committee on the Rights of the Child, Governments and relevant non-governmental organizations, a further workshop on indigenous children and youth;

6. Further recommends that the Working Group at its nineteenth session adopt as the principal theme "Indigenous peoples and their right to development" and that the Office of the High Commissioner for Human Rights invite the United Nations Development Programme and other relevant United Nations organizations to provide information and, if possible, participate in the meetings of the Working Group;

7. Requests the Commission on Human Rights to invite Governments, intergovernmental organizations and indigenous and non-governmental organizations to provide information and data, in particular on the principal theme, to the Working Group at its nineteenth session;

8. Requests the High Commissioner for Human Rights, in consultation with interested Governments, to make efforts to organize meetings on indigenous issues in different parts of the world, in particular in Africa, Asia and Latin America, to provide greater opportunity for participation of peoples from these regions and to raise public awareness about indigenous peoples;

9. Requests the High Commissioner to encourage studies with respect to the rights to food and adequate nutrition of indigenous peoples and indigenous peoples and poverty, stressing the linkage between their present general situation and their land rights, and to develop further cooperation with the Food and Agriculture Organization of the United Nations and the World Food Programme on indigenous issues;

10. Recommends that Ms. Erica-Irene Daes, member of the Working Group, prepare a second working paper on indigenous peoples and racism and racial discrimination for consideration at the second session of the Preparatory Committee for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance to be held in May 2001, and that the working papers or recommendations which may be prepared by any member of the Working Group on the issues to be discussed at the World Conference should be incorporated in the relevant list of Conference documentation;

11. Requests Mr. Miguel Alfonso-Martínez to submit to the Working Group at its nineteenth session the working paper on possible principles and guidelines for private sector energy and mining concerns that may affect indigenous lands referred to in Sub-Commission resolution 1998/23 of 21 August 1998;
12. Calls upon the organizers of the World Conference to ensure that a mechanism exists for the full and active participation of representatives of indigenous peoples in all preparatory meetings as well as the World Conference itself, as a further measure to implement the theme of the International Decade of the World's Indigenous People, "Partnership for action";
13. Recommends that the organizers of the World Conference invite indigenous representatives to address its plenary session, in the spirit of General Assembly resolution 50/157 of 21 December 1995 and as a further measure to implement the theme of the International Decade of the World's Indigenous People, "Partnership for action";
14. Also recommends that the Office of the High Commissioner for Human Rights organize a parallel activity on indigenous issues during the World Conference and that funds be set aside for this purpose as well as for the participation of indigenous peoples at the Conference;
15. Further recommends that a chapter in both the declaration and the programme of action of the World Conference be dedicated to indigenous peoples and that the World Conference recognize that indigenous peoples, when referred to collectively, are "peoples";
16. Recommends that the Chairperson-Rapporteur or any other member of the Working Group be invited to take part in the preparatory meetings for the World Conference and in the World Conference itself;
17. Requests the Chairperson-Rapporteur or other member of the Working Group to inform the Board of Trustees of the United Nations Voluntary Fund for Indigenous Populations that the Working Group at its nineteenth session will highlight the principal theme "Indigenous peoples and their right to development", so that the Board can bear this in mind when it meets for its fourteenth session;
18. Requests the Commission on Human Rights to consider the usefulness of appointing a special rapporteur on indigenous issues to request and receive information from Governments, indigenous peoples and intergovernmental and non-governmental organizations relating to the recognition, promotion and protection of the human rights of indigenous peoples;

19. Appeals to all Governments, organizations, including non-governmental organizations and indigenous groups, and individuals in a position to do so, to consider contributing to the United Nations Voluntary Fund for Indigenous Populations in order to assist representatives of indigenous communities and organizations to participate in the deliberations of the Working Group on Indigenous Populations and the open-ended inter-sessional working group on the draft United Nations declaration on the rights of indigenous people;

20. Requests the Secretary-General to prepare an annotated agenda for the nineteenth session of the Working Group;

21. Requests the Commission on Human Rights to request the Economic and Social Council to authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-third session of the Sub-Commission in 2001;

22. Recommends to the Commission on Human Rights the following draft decisions for adoption:

“The Commission on Human Rights, taking note of resolution 2000/14 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission’s request that the Economic and Social Council authorize the Working Group on Indigenous Populations to meet for five working days prior to the fifty-third session of the Sub-Commission in 2001.”

“The Commission on Human Rights, taking note of paragraph 216 of the report of the Working Group on Indigenous Populations on its eighteenth session (E/CN.4/Sub.2/2000/24), decides to recommend that the Economic and Social Council authorize the former Chairperson-Rapporteur of the Working Group, Ms. Erica-Irene Daes, to continue to participate in all meetings in preparation for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and in the World Conference itself, and to authorize the Chairperson-Rapporteur of the eighteenth session of the Working Group, Mr. Miguel Alfonso Martínez, to participate in the World Conference and in the preparatory meeting for the Latin American region, to be held in Santiago in December 2000.”

26th meeting
17 August 2000

[Adopted without a vote. See chap. 1X.]

2000/15. International Decade of the World's Indigenous People

The Sub-Commission on the Promotion and Protection of Human Rights,

Bearing in mind that one of the purposes of the United Nations, as set forth in the Charter, is the achievement of international cooperation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recalling General Assembly resolution 48/163 of 21 December 1993, in which the Assembly proclaimed the International Decade of the World's Indigenous People,

Recalling also that the goal of the Decade is the strengthening of international cooperation for the solution of problems faced by indigenous peoples in such areas as human rights, the environment, development, education and health, as well as with regard to their lands and their resources,

Recalling further General Assembly resolution 50/157 of 21 December 1995, in which the Assembly adopted the comprehensive programme of activities for the International Decade of the World's Indigenous People,

Recalling the requests by the General Assembly, in its resolutions 50/157 and 52/108, to assess the objectives of the Decade by quantifiable outcomes that will improve the lives of indigenous peoples and to evaluate the objectives halfway through the Decade and at its end,

Bearing in mind the most recent report of the Secretary-General on the programme of activities of the International Decade (A/54/487 and Add.1),

Recalling its resolution 1999/19,

Noting with particular concern the delay in the work on the elaboration of the draft United Nations declaration on the rights of indigenous peoples, one of the main objectives of the Decade,

Having considered the report of the Working Group on Indigenous Populations on its eighteenth session (E/CN.4/Sub.2/2000/24),

1. Welcomes the observance of the International Day of the World's Indigenous People on 27 July 2000;

2. Recommends that the celebration of the International Day of the World's Indigenous People be held on the fourth day of the nineteenth session of the Working Group on Indigenous Populations in order to ensure as great a participation of indigenous peoples as possible;

3. Welcomes the decision by the General Assembly in its resolution 52/108 of 12 December 1997 to appoint the United Nations High Commissioner for Human Rights as Coordinator for the International Decade of the World's Indigenous People;

4. Recommends that the Coordinator for the Decade hold, preferably before the end of 2000, a special fund-raising meeting with the permanent missions in Geneva of interested Governments and the members of the Advisory Group for the Voluntary Fund for the Decade to encourage financial contributions to the Voluntary Fund for the Decade and the United Nations Voluntary Fund for Indigenous Populations, as well as the appointment of qualified staff, including indigenous persons, from within the regular budget of the United Nations, to assist with the work of the Office of the United Nations High Commissioner for Human Rights relating to the indigenous programme, and submit to the Sub-Commission at its fifty-third session and its Working Group on Indigenous Populations at its nineteenth session a report on the results of initiatives taken to those effects;

5. Urges Governments and intergovernmental and non-governmental organizations and individuals to contribute to the Voluntary Fund for the Decade established by the Secretary-General and invites indigenous organizations to do likewise;

6. Recommends that attention continue to be given to improving the extent of the participation of indigenous peoples in planning and implementing the activities of the Decade in order to implement fully the Decade's theme, "Indigenous people: partnership in action";

7. Strongly recommends that, in accordance with General Assembly resolution 50/157 of 21 December 1995, the draft United Nations declaration on the rights of indigenous peoples be adopted as early as possible and not later than the end of the International Decade in 2003 and, to this end, appeals to all participants in the inter-sessional working group of the Commission on Human Rights and to all others concerned to put into practice new, more dynamic ways and means of consultation and consensus-building, in order to accelerate the preparation of the draft declaration;

8. Takes note of Commission on Human Rights resolution 2000/87 of 27 April 2000 and Economic and Social Council resolution 2000/... of 28 July 2000, in which the Commission and the Council respectively decided to establish the Permanent Forum on Indigenous Issues;

9. Notes the view expressed by many indigenous participants during its fifty-second session and during the eighteenth session of the Working Group on Indigenous Populations that the establishment of the Permanent Forum should not necessarily be construed as grounds for the abolition of the Working Group, which should continue to carry out the ample, flexible mandate conferred upon it by the Economic and Social Council in resolution 1982/34 of 7 May 1982;

10. Congratulates the Advisory Group for the Voluntary Fund for the Decade for the work it has accomplished, for its initiatives and for the transparency of its working methods and decisions;

11. Recommends that the High Commissioner, in consultation with interested Governments, organize meetings and other activities in all regions of the world within the framework of the International Decade in order, inter alia, to raise public awareness about indigenous issues;

12. Recommends that the High Commissioner for Human Rights organize a seminar on treaties, agreements and other legal instruments between States and indigenous peoples, to discuss possible follow-up to the study completed by the Special Rapporteur, Mr. Miguel Alfonso Martínez, and to explore ways and means of implementing the recommendations included in his final report (E/CN.4/Sub.2/1999/20);

13. Also recommends that the High Commissioner organize, not later than the end of 2002, in collaboration with the United Nations Conference on Trade and Development, the International Labour Organization, the World Trade Organization and other relevant organizations, a workshop on indigenous peoples, private sector natural resource, energy and mining companies and human rights in order to contribute to the ongoing work of the sessional working group on the working methods and activities of transnational corporations;

14. Further recommends that the High Commissioner take the necessary action in order to promote the establishment, within the Office of Legal Affairs of the Secretariat, of a database on national legislation on matters of relevance to indigenous peoples, as well as a compilation of treaties and agreements between States and indigenous peoples, as well as to establish, in coordination with the Department of Public Information, a global public awareness programme with respect to indigenous issues;

15. Invites the Commission on Human Rights to recommend that the Economic and Social Council authorize the convening of an international conference on indigenous issues during the last year of the International Decade of the World's Indigenous People (2003) with a view to evaluating the Decade and considering future national and international policies and programmes which may contribute to effective action by States in order to promote better relations between the indigenous and non-indigenous segments of their population;

16. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of resolution 2000/15 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, endorses the Sub-Commission's request that the Council authorize the convening during the year 2003 of an international conference with a view to evaluating the International Decade of the World's Indigenous People and considering future national and international policies and programmes which may contribute to effective action by States in order to promote better relations between the indigenous and non-indigenous segments of their population.”

26th meeting
17 August 2000

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

2000/16. The rights of minorities

The Sub-Commission on the Promotion and Protection of Human Rights,

Noting Commission on Human Rights resolution 2000/52 of 25 April 2000 on the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Having considered the report of the Working Group on Minorities on its sixth session (E/CN.4/Sub.2/2000/27) and in particular the conclusions and recommendations contained therein,

Disturbed at the continued widespread occurrence of violent conflicts in many parts of the world where ethnic or religious hostility is engendered and exploited by one or more of the parties to the conflict,

Reiterating the need for States, minorities and majorities to search for peaceful and constructive solutions to problems affecting minorities,

Emphasizing the need for system-wide cooperation within the United Nations to facilitate peaceful solutions to situations involving minorities,

1. Endorses the conclusions and recommendations of the Working Group on Minorities at its sixth session as contained in its report (E/CN.4/Sub.2/2000/27);
2. Welcomes the Working Group's practice of requesting its members to prepare, without financial implications, working papers on thematic issues;
3. Notes with satisfaction the comments submitted by States, specialized agencies, other United Nations organs and bodies, non-governmental organizations and scholars on the commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (E/CN.4/Sub.2/AC.5/1998/WP.1) and the revised commentary prepared on the basis of those comments by the Chairman of the Working Group (E/CN.4/Sub.2/AC.5/2000/WP.1);
4. Endorses the recommendation of the Working Group that the revised commentary prepared by its Chairman be published as part of a manual containing the Declaration and an overview of relevant procedures and mechanisms of regional and international organizations;
5. Also endorses the recommendation of the Working Group that its Chairman prepare a statement for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, focusing on the relationship between the elimination of racial discrimination and the protection of minorities;
6. Requests the Secretary-General to invite United Nations bodies and the specialized agencies, including the World Bank and the International Monetary Fund, as well as regional organizations, to provide information to the Working Group on their activities and programmes in the field of minority protection;
7. Takes note with satisfaction of the seminar held in Montreal, Canada, from 29 September to 2 October 1999 on intercultural and multicultural education, and of the African seminar on multiculturalism, held in Arusha, United Republic of Tanzania from 13 to 15 May 2000;

8. Noting with appreciation the intention of the Working Group to encourage the convening of one seminar in the Asian and Pacific region, one in the Americas focusing on the situation of the Afro-American minorities, and one seminar to be held in Africa in follow-up to the Arusha seminar held in May 2000;

9. Recommends that the Commission on Human Rights request Governments and intergovernmental and non-governmental organizations to submit their views on the desirability or otherwise of the drafting of a convention on the rights of persons belonging to minorities, taking into account regional conventions on the subject, and also to give their views on the content of such a convention;

10. Appeals to all States, specialized agencies, non-governmental organizations and scholars to continue to participate actively in the work of the Working Group;

11. Recommends that the Office of the United Nations High Commissioner for Human Rights be strengthened to enable it to provide adequate services to the Working Group and to undertake relevant studies, evaluation and action.

26th meeting
17 August 2000

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

2000/17. The death penalty in relation to juvenile offenders

The Sub-Commission on the Promotion and Protection of Human Rights,

Reaffirming the development towards the abolition of the death penalty generally, as reflected in article 6, paragraph 2, of the International Covenant on Civil and Political Rights and in the Second Optional Protocol thereto, aiming at the abolition of the death penalty, Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 4, paragraphs 2 and 3, of the American Convention on Human Rights and the Protocol to the American Convention to Abolish the Death Penalty,

Recalling Commission on Human Rights resolutions 1998/8 of 3 April 1998, 1999/61 of 28 April 1999 and 2000/65 of 26 April 2000, in which the Commission expressed the conviction that abolition of the death penalty contributed to the enhancement of human dignity and to the progressive development of human rights,

Noting that the death penalty is often imposed after trials which do not conform to international standards of fairness and that members of racial, national or ethnic minorities appear to be disproportionately subject to the death penalty,

Welcoming the tendency in retentionist States to restrict the number of crimes carrying a possible death sentence,

Welcoming also the fact that many countries, whilst retaining the death penalty in their penal legislation, are applying a moratorium on executions,

Recalling the view of the Commission on Human Rights that the death penalty should not be imposed on or carried out against a person suffering from any form of mental disorder,

Reaffirming the prohibition of the imposition of the death penalty on those aged under 18 at the time of the commission of the offence, as enshrined in article 6, paragraph 5, of the International Covenant on Civil and Political Rights, article 37 (a) of the Convention on the Rights of the Child, article 5, paragraph 3, of the African Charter on the Rights and Welfare of the Child, article 77, paragraph 5, of Protocol I and article 6, paragraph 4, of Protocol II Additional to the Geneva Conventions of 12 August 1949,

Affirming that the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law,

1. Condemns unequivocally the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence;
2. Calls upon also States that retain the death penalty for juvenile offenders to abolish by law as soon as possible the death penalty for those aged under 18 at the time of the commission of the offence and, in the meantime, to remind their judges that the imposition of the death penalty against such offenders is in violation of international law;
3. Calls upon all States in which the death penalty has been imposed on a person aged under 18 at the time of the commission of the offence after the State ratified the Convention on the Rights of the Child and/or after the entry into force of domestic legislation abolishing the imposition of the death penalty on juvenile offenders to remind their judges that the imposition of the death penalty against such offenders is in violation of international and/or national law;
4. Requests the Commission on Human Rights to reaffirm its resolution 2000/65 at its fifty-seventh session;
5. Decides to continue consideration of this matter at its fifty-third session under the same agenda item;

6. Recommends the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, recalling its resolutions 1998/8 of 3 April 1998, 1999/61 of 28 April 1999 and 2000/65 of 27 April 2000 on the question of the death penalty, recalling also Sub-Commission resolution 1999/4 of 24 August 1999 on the death penalty, particularly in relation to juvenile offenders, and taking note of Sub-Commission resolution 2000/17 of 17 August 2000 on the death penalty in relation to juvenile offenders, confirms that international law concerning the imposition of the death penalty in relation to juveniles clearly establishes that the imposition of the death penalty on persons aged under 18 years at the time of the offence is in contravention of customary international law.”

26th meeting
17 August 2000

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

2000/18. Question of enforced disappearances

The Sub-Commission on the Promotion and Protection of Human Rights,

Recalling General Assembly resolution 41/120 of 4 December 1986, in which the Assembly recognized the value of continuing efforts to identify specific areas where further international action was required to develop the existing legal framework in the field of human rights,

Recalling also General Assembly resolution 47/133 of 18 December 1992 by which the Assembly proclaimed the Declaration on the Protection of All Persons from Enforced Disappearance as a body of principles for all States and urged that all efforts be made so that the Declaration became generally known and implemented,

Recalling further the important role of the Sub-Commission in drafting the Declaration on the Protection of All Persons from Enforced Disappearance and other important human rights instruments,

Noting Commission on Human Rights resolution 1997/26 of 11 April 1997 in which the Commission, deeply concerned, in particular, by the intensification of enforced or involuntary disappearances, took note of the report of the Working Group on Enforced or Involuntary

Disappearances (E/CN.4/1997/34) in which the Group welcomed the efforts of the Sub-Commission's sessional working group on the administration of justice to prepare a draft international convention on the prevention and punishment of enforced disappearances,

Deeply concerned that the practice of enforced disappearance continues in many parts of the world and reaffirming that enforced disappearance undermines the deepest values of any society committed to respect for the rule of law, human rights and fundamental freedoms, and that the widespread or systematic practice of enforced disappearance is a crime against humanity,

Recalling its resolution 1998/25 of 26 August 1998, in which it decided to transmit the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19, annex) to the Commission on Human Rights for its consideration, together with the comments of the Sub-Commission thereon as well as those of the sessional working group on the administration of justice (E/CN.4/Sub.2/1998/19, paras. 9-64),

Recalling also Commission resolution 1999/38 of 26 April 1999, in which the Commission took note of the draft international convention on the protection of all persons from enforced disappearance and requested the Secretary-General to renew the invitation to States, international organizations and non-governmental organizations to submit their views and comments on the matter,

Noting the report of the Working Group on Enforced or Involuntary Disappearances submitted pursuant to Commission resolution 1999/38 (E/CN.4/2000/64 and Corr.1 and 2 and Add. 1),

Recalling its resolution 1999/24 of 26 August 1999, in which it urged the Commission to give priority consideration to the draft international convention on the protection of all persons from enforced disappearance on account of the nature and degree of the suffering of the disappeared and of their families and friends,

Welcoming the fact that acts of enforced disappearance, as defined in the Rome Statute of the International Criminal Court, come within the jurisdiction of the Court as crimes against humanity,

Welcoming also Commission resolution 2000/37 of 20 April 2000, in which the Commission requested the Secretary-General to ensure the wide dissemination of the draft international convention on the protection of all persons from enforced disappearance,

1. Recommends that the Commission on Human Rights, in the light of the fact that it has recently concluded its consideration of the draft optional protocols to the Convention on the Rights of the Child, establish an inter-sessional working group to consider the draft international convention on the protection of all persons from enforced disappearance;
2. Urges the Commission to continue to give priority consideration to the draft international convention on the protection of all persons from enforced disappearance;
3. Decides to consider the question of the draft international convention on the protection of all persons from enforced disappearance at its fifty-third session under the same agenda item.

26th meeting
17 August 2000

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

B. Decisions

2000/106. Report of the Chairperson of the Sub-Commission to the Commission on Human Rights

At its 25th meeting on 17 August 2000, the Sub-Commission on the Promotion and Protection of Human Rights, recalling Commission on Human Rights resolutions 1999/81, 1998/28, 1997/22, 1996/25 and other previous resolutions on the work of the Sub-Commission pursuant to which a practice has developed whereby the Chairperson of the Sub-Commission has submitted a written report and has reported personally to the Commission on significant aspects of the work of the Sub-Commission, decided, without a vote, in the light of this long practice, to request the Chairperson of the Sub-Commission once again to submit a written report and to report personally to the Commission on Human Rights with regard to significant aspects of the work of the Sub-Commission at the fifty-seventh session of the Commission.

[See chap. III.]

2000/107. Draft principles and guidelines for the protection of the heritage of indigenous peoples

At its 26th meeting, on 17 August 2000, the Sub-Commission for the Promotion and Protection of Human Rights, recalling its resolution 1997/13 of 22 August 1997, welcomed the organization and the report (E/CN.4/Sub.2/2000/26) of the seminar on the draft principles and

guidelines for the protection of the heritage of indigenous people, held at the United Nations Office in Geneva from 28 February to 1 March 2000, congratulated the Special Rapporteur, Ms. Erica-Irene Daes, for her work, and decided without a vote, to transmit the revised draft principles and guidelines to the Commission on Human Rights for its action.

[See chap. IX.]

2000/108. Update to the final working paper on indigenous peoples and their relationship to land

At its 26th meeting, on 17 August 2000, the Sub-Commission on the Promotion and Protection of Human Rights, having considered the final working paper prepared by the Special Rapporteur, Ms. Erica-Irene A. Daes, on indigenous peoples and their relationship to land (E/CN.4/Sub.2/2000/25), having heard the important introductory statement by the Special Rapporteur, and expressing deep appreciation and thanks to the Special Rapporteur for her excellent and constructive final working paper, decided, without a vote:

(a) To request the Special Rapporteur to update her final working paper on indigenous peoples and their relationship to land, on the basis of the comments made in the Sub-Commission during its fifty-second session and the replies received from Governments and other reliable sources subsequent to the submission of the final working paper, and to submit her updated final working paper to the Sub-Commission at its fifty-third session;

(b) To request the Secretary-General to give the Special Rapporteur any necessary assistance to complete her work.

[See chap. IX.]

2000/109. The human rights problems and protections of the Roma

At its 26th meeting, on 17 August 2000, the Sub-Commission on the Promotion and Protection of Human Rights, recalling its decision 1999/109 and noting with appreciation the working paper submitted at its fifty-second session by Mr. Sik Yuen on the human rights problems and protections of the Roma (E/CN.4/Sub.2/2000/28), decided, without a vote, to endorse the conclusions contained therein, including with regard to the importance of

undertaking an updated study on the human rights problems and protections of the Roma, and recommended the following draft decision to the Commission on Human Rights for adoption:

“The Commission on Human Rights, taking note of decision 2000/109 of 17 August 2000 of the Sub-Commission on the Promotion and Protection of Human Rights, recommends to the Economic and Social Council the following decision for adoption:

‘The Economic and Social Council decides to authorize the Sub-Commission on the Promotion and Protection of Human Rights to appoint Mr. Sik Yuen as Special Rapporteur with the task of preparing a comprehensive study on the human rights problems and protections of the Roma based on his working paper (E/CN.4/Sub.2/2000/28), as well as on the comments made and the discussions that took place at the fifty-second session of the Sub-Commission and at the fifty-seventh session of the Commission, and of submitting a preliminary report to the Sub-Commission at its fifty-fourth session, a progress report at its fifty-fifth session, and a final report at its fifty-sixth session. The Council requests the Secretary-General to provide the Special Rapporteur with all the assistance necessary to enable him to accomplish this task.’”

[See chap. X.]
