



**Economic and Social  
Council**

Distr.  
LIMITED

E/CN.4/Sub.2/2001/L.11/Add.3  
16 August 2001

Original: ENGLISH

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COMMISSION ON HUMAN RIGHTS  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-third session  
Agenda item 7 (a)

**DRAFT PROVISIONAL AGENDA AND ADOPTION OF THE REPORT**

**ADOPTION OF THE REPORT ON THE FIFTY-THIRD SESSION**

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

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\* Documents E/CN.4/Sub.2/2001/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.2/2001/L.11 and addenda.

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**2001/22. International cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity**

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

*Recalling* the principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity enumerated in General Assembly resolution 3074 (XXVIII) of 3 December 1973,

*Recalling also* its resolution 2000/24 of 18 August 2000, entitled “Role of universal or extraterritorial competence in preventive action against impunity”,

*Convinced* that maximum international cooperation among States is needed in order to ensure a thorough investigation of war crimes and crimes against humanity, as well as to bring to trial their perpetrators,

*Guided* by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant human rights instruments, as well as the Vienna Declaration and Programme of Action, especially Part II, paragraph 91 thereof, and the Statute of the International Criminal Court,

1. *Affirms* that within the framework of international cooperation in the search for, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity, the highest priority should be given, independently of the circumstances in which these violations are committed, to legal proceedings against all individuals responsible for such crimes, including former heads of State or Government whose exile serves as a pretext for their impunity;

2. *Urges* all States to cooperate in order to search for, arrest, extradite, bring to trial and punish persons found guilty of war crimes and crimes against humanity;

3. *Reaffirms* the principles of international cooperation in the detection, arrest, extradition and punishment of persons guilty of war crimes and crimes against humanity recorded in General Assembly resolution 3074 (XXVIII) of 3 December 1973, in particular:

Every State has the right to try its own nationals for war crimes and crimes against humanity;

War crimes and crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is prima facie evidence that they have committed such crimes shall be subject to tracing, arrest, trial and, if found guilty, to punishment;

States shall cooperate with each other on a bilateral and multilateral basis, with a view to halting and preventing war crimes and crimes against humanity;

States shall assist each other in searching for, arresting and bringing to trial persons against whom there is prima facie evidence that they have committed such crimes and, if they are found guilty, in punishing them;

Persons against whom there is prima facie evidence that they have committed war crimes and crimes against humanity shall be subject to trial before an independent impartial tribunal, in conformity with the requirements of due process, and, if found guilty, to punishment, as a general rule in the countries in which they committed those crimes. In that connection, States shall cooperate on questions of extraditing such persons. Persons charged with war crimes and crimes against humanity shall not be allowed to claim that the actions fall within the "political offence" exception to extradition, unless the requested State tries the suspect itself;

States shall not take any legislative or other measures which may be prejudicial to the international obligations they have assumed in regard to the search for, arrest, extradition and punishment of persons found guilty of war crimes and crimes against humanity;

In cooperating in the search for, arrest and extradition of persons against whom there is prima facie evidence that they have committed war crimes or crimes against humanity and, if found guilty, their punishment, States shall act in conformity with the provisions of the Charter of the United Nations and of the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations;

4. *Affirms* that States have an obligation to cooperate in the arrest, extradition, trial and punishment of persons found guilty of war crimes and crimes against humanity, including former heads of State or Government, keeping in mind the purposes and principles of the Charter of the United Nations and generally recognized norms of international law;

5. *Urges* all Governments to implement the relevant resolutions of the General Assembly and other United Nations bodies and to take measures in accordance with

international law to put an end to and prevent war crimes and crimes against humanity and to ensure the punishment of all persons found guilty of such crimes, or their extradition to those countries where they have committed such crimes, even when there is no treaty to facilitate that task.

*27th meeting*  
*16 August 2001*  
[Adopted without a vote. See chap. VIII.]

**2001/23. Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights**

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

*Recalling* the attention that it has been affording to pertinent issues concerning economic, social and cultural rights, as reflected in its recent resolutions and decisions, *inter alia*, 2000/6 on the Social Forum 2000/8 on promotion of the realization of the right to drinking water and sanitation, 2000/9 on the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights, and its recent reports on globalization and its impact on the full enjoyment of human rights (E/CN.4/Sub.2/2000/13 and E/CN.4 Sub.2/2001/10),

*Recognizing* the important role of the Committee on Economic, Social and Cultural Rights in monitoring compliance by States parties to the International Covenant on Economic, Social and Cultural Rights with their obligations ensuing therefrom, and in providing authoritative interpretations of specific provisions of the Covenant through the elaboration of general comments,

*Noting with appreciation* the work of the Committee on Economic, Social and Cultural Rights to develop further general comments on general provisions contained in Part I of the International Covenant on Economic, Social and Cultural Rights that inform all its substantive provisions,

*Noting* the drafting of a general comment on article 3 of the International Covenant on Economic, Social and Cultural Rights, laying down that States parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant,

*Acknowledging* the need to development further understanding of the scope, content and implications of article 2, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights containing the general principle of non-discrimination, which states that the States parties to the Covenant undertake to guarantee that the rights enunciated in the Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

*Taking account* of the ongoing preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Conference itself and the follow-up process thereafter,

*Stressing* the importance of the long-standing and continuing cooperation between the Sub-Commission and the Committee on Economic, Social and Cultural Rights in promoting and protecting economic, social and cultural rights worldwide,

*Stressing also* the mutual benefits that would result from similar cooperation on the subject of non-discrimination, drawing upon the work and expertise of the Sub-Commission on the subject and the experience of the Committee on Economic, Social and Cultural Rights with States parties to the International Covenant on Economic, Social and Cultural Rights through the periodic reporting procedure,

*Welcoming* the request of the Committee on Economic, Social and Cultural Rights concerning the preparation of a study on non-discrimination as enshrined in article 2, paragraph 2 of the International Covenant on Economic, Social and Cultural Rights,

*Recalling* its decision 1997/112 of 27 August 1997 on the criteria for new studies;

*Decides* to entrust Mr. Fried van Hoof with the preparation, without financial implications, of a working paper on non-discrimination as enshrined in article 2, paragraph 2. of the International Covenant on Economic, Social and Cultural Rights, taking into account other relevant studies of the Sub-Commission, to be submitted under the agenda item entitled “Economic, social and cultural rights”, in order to enable it to take a decision at its fifty-fourth session on the feasibility of a study on that subject.

*27th meeting  
16 August 2001*

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

## **2001/24. 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 and studies on the realization of economic, social and cultural rights submitted by several 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, Mr. David Weissbrodt and Mr. José Bengoa,

*Taking into account* Commission on Human Rights resolution 1999/53 of 27 April 1999 and decision 2000/107 of 26 April 2000, and Sub-Commission resolutions 1999/10 of 25 August 1999 and 2000/6 of 17 August 2000 on the establishment of a forum for economic, social and cultural rights, to be called the Social Forum,

*Taking into account* Commission on Human Rights decision 2001/103 of 25 April 2001 authorizing the Sub-Commission to hold the Social Forum during its fifty-third session,

*Welcoming* the preparatory panel meeting on the Social Forum held during the fifty-third session of the Sub-Commission (see report of the panel meeting, ...), in which all the participants unanimously recognized the need for a new process/mechanism within the United Nations system with broad participation, responding to the current structure of international society,

*Considering* the new challenges of globalization, of the changes in the international order and of the emergence of new actors in the international, regional and national economic and financial area,

*Concerned* at the need for a new social architecture to complement the financial architecture,

*Considering* the need to listen to the most vulnerable and their advocates, and to ensure a meaningful and effective participation of those who are not heard,

*Bearing in mind* that poverty reduction remains an ethical and moral imperative of humankind, based on respect for human dignity,

1. *Requests* the Commission on Human Rights to authorize the holding in Geneva of a pre-sessional forum on economic, social and cultural rights before the fifty-fourth session of the Sub-Commission, to be known as the Social Forum, for two days, with the participation of 10 members of the Sub-Commission, taking into account regional representation;
2. *Decides* that the Social Forum will meet every year with the following mandate:
  - (a) To exchange information on the enjoyment of economic, social and cultural rights and their relationship with the processes of globalization;
  - (b) To follow up on situations of poverty and destitution throughout the world; bearing in mind that they amount to complete and permanent denial of human rights;
  - (c) To propose standards and initiatives of a juridical nature, guidelines and other recommendations for consideration by the Commission on Human Rights, the working groups on the right to development, the Committee on Economic, Social and Cultural Rights, the specialized agencies and other organs of the United Nations system;
  - (d) To follow up the agreements reached at the major world conferences and the Millennium Summit, and to make contributions to forthcoming major international events and discussion of issues related to the mandate of the Social Forum;
3. *Recommends* that the Social Forum address the following themes, *inter alia*:
  - (a) The interaction between civil and political and economic, social and cultural rights;
  - (b) The relationship between poverty, extreme poverty and human rights in a globalized world;
  - (c) The effect of international trade, finance and economic policies on income distribution, and the corresponding consequences on equality and non-discrimination at the national and international levels;
  - (d) Analysis of international decisions affecting basic resources for the population, and in particular those affecting enjoyment of the right to food, the right to education, the right to the highest attainable standard of physical and mental health, the right to adequate housing and the right to an adequate standard of living;
  - (e) Analysis of the impact of international trade, finance and economic policies on vulnerable groups, especially minorities, indigenous peoples, migrants, refugees and internally displaced persons, women, children, older persons, people living with HIV/AIDS, people living with disabilities and other social sectors affected by such measures;



(f) The impact of public and private, multilateral and bilateral international development cooperation on the realization of economic, social and cultural rights;

(g) Follow-up of agreements reached at world conferences and international summits, particularly the Copenhagen World Summit for Social Development, and in other international bodies, concerning the link between economic, commercial and financial issues and the full realization of human rights, including economic, social and cultural rights;

(h) Social and economic indicators and their role in the realization of economic, social and cultural rights;

4. *Decides* that the Social Forum before the fifty-fourth session of the Sub-Commission, in 2002, will address the following theme: “The relationship between poverty reduction and the realization of the right to food”;

5. *Requests* Mr. José Bengoa, member of the Sub-Commission, to draft a preliminary working paper outlining the methodology and work of the Social Forum;

6. *Decides* to extend an invitation to participate in the Social Forum to non-governmental organizations in consultative status with the Economic and Social Council and other non-governmental organizations outside Geneva and particularly newly emerging actors in the South, such as smaller groups, grass-roots organizations, voluntary, youth associations, community organizations, trade unions and associations of workers, representatives of the private sector, United Nations agencies, the relevant functional commissions of the Economic and Social Council, the regional economic commissions, international financial institutions and development agencies;

7. *Invites* United Nations bodies and specialized agencies, the relevant functional commissions of the Economic and Social Council, the regional economic commissions, the international financial institutions, the Committee on Economic, Social and Cultural Rights, special rapporteurs and independent experts, non-governmental organizations, scholars, trade unions and associations of workers to participate in and to submit studies to the Social Forum;

8. *Requests* the Office of the High Commissioner for Human Rights to seek effective means of ensuring consultation, including electronic consultation, with the most vulnerable on the theme selected for discussion at the Social Forum;

9. *Invites* the Social Forum to submit to the Sub-Commission at its fifty-fourth session a separate report, containing a comprehensive and detailed summary of the discussion;

10. *Invites* the Social Forum to submit recommendations, including draft resolutions, to the Sub-Commission at its fifty-fourth session;

11. *Requests* the Commission on Human Rights and the Economic and Social Council to endorse the holding of the Social Forum and to authorize the provision of all the necessary secretariat facilities for the preparation and servicing of the event;

12. *Invites* the Commission on Human Rights to consider the establishment of a voluntary fund to facilitate the participation of grass-roots groups and similar disadvantaged organizations in the Social Forum.

*27th meeting  
16 August 2001*

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

**2001/119. Human rights and weapons of mass destruction, or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering**

At its 27th meeting, on 16 August 2001, the Sub-Commission on the Promotion and Protection of Human Rights, recalling its resolutions 1997/36 and 1997/37 of 28 August 1997, decided, by 21 votes to 2, to authorize Mr. Y.K.J. Sik Yuen to prepare, without financial implications, in the context of human rights and humanitarian norms the working paper, originally assigned to former Sub-Commission member Ms. Clemencia Forero Ucroz in resolution 1997/36, assessing the utility, scope and structure of a study on the real and potential dangers to the effective enjoyment of human rights posed by the testing, production, storage, transfer, trafficking or use of weapons of mass destruction or with indiscriminate effect, or of a nature to cause superfluous injury or unnecessary suffering, including the use of weaponry containing depleted uranium, and to submit the working paper to the Sub-Commission for its fifty-fourth session.

[See chap VIII.]

**2001/120. The question of the trade, carrying and use of small arms and light weapons in the context of human rights and humanitarian norms**

At its 27th meeting, on 16 August 2001, the Sub-Commission on the Promotion and Protection of Human Rights, guided by the Charter of the United Nations, the Universal

Declaration of Human Rights, the International Covenants on Human Rights and the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto, noting issues raised at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects in July 2001, and deeply concerned at the negative effects upon human rights of the availability and misuse of small arms and light weapons, decided, without a vote, to entrust Ms. Barbara Frey with the task of preparing, without financial implications, a working paper on the question of (a) the trade and carrying of small arms and light weapons and (b) the use of such weapons in the context of human rights and humanitarian norms, for submission to the Sub-Commission at its fifty-fourth session.

[See chap. VIII.]

**2001/121. Adjournment of the debate on draft resolution E/CN.4/Sub.2/2001/L.37**

At its 27th meeting, on 16 August 2001, the Sub-Commission on the Promotion and Protection of Human Rights decided, without a vote, to adjourn the debate on draft resolution E/CN.4/Sub.2/2001/L.37, entitled “State cooperation with United Nations human rights mechanisms”.

[See chap. VIII.]

**2001/122. The return of refugees’ or displaced persons’ property**

At its 27th meeting, on 16 August 2001, the Sub-Commission on the Promotion and Protection of Human Rights, taking into account the suggestion of the Committee on the Elimination of Racial Discrimination concerning the preparation of a study (see E/CN.4/Sub.2/1997/31, annex), decided, without a vote, to entrust Mr. Paulo Sérgio Pinheiro with the preparation, without financial implications, of a working paper on the return of refugees’ or displaced persons’ property, to be submitted to the Sub-Commission in order to enable it to take a decision at its fifty-fourth session on the feasibility of a comprehensive study on that subject.

[See chap VI.]

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