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ANNOTATIONS TO THE PROVISIONAL AGENDA

Prepared by the Secretary-General

1. Election of officers

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

2. Adoption of the agenda

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

The Commission will have before it the provisional agenda (E/CN.4/1989/1) prepared by the Secretary-General in accordance with rule 5 of the rules of procedure, as well as the present annotations relating to the items included in the provisional agenda.

3. Organization of the work of the session

The attention of the Commission is drawn to the relevant resolutions concerning control and limitation of documentation (inter alia, General Assembly resolution 33/56 and Economic and Social Council resolutions 1981/83 and 1982/50). Furthermore, the Commission will recall

that at its last five sessions, it had set time-limits for statements. At its forty-fourth session, for example, these limits were as follows: members of the Commission were limited to one statement of 15 minutes or two statements of 10 minutes per item. Observers and non-governmental organizations were limited to one statement of 10 minutes per item, while observer States mentioned in a report and liberation movements could make one statement of 15 minutes or two statements of 10 minutes per item. It was also agreed that, with regard to rights of reply, the practice followed by the General Assembly, namely limitation to two replies, 10 minutes for the first and 5 minutes for the second, would again be observed. In view of the existing financial constraints and the overall reductions imposed, the session must be most carefully planned from the outset, bearing in mind the absolute need for maximum effectiveness in the use of the resources available.

The attention of the Commission is also drawn to decision 1988/106 under which the Commission has to decide on the manner in which the report before it in pursuance of that decision (E/CN.4/1989/46) is to be examined.

Working groups

The session will be preceded by meetings of the pre-session working groups indicated in E/CN.4/1989/1, paragraphs 3 and 4, which may also continue to meet during the session. In addition, it is foreseen that one in-session working group will meet during the forty-fifth session of the Commission as indicated in E/CN.4/1989/1, paragraph 5.

Composition of the Commission

The following is the composition of the Commission for 1989. The year given in brackets against the name of each State indicates the expiry of the term of membership on 31 December of that year:

Argentina (1990), Bangladesh (1991), Belgium (1991), Botswana (1990), Brazil (1989), Bulgaria (1990), Canada (1991), China (1990), Colombia (1991), Cuba (1991), Cyprus (1991), Ethiopia (1991), France (1989), Gambia (1990), German Democratic Republic (1989), Germany, Federal Republic of (1990), India (1991), Iraq (1989), Italy (1989), Japan (1990), Mexico (1989), Morocco (1991), Nigeria (1990), Pakistan (1989), Panama (1991), Peru (1990), Philippines (1989), Portugal (1990), Rwanda (1989), Sao Tome and Principe (1990), Senegal (1989), Somalia (1989), Spain (1990), Sri Lanka (1990), Swaziland (1991), Sweden (1991), Togo (1989), Ukrainian Soviet Socialist Republic (1991), Union of Soviet Socialist Republics (1991), United Kingdom of Great Britain and Northern Ireland (1990), United States of America (1989), Venezuela (1990), Yugoslavia (1989).

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

The Commission has been seized of the human rights situation in the territories occupied by Israel as a result of the hostilities of June 1967 every year since its twenty-fourth session (1968).

At its forty-fourth session, the Commission adopted resolution 1988/1 A by which it decided to place this item on the agenda of the forty-fifth session as a matter of high priority.

The Commission also adopted two other resolutions relevant to this item: 1988/1 B and 1988/2.

In accordance with paragraphs 14 and 15 of resolution 1988/1 A, paragraph 9 of resolution 1988/1 B and paragraph 11 of resolution 1988/2, the Commission will have before it a report of the Secretary-General on the measures taken to draw attention to these resolutions and to give them the widest possible publicity (E/CN.4/1989/4) and a note by the Secretary-General listing United Nations reports that deal with the situation of the population of the occupied territories, including Palestine (E/CN.4/1989/6).

At its fortieth session, the Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted resolution 1988/10 on the situation in the Palestinian and Arab territories occupied by Israel.

In this connection, the attention of the Commission is also drawn to the Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/43/694) and the report of the Secretary-General prepared in pursuance of General Assembly resolution 43/21 (A/43/806), which were considered by the General Assembly at its forty-third session, and to General Assembly resolution 43/58 A to G of 6 December 1988.

5. Question of human rights in Chile

This item has been considered by the Commission as a matter of high priority since its thirty-first session (1975).

On 1 February 1985, the Chairman of the Commission appointed Mr. Fernando Volio Jiménez (Costa Rica) as the Commission's Special Rapporteur on the situation of human rights in Chile, on the basis of Commission on Human Rights resolution 11 (XXXV) of 6 March 1979.

At its forty-fourth session, the Commission adopted resolution 1988/78, in which it decided to extend the mandate of the Special Rapporteur for one year and to request him to report on the situation of human rights in Chile to the General Assembly at its forty-third session and to the Commission at its forty-fifth session. The Economic and Social Council endorsed the Commission's resolution by its decision 1988/140. In this connection, reference may also be made to Sub-Commission resolution 1988/16.

At its forty-third session, the General Assembly had before it the report of the Special Rapporteur (A/43/624). On 8 December 1988, the General Assembly adopted resolution 43/158.

At its forty-fifth session, the Commission will have before it the report of the Special Rapporteur to the General Assembly (A/43/624) as brought up to date by the Special Rapporteur in an additional report (E/CN.4/1989/7).

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

The Ad Hoc Working Group of Experts on southern Africa was established by the Commission in accordance with resolution 2 (XXIII) of 6 March 1967. Since then the Commission has renewed the mandate of the Ad Hoc Working Group regularly and most recently by its resolution 1987/14. The Economic and Social Council also adopted resolution 1988/41, entitled "Infringements of trade-union rights in South Africa". At its forty-fourth session, by its resolutions 1988/9 and 1988/10, the Commission requested the Ad Hoc Working Group of Experts to continue to study the policies and practices which violated human rights in South Africa and Namibia and to submit a final report on its findings to the Commission at its forty-fifth session (E/CN.4/1989/8).

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

This item has been considered by the Commission since its thirtieth session (1974). The item has also been regularly considered by the General Assembly and the Sub-Commission.

At its forty-fourth session, the Commission adopted resolutions 1988/12 and 1988/13, by which it welcomed the decision of the Assembly in resolution 41/95 to renew the mandate of the Special Rapporteur, Mr. Ahmed Khalifa, invited him to update, subject to annual review, the list of banks, transnational corporations and other organizations assisting the racist régime of South Africa, and decided to consider the updated report at its forty-fifth session.

At its fortieth session, the Sub-Commission adopted resolution 1988/3, by which it recommended, through the Commission, that the Economic and Social Council should invite the Special Rapporteur to continue to update his list, to provide to the Sub-Commission at its forty-first session with a brief analysis of partial disinvestment of foreign enterprises from South Africa enumerating various techniques employed to avoid total withdrawal from participation in the South African economy.

On 8 December 1988, the General Assembly adopted resolution 43/92 on the same subject.

At the present session, the Commission will have before it the updated report by the Special Rapporteur (E/CN.4/Sub.2/1988/6 and Add.1).

The Commission will also have before it draft resolution II contained in chapter I, section A, of the report of the Sub-Commission (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

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

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

- (b) The effects of the existing unjust international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms;
- (c) Popular participation in its various forms as an important factor in development and in the full realization of all human rights

The Commission, by its resolution 2 (XXXI) of 10 February 1975, decided to keep this item on its agenda as a standing item with high priority and subsequently included subitems (a) and (b) in 1980 and subitem (c) in 1984.

At its forty-fourth session, the Commission, in resolution 1988/22, appealed to all States to pursue policies directed towards the implementation, promotion and protection of economic, social, cultural, civil and political rights, called upon all States to co-operate with each other in promoting social progress and better standards of life in larger freedom, and again requested the Secretary-General to invite Governments, United Nations organs, specialized agencies and non-governmental organizations which had not yet done so to comment on their policies for the implementation, promotion and protection of economic, social and cultural rights, and to submit a report thereon to the Commission at its forty-fifth session. In pursuance of this resolution, the Commission will have before it a report by the Secretary-General (E/CN.4/1989/9).

Also in resolution 1988/22, the Commission invited the Sub-Commission to appoint from among its members a special rapporteur to study problems, policies and progressive measures relating to a more effective realization of economic, social and cultural rights. At its fortieth session, the Sub-Commission, in resolution 1988/33, appointed Mr. Danilo Türk to carry out this task and requested him to submit a preliminary report to the Sub-Commission at its forty-first session.

The Commission will also have before it draft decision 3 contained in chapter I, section B, of the report of the Sub-Commission (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

At its forty-fourth session, the Commission, in resolution 1988/29, expressed its appreciation and thanks to the Special Rapporteur, Mr. Asbjorn Eide, for his final report on the right to adequate food as a human right (E/CN.4/Sub.2/1987/23), made recommendations to Governments and national and international non-governmental organizations with regard to the world-wide realization of the right to food, and recommended to the Economic and Social Council that the study should be published by the United Nations. In resolution 1988/33, the Council approved that recommendation.

Right to development

In resolution 36 (XXXVII) of 11 March 1981, the Commission decided to establish a working group of governmental experts on the right to development. That decision was approved by the Economic and Social Council in its decision 1981/149. From 1981 to 1985, the Working Group held nine sessions.

The General Assembly proclaimed, by resolution 41/128 of 4 December 1987, the Declaration on the Right to Development. On the same date, the Assembly adopted resolution 41/131, in which it welcomed the decision of the Commission on the future work of the Working Group.

At its forty-third session, the Commission, by resolution 1987/23, took note of the report of the Working Group (E/CN.4/1987/10) and requested the Secretary-General to transmit it to the Assembly at its forty-second session and to circulate the Declaration to all Governments, United Nations organs and specialized agencies and other governmental and non-governmental organizations, inviting them as a matter of urgency and high priority to offer their comments and views on the subject of implementation of the Declaration. By the same resolution, the Commission decided to consider at its forty-fourth session the question of the further activities and the possible enlargement of the Working Group, taking into account the interest of States in the subject.

The General Assembly, by resolution 42/117 of 7 December 1987, expressed the hope that the replies received pursuant to Commission resolution 1987/23, would contain practical proposals and ideas that should contribute substantively to further work on the implementation of the Declaration, called upon the Working Group to study the analytical compilation of those replies and to submit to the Commission at its forty-fourth session recommendations and suggestions on which proposals would best contribute to the further enhancement and implementation of the Declaration, and called upon the Commission at its forty-fourth session to consider the report of the Working Group and other relevant materials, with a view to deciding on practical measures to implement the Declaration, including specific proposals concerning future work.

At its forty-fourth session, in resolution 1988/26, the Commission took note of the report of the Working Group (E/CN.4/1988/10) and requested the Secretary-General to transmit it to the General Assembly at its forty-third session, and to circulate it to all Governments, United Nations organs and specialized agencies and other governmental and non-governmental organizations, drawing their attention to the compilation of replies (E/CN.4/AC.39/1988/L.2) and inviting them once more as a matter of urgency and high priority to offer their comments and views on the subject of the implementation and further enhancement of the Declaration. It also requested the Secretary-General to circulate to Governments and other interested parties an analytical compilation of all replies received as well as statements on the topic made during the forty-fourth session of the Commission and the first regular session of the Economic and Social Council of 1988.

Furthermore, by the same resolution, the Commission directed the Working Group to study the analytical compilation prepared by the Secretary-General and to submit to the Commission, at its forty-fifth session, its final recommendations as to which proposals would best contribute to the further enhancement and implementation of the Declaration, at the individual, national and international level, and especially as to the views of the Secretary-General and Governments on how an evaluation system on the implementation and further enhancement of the Declaration could be set up, and decided that, at the forty-fifth session, on the basis of the consideration of the report of the Working Group and the views expressed by members of the Commission at the session, a decision would be taken on the further course of action in the matter. The Economic and Social Council approved the Commission's approach by decision 1988/128.

The Working Group is scheduled to meet, on an open-ended basis, from 23 to 27 January 1989. The report of the Working Group will be before the Commission in document E/CN.4/1989/10.

Right to adequate housing

Following the request by the General Assembly in resolution 41/146, the Commission, at its forty-third session, adopted resolution 1987/22 calling upon all States and international organizations concerned to pay special attention to the realization of the right to adequate housing and invited all States, in their reports on the implementation of the goals and objectives of the International Year of Shelter for the Homeless (see Assembly resolution 37/221), to reflect the measures they had taken on the matter. The Commission also requested the Secretary-General to give due attention to the question of promoting the right to adequate housing in the information he was to provide to the Assembly on the realization of the objectives of the International Year of Shelter for the Homeless (A/42/378) and to transmit that information to the Commission at its forty-fourth session.

At its first regular session of 1987, the Economic and Social Council adopted two resolutions relating to adequate housing: resolution 1987/37 entitled "International Year of Shelter for the Homeless" and resolution 1987/62 entitled "Realization of the right to adequate housing". On 7 December 1987, the General Assembly adopted resolution 42/146 on the same subject.

At its forty-fourth session, the Commission, by resolution 1988/24, expressed its deep concern that millions of people did not enjoy the right to adequate housing, reiterated the need for measures at the national and international levels to promote the right of all persons to an adequate standard of living for themselves and their families, including adequate housing, took note of the information transmitted by the Secretary-General to the General Assembly, noted Assembly resolution 42/146, and decided to keep the question under periodic review.

Right to own property

At its forty-third session, the Commission adopted resolution 1987/17 entitled "Respect for the right of everyone to own property alone as well as in association with others and its contribution to the economic and social development of Member States" and noted that, the General Assembly, in resolution 41/132 of 4 December 1986, had called for a report by the Secretary-General that would take into account the views of Member States, specialized agencies and other competent bodies of the United Nations system on, *inter alia*, the relationship between the full enjoyment by individuals of human rights and fundamental freedoms, in particular the right of everyone to own property alone as well as in association with others, as set forth in article 17 of the Universal Declaration of Human Rights. The Commission further appealed to the above-mentioned parties to respond as constructively and as factually as possible to the invitation in Assembly resolution 41/132 and to give careful consideration to the report of the Secretary-General.

In this connection the attention of the Commission is drawn to General Assembly resolution 42/114 of 7 December 1987 on the same subject.

Also at its forty-third session, the Commission adopted resolution 1987/18 entitled "The impact of property on the economic and social development of Member States", in which it decided to consider at its forty-fourth session the influence of various forms of property on the enjoyment of human rights and fundamental freedoms.

On 7 December 1987, the General Assembly adopted resolution 42/115 entitled "The impact of property on the enjoyment of human rights and fundamental freedoms".

At its forty-fourth session, the Commission adopted two resolutions on the subject: resolution 1988/18 entitled "Respect for the right of everyone to own property alone as well as in association with others and its contribution to the economic and social development of Member States" and resolution 1988/19 entitled "The impact of property on the enjoyment of human rights and fundamental freedoms".

On the basis of these resolutions, the Assembly at its forty-third session had before it a report of the Secretary-General on the subject (A/43/739). This document will also be made available to the Commission.

Popular participation

At its forty-first session, the Commission, in resolution 1985/44, requested the Secretary-General to submit to the General Assembly his final study on popular participation (E/CN.4/1985/10 and Add.1 and 2). In resolution 40/99 of 13 December 1985, the Assembly took note of the study and requested the Commission to continue to consider the subject.

At its forty-third and forty-fourth sessions, the Commission adopted resolutions 1987/21 and 1988/21 respectively. In these resolutions, the Commission requested the Secretary-General to prepare a study of laws and practices by countries regarding the question of the extent to which the right to participation had been established and had evolved at the national level, and to submit to it a report, containing comments made by Governments, United Nations organs, specialized agencies and non-governmental organizations on the study on popular participation. Pursuant to these resolutions, the Commission will have before it at its forty-fifth session the study (E/CN.4/1989/12) and the report (E/CN.4/1989/11) prepared by the Secretary-General.

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

This item has been on the Commission's agenda since 1975. At each session since its thirty-second, the Commission has adopted one or more resolutions in relation to this item.

At its forty-fourth session, the Commission adopted the following resolutions under this item: 1988/3 entitled "Situation in occupied Palestine", 1988/4 entitled "Situation in Afghanistan", 1988/5 entitled "Question of Western Sahara", 1988/6 entitled "Situation in Kampuchea" and 1988/8 entitled "Situation in southern Africa".

Special Rapporteur on the question of mercenaries

At its forty-third session, the Commission, by resolution 1987/16, decided to appoint for one year a special rapporteur to examine the question of the use of mercenaries as a means of violating human rights and of impeding the exercise of the right of peoples to self-determination.

On 1 September 1987, the Chairman of the Commission appointed Mr. Enrique Bernales Ballesteros (Peru) as Special Rapporteur of the Commission on the question of mercenaries.

At its forty-fourth session, the Commission adopted resolutions 1988/7 and 1988/30, in which it extended the mandate of the Special Rapporteur for two years and requested him to submit a preliminary report to the General Assembly at its forty-third session, through the Economic and Social Council, and a report to the Commission at its forty-fifth session. The Economic and Social Council endorsed the Commission's resolutions by its decisions 1988/126 and 1988/129.

At its forty-third session, the General Assembly had before it the report of the Special Rapporteur (A/43/735). On 8 December 1988, the General Assembly adopted resolution 43/107 on the use of mercenaries as a means to violate human rights and to impede the exercise of the right of peoples to self-determination, as well as resolutions 43/105 and 43/106 on the right to self-determination.

At its forty-fifth session, the Commission will have before it the report of the Special Rapporteur to the General Assembly (A/43/735) as brought up to date by the Special Rapporteur in an additional report (E/CN.4/1989/14).

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

- (a) Torture and other cruel, inhuman or degrading treatment or punishment;
- (b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (c) Question of enforced or involuntary disappearances

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

This item has been considered annually by the Commission and has also been regularly considered by the General Assembly and the Sub-Commission on Prevention of Discrimination and Protection of Minorities. Action taken by the General Assembly so far has included adoption of a declaration and a convention against torture and adoption of the Code of Conduct for Law Enforcement Officials and the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment.

At its forty-first session, the Commission, by resolution 1985/33, decided to appoint Mr. Peter Kooijmans (Netherlands) for a year as Special Rapporteur to examine questions relevant to torture. His mandate was subsequently renewed by Commission resolutions 1986/50 and 1987/29.

At its forty-fourth session, the Commission adopted resolutions 1988/30 and 1988/32 by which it extended the mandate of the Special Rapporteur for two years. The Economic and Social Council endorsed Commission resolution 1988/32 by its decision 1988/130.

In pursuance of the above-mentioned resolutions, the Commission will have before it the report of the Special Rapporteur (E/CN.4/1989/15).

United Nations Voluntary Fund for Victims of Torture

The United Nations Voluntary Fund for Victims of Torture was established in December 1981 by the General Assembly (resolution 36/151) for the purpose of receiving voluntary contributions for distribution, through established channels of assistance, as humanitarian, legal and financial aid to individuals who had been tortured and to their relatives. In resolution 1988/35, the Commission expressed its gratitude and appreciation to those Governments, organizations and individuals that had already contributed to the Fund and appealed to those in a position to do so to respond favourably to requests for contributions, if possible on a regular basis. The Commission furthermore requested the Secretary-General to keep it informed of the operations of the Fund on an annual basis.

The Commission will have before it the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture presented to the General Assembly at its forty-third session (A/43/779) and a further report (E/CN.4/1989/16) covering any developments that may have occurred following circulation of the report to the Assembly.

(b) Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

By its resolution 1988/36, the Commission requested the Secretary-General to continue submitting to the General Assembly and to the Commission annual reports on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was opened for signature on 4 February 1985 and entered into force on 26 June 1987.

The Commission will have before it the report of the Secretary-General on the status of the Convention (E/CN.4/1989/17).

(c) Question of enforced or involuntary disappearances

In pursuance of General Assembly resolution 33/173, the Commission, by resolution 20 (XXXVI) of 29 February 1980, decided to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons. At its thirty-seventh to forty-first sessions the Commission extended the term of the Working Group's mandate by one year.

At its forty-second and forty-fourth sessions, the Commission decided, inter alia, to extend the Working Group's mandate for two years. At its forty-fourth session, by resolution 1988/34, the Working Group was requested to report to the Commission, at its forty-fifth and forty-sixth sessions, on its work.

The Commission will have before it the main report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1989/18), and a report on a visit by two of its members to Colombia following an invitation from the Government of that country (E/CN.4/1989/18/Add.1).

The attention of the Commission is also drawn to General Assembly resolution 43/159 of 8 December 1988.

Other questions

Question of human rights and states of emergency

A second annual report and a list of States which, since 1 January 1985, have proclaimed, extended or terminated a state of emergency, was presented by the Special Rapporteur on states of emergency, Mr. Leandro Despouy, to the Sub-Commission at its fortieth session (E/CN.4/Sub.2/1988/18 and Add.1). By resolution 1988/24, the Sub-Commission invited the Special Rapporteur to update his report so that the Commission, at its forty-fifth session, would have before it the most recent and accurate information available. The revised and updated report is contained in document E/CN.4/Sub.2/1988/18/Rev.1. The Commission will also have before it draft decision 2 contained in chapter I, section B, of the report of the Sub-Commission (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

Draft declaration on enforced or involuntary disappearances

The question of a draft declaration against unacknowledged detention of persons was examined at the thirty-ninth and fortieth sessions of the Sub-Commission by its sessional Working Group on Detention, (see E/CN.4/Sub.2/1987/15 and E/CN.4/Sub.2/1988/28) pursuant to Commission decision 1986/106 and Commission resolutions 1987/33 and 1988/33, paragraph 5. In paragraph 7 of the latter resolution, the Commission called upon its special rapporteurs and working groups to give particular attention to questions relating to the effective protection of human rights in the administration of justice, in particular with regard to unacknowledged detention of persons.

The Working Group on Detention at its 1988 session gave consideration to a draft declaration on the protection of all persons from enforced or involuntary disappearances (see E/CN.4/Sub.2/1988/28, annex I). In its resolution 1988/17, the Sub-Commission requested the Secretary-General to transmit the text of the draft declaration to Governments, the Centre for Social Development and Humanitarian Affairs, the Working Group on Enforced or Involuntary Disappearances, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council, for comments and suggestions. It also requested the Working Group on Detention to complete work on the draft declaration as soon as possible with a view to submitting it to the Sub-Commission for approval preferably at its forty-first session.

The independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

In its resolution 1988/33, paragraph 4, the Commission urged the Sub-Commission to pursue its consideration of this issue, on the basis of the report of its Special Rapporteur (E/CN.4/Sub.2/1985/18 and Add.1-6). In its resolution 1988/40, the Commission requested the Sub-Commission to review and to finalize the draft declaration proposed by the Special Rapporteur (E/CN.4/Sub.2/1985/18/Add.5/Rev.1) with a view to submitting it to the Commission at its forty-fifth session.

At its fortieth session, the Sub-Commission considered the Special Rapporteur's study, as well as his report (E/CN.4/Sub.2/1988/20 and Corr.1) and the revised draft declaration (E/CN.4/Sub.2/1988/20/Add.1 and Add.1/Corr.1) and decided, in resolution 1988/25, to refer the draft declaration to the Commission for further consideration.

Administrative detention without charge or trial

In resolution 1988/45, the Commission requested the Sub-Commission to consider, at its fortieth session, the analysis submitted by its Rapporteur on this question (E/CN.4/Sub.2/1988/12) and to make any proposals it deemed necessary and decided to continue consideration of the question at its forty-fifth session.

Note may be taken of Sub-Commission decision 1988/110, in which it requested the Rapporteur to present his report to the Sub-Commission at its forty-first session.

Incommunicado detention

In resolution 1988/32, paragraph 4, the Commission on Human Rights, *inter alia*, underlined the conclusions of the Special Rapporteur on torture (E/CN.4/1988/17 and Add.1) stressing the importance of limiting, and eventually declaring illegal, incommunicado detention under national law, since many alleged cases of torture were reported to have taken place during incommunicado detention.

It may be noted that the Sub-Commission's sessional Working Group on Detention, at its 1988 session, devoted its attention to the examination of the question of incommunicado detention and solitary confinement, the results of which are contained in its report (E/CN.4/Sub.2/1988/28). Also relevant to this question is Sub-Commission decision 1988/107, as well as the various synopses of material submitted by non-governmental organizations pursuant to Sub-Commission resolutions 7 (XXVII) of 20 August 1974 and 4 (XXVIII) of 10 September 1975 (E/CN.4/Sub.2/1985/13, E/CN.4/Sub.2/1987/13 and E/CN.4/Sub.2/1988/15).

The right to freedom of expression and opinion

This question has been considered annually by the Commission since 1984 (resolutions 1984/26, 1985/17, 1986/46, 1987/32 and 1988/37), and by the Sub-Commission since 1983 (resolution 1983/32 and decision 1988/110), as well as by the sessional Working Group on Detention (E/CN.4/Sub.2/1987/15 and E/CN.4/Sub.2/1988/28) at its 1987 and 1988 sessions. It will be recalled

that, in resolution 1988/37, the Commission requested the Sub-Commission to continue to consider, within the framework of its mandate, the right to freedom of opinion and expression as laid down in the International Covenant on Civil and Political Rights, and to make recommendations to the Commission at its forty-fifth session on further measures which might be required at national and international levels to promote and safeguard that right. It also decided to review the matter at its forty-fifth session on the basis, inter alia, of the recommendation of the Sub-Commission and all other relevant information with a view to promoting respect for the right to freedom of opinion and expression.

In this respect, it may be noted that, in decision 1988/110, the Sub-Commission decided, inter alia, to request Mr. Türk, one of its members, to prepare, without financial implications, a working paper containing a proposal for carrying out a study concerning the right to freedom of expression and opinion with the aim of clarifying conceptual and methodological questions and to serve as a basis on which future decisions could be taken by the Sub-Commission on the matter.

Political prisoners and detention of persons who exercise, promote or defend human rights and fundamental freedoms

In resolution 1988/39 entitled "Political prisoners", the Commission expressed its concern at the fact that in many parts of the world numerous persons were detained for seeking to exercise peacefully their human rights and fundamental freedoms, in particular the rights to freedom of expression, of assembly and of association, as provided for in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, or to promote and defend those rights and freedoms, and that those persons were often exposed to special dangers regarding the protection of their human rights and fundamental freedoms. In the same resolution, the Commission requested all Governments to release all persons deprived of their liberty for seeking peacefully to exercise those rights and freedoms or to promote and defend them and called on all Governments, pending such release, to take effective measures to safeguard the human rights and fundamental freedoms of such persons.

In resolution 1988/38 entitled "Hostage-taking", the Commission called upon States to take any measures necessary to prevent and punish the taking of hostages and to put an immediate end to cases of abduction and unlawful restraint on their territory. It also requested the Secretary-General, whenever so requested by a State, to employ all means at his disposal in order to secure the immediate release of persons held hostage and decided to remain seized of the question at its forty-fifth session.

In this connection, the Commission may wish to note two resolutions adopted by the Sub-Commission at its fortieth session.

In resolution 1988/23 on detainees and hostages in Lebanon, the Sub-Commission called upon all parties, local and regional, involved in the war in Lebanon to release immediately and unconditionally all their detainees and hostages detained for political, religious or ethnical reasons or any other reason inconsistent with the norms of human rights and to use whatever influence they had on those in direct control of detainees and hostages.

In resolution 1988/38 entitled "Protection of human rights defenders", the Sub-Commission called for the release of all persons detained, in violation of the rights to freedom of speech, association and assembly, for defending the human rights of others and for publicizing alleged violations of such human rights.

Staff members of the United Nations and specialized agencies in detention

Both the Commission and the Sub-Commission have dealt with the detention, disappearance and death in detention of United Nations staff members. In its resolution 1988/41, the Commission requested the Secretary-General to continue his efforts to ensure that the human rights and privileges and immunities of United Nations staff members and their families were fully respected. It further requested him to submit to the Commission at its forty-fifth session an updated version of the report he had been asked to submit to the Sub-Commission at its fortieth session on the situation of international civil servants and their families detained, imprisoned, missing or held in a country against their will, including those cases which had been successfully settled during the five years preceding the Commission's forty-fifth session (E/CN.4/Sub.2/1988/17).

At its fortieth session, the Sub-Commission had before it, pursuant to its resolution 1987/21, a report of the Secretary-General on this subject. It adopted resolution 1988/9 in which it decided to entrust one of its members, Mrs. Maria Concepción Bautista, with the task of undertaking an examination of violations of human rights of staff members of the United Nations system, and to submit a preliminary report to the Sub-Commission at its forty-first session.

At its forty-fifth session, the Commission will have before it a report of the Secretary-General (E/CN.4/1989/19) submitted in accordance with Commission resolution 1988/41.

Human rights in the administration of justice

In its resolution 1988/33, the Commission dealt with a broad range of issues relating to human rights in the administration of justice, including the work of the Sub-Commission and co-ordination between various bodies in that area, and decided to consider the question at its forty-fifth session.

Elaboration of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty

In its decision 1988/104, the Commission decided, pursuant to its decisions 1985/109 and 1987/104, to consider the question further at its forty-fifth session.

It may be noted that the Sub-Commission, by resolution 1988/22, transmitted the comparative analysis and the comments made at its thirty-ninth and fortieth sessions and the draft second optional protocol prepared by the Special Rapporteur (E/CN.4/Sub.2/1987/20) to the Commission for consideration.

Other matters

In regard to other matters under item 10 of the provisional agenda, the Commission may wish to note one resolution and four decisions adopted by the Sub-Commission at its fortieth session: resolution 1988/11 entitled "Compensation of victims of gross violations of human rights"; decision 1988/103 containing suggestions concerning two draft instruments which were before the tenth session of the Committee on Crime Prevention and Control: (a) draft principles on the effective prevention and investigation of extralegal, arbitrary and summary executions, and (b) draft basic principles on the use of force and firearms by law enforcement officials; decision 1988/107 containing questions raised in connection with the Draft Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (A/C.6/42/L.12, annex), which is being considered by the Working Group of the Sixth Committee of the General Assembly; decision 1988/108 in which the Sub-Commission, having in mind that human rights prizes were due to be awarded on the fortieth anniversary of the Universal Declaration of Human Rights, recommended the candidacy of Mr. Nelson Mandela; and decision 1988/109 on international standards for adequate investigations into all cases of suspicious deaths in detention, as well as adequate autopsy.

11. Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission; alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms; national institutions for the promotion and protection of human rights

The item on the further promotion and encouragement of human rights and fundamental freedoms has been on the agenda of the Commission since 1963 (Commission resolution 8 (XIX)). The second part of the title was added in pursuance of General Assembly resolution 32/130 of 16 December 1977.

Public information: World Campaign for Human Rights

At its forty-fourth session, the Commission adopted resolution 1988/74, by which it decided on a number of measures to be taken in the context of the development of public information activities in the field of human rights. In accordance with the request of the Commission, the Secretary-General will submit a report on the implementation of the resolution to the Commission at its forty-fifth session (E/CN.4/1989/21). The attention of the Commission is also drawn to General Assembly resolution 43/128, by which the Assembly decided to launch a world information campaign for human rights and requested the Secretary-General to submit a report to this session of the Commission on current and proposed aims and activities of the world campaign which should be the basis of priority consideration by the Commission itself with a view to providing appropriate guidance on the aims and activities of the world campaign.

Overall analysis

By its resolution 32/130, the General Assembly, inter alia, formulated several concepts to be taken into account in the future work within the United Nations system with respect to human rights questions and requested the

Commission to undertake at its thirty-fourth session, as a matter of priority, an overall analysis of the alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms in the light of certain concepts stated in its resolution.

The Commission has discussed this matter at subsequent sessions. At its forty-fourth session, the Commission, by resolution 1988/30, recommended to the Economic and Social Council, which endorsed the recommendation by decision 1988/129, that the mandates of the special rapporteurs on thematic issues should be for a period of two years, that they should continue to report annually and that its decision applied to the mandates of the Special Rapporteur on mercenaries, the Special Rapporteur on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Special Rapporteur on the question of torture, the Special Rapporteur on summary and arbitrary executions and the Special Rapporteur of the Sub-Commission on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance to the racist and colonialist régime of South Africa.

At its forty-fifth session, the Commission will have before it draft resolution I entitled "Co-ordinating role of the Centre for Human Rights", contained in chapter I, section A, of the report of the Sub-Commission (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

12. Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories, including:

(a) Question of human rights in Cyprus;

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

By resolution 1164 (XLI) of 5 August 1966, the Economic and Social Council welcomed the decision of the Commission in its resolution 2 B (XXII) of 25 March 1966 to consider, at its twenty-third session, the question of its tasks and functions and its role in relation to violations of human rights. In resolution 2144 A (XXI) of 26 October 1966, the General Assembly invited the Council and the Commission to give urgent consideration to ways and means of improving the capacity of the United Nations to put a stop to violations of human rights wherever they might occur. Pursuant to these resolutions, the Commission adopted resolution 8 (XXIII) of 16 March 1967, in which it decided to give annual consideration to an item on the question of violations of human rights and fundamental freedoms. The title of the item was later modified by the Commission. Subsequently, the Economic and Social Council adopted resolutions 1235 (XLII) and 1503 (XLVIII) on the question of violations of human rights and fundamental freedoms.

In resolution 32/130, the General Assembly decided that, in approaching human rights questions within the United Nations system, the international community should accord, or continue to accord, priority to the search for solutions to the mass and flagrant violations of human rights of peoples and persons affected by various situations referred to in the resolution. The Assembly reiterated those views in subsequent resolutions, including resolution 37/199. In resolution 34/175 entitled "Effective action against mass and flagrant violations of human rights", the Assembly urged the appropriate United Nations bodies, within their mandates, particularly the Commission, to take timely and effective action in existing and future cases of mass and flagrant violations of human rights. By resolution 37/200, the General Assembly urged all States to co-operate with the Commission in its study of violations of human rights and fundamental freedoms in any part of the world and requested the Commission to continue its efforts to improve the capacity of the United Nations system to take urgent action in cases of serious violations of human rights.

At its forty-third session, the General Assembly considered reports on the situation of human rights in Afghanistan (A/43/742), Chile (A/43/624 and Corr.1, see item 5 above), El Salvador (A/43/736), the Islamic Republic of Iran (A/43/705), and southern Lebanon (A/43/630), as well as a report on human rights and mass exoduses (A/43/743).

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

(a) Report of the Secretary-General on the situation of human rights in Southern Lebanon (A/43/630) (Commission resolution 1988/66);

(b) Report of the Commission's Special Representative on the situation of human rights in El Salvador (E/CN.4/1989/23) (Commission resolution 1988/65, Council decision 1988/135 and Assembly resolution 43/145);

(c) Report of the Commission's Special Rapporteur on the situation of human rights in Afghanistan (E/CN.4/1989/24) (Commission resolution 1988/67, Council decision 1988/136, and Assembly resolution 43/139);

(d) Report of the Commission's Special Rapporteur on summary or arbitrary executions (E/CN.4/1989/25) (Commission resolution 1988/68, Council resolution 1988/38 and Assembly resolution 43/151);

(e) Report of the Commission's Special Representative on the situation of human rights in the Islamic Republic of Iran (E/CN.4/1989/26) (Commission resolution 1988/69, Council decision 1988/137 and Assembly resolution 43/137);

(f) Report of the Secretary-General on human rights and mass exoduses (E/CN.4/1989/27) (Commission resolution 1988/70 and Assembly resolution 43/154).

(a) Question of human rights in Cyprus

This question was first considered by the Commission at its thirty-second session, when it adopted resolution 4 (XXXII) of 27 February 1976. The Commission has had this question on its agenda since then; at its

forty-fourth session, by decision 1988/105, the Commission decided to postpone debate on the item to its forty-fifth session and to give it due priority. It requested the Secretary-General to provide a report to the Commission regarding the implementation of its previous resolutions on the subject (E/CN.4/1989/28).

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

By resolution 1503 (XLVIII) of 27 May 1970, entitled "Procedure for dealing with communications relating to violations of human rights and fundamental freedoms", the Council further regulated the procedure for dealing with communications. Particular situations referred to the Commission by the Sub-Commission under Council resolution 1503 (XLVIII) were before the Commission for the first time at its thirtieth session in 1974. Since then, particular situations relating to 44 countries have been placed before the Commission under the procedure.

At its thirtieth session in 1974, the Commission decided, with the subsequent approval of the Economic and Social Council, to establish a working group of five of its own members, due account being taken of considerations of geographical distribution, to examine the particular situations referred to the Commission under Council resolution 1503 (XLVIII) (decision 3 of 6 March 1974). The Working Group met prior to the Commission's thirty-first session in 1975 and submitted its recommendations confidentially to the Commission. A working group of this nature (Working Group on Situations) has been set up annually since then, with the approval of the Council, to examine the particular situations referred to the Commission each year and the situations of which the Commission is seized from earlier sessions.

At its thirtieth session, the Commission also decided that the Governments concerned should thenceforth be invited to submit written observations relating to the particular situations referred to the Commission (decision 3, para. 4).

In 1978, the Commission decided to issue invitations, during the first week of each session, to the States directly concerned, asking them to send representatives to address the Commission and to answer any questions put by members of the Commission (decision 5 (XXXIV)).

In 1979, the Commission decided to authorize its working groups in future to communicate the text of the relevant recommendations as soon as possible to the Governments directly concerned, in order to facilitate their participation in the examination of the situations concerning their countries, as provided in Commission decision 5 (XXXIV) (decision 14 (XXXV)).

In 1980, the Commission decided that the States invited to attend the closed meetings of the Commission under Council resolution 1503 (XLVIII) should have the right to attend and to participate in the entire discussion of the situation concerning them, and to be present during the adoption of the final decision taken in regard to that situation (decision 9 (XXXVI) of 7 March 1980).

All action taken under the procedure governed by Council resolution 1503 (XLVIII) remains confidential until such time as the Commission may decide to make recommendations to the Council. The documentation pertaining to the procedure is also confidential.

As in earlier years, the Commission decided, at its forty-fourth session, to set up a working group to meet for one week prior to its forty-fifth session to examine such particular situations as might be referred to it by the Sub-Commission at its fortieth session under Council resolution 1503 (XLVIII) and those situations of which the Commission was seized (decision 1988/103). The establishment of the Working Group on Situations, to meet from 23 to 27 January 1989, was approved by the Economic and Social Council in decision 1988/127.

At its forty-fifth session, the Commission will have before it the report of its Working Group on Situations, as well as other confidential documents pertaining to the sub-item, including the confidential report of the fortieth session of the Sub-Commission (E/CN.4/1989/R.1 and addenda), reports relating to the implementation of the confidential decisions adopted at the Commission's last session and such observations as may be received from the Government's concerned (to be issued in the E/CN.4/1989/R... series). In addition, the Commission will have before it the relevant earlier material relating to the situations of which the Commission is seized. The above-mentioned confidential documents will be handed to the members of the Commission at the session.

Chapter IX of the report of the Sub-Commission on the work of its fortieth session (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45) is also relevant to this sub-item.

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

In 1978, the Commission decided to include this item on its agenda (see E/1978/34, para. 349 (b)). Since then both the General Assembly and the Commission have considered the drafting of a convention on the rights of the child annually. In 1979, the Commission established an open-ended sessional working group to assist it in its task. Since 1981, with the authorization of the Economic and Social Council, such a working group has met one week prior to the Commission's session. On 7 December 1987, the General Assembly adopted resolution 42/101, by which it requested the Commission to give the highest priority to, and to make every effort at its forty-fourth and forty-fifth sessions to complete, a draft convention on the rights of the child and to submit it, through the Economic and Social Council, to the General Assembly at its forty-fourth session.

At its forty-fourth session, the Commission, in resolution 1988/75, requested the Council to authorize the convening of an open-ended working group for a period of up to two weeks in November-December 1988, with a view to completing the second reading of the draft convention on the rights of the child prior to the forty-fifth session of the Commission. The Council gave its authorization in resolution 1988/40.

The working group held its session from 28 November to 9 December 1988 and adopted the text of the draft convention on second reading for transmission to the Commission. At its forty-fifth session, the Commission will have before it the text of the draft convention (E/CN.4/1989/29) and the report of the working group (E/CN.4/1989/48).

On 8 December 1988, the General Assembly adopted resolution 43/112 by which it again requested the Commission to give the highest priority to, and to make every effort at its session in 1989 to complete a draft convention and to submit it, through the Economic and Social Council, to the General Assembly at its forty-fourth session.

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

Questions concerning the human rights of migrant workers have been examined by the Commission since its twenty-ninth session in 1973.

At its thirty-fifth session, in 1980, the General Assembly established an open-ended working group on the drafting of an international convention on the protection of the rights of all migrant workers and their families, whose mandate has since been regularly renewed.

At its forty-fourth session, the Commission requested the Secretary-General, in resolution 1988/77, to inform it of the further progress made in the elaboration of the draft convention.

At its forty-fourth session, the Commission will have available to it the 1988 reports of the General Assembly's Working Group (A/C.3/43/1 and A/C.3/43/7). Subsequently the Assembly adopted resolution 43/146, by which it continued the mandate of the Working Group.

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

This item has been considered by the Commission since 1969. In 1983, the Commission decided to consider this item on a biennial basis, beginning at its forty-first session in 1985, in the light of the work carried out in the Sub-Commission (decision 1983/108 (c)).

Human rights and youth

At its forty-first and forty-third sessions, the Commission adopted resolutions 1985/13, 1985/14, 1987/44 and 1987/45 on the subject.

At its thirty-eighth session, the Sub-Commission, in resolution 1985/12, referring inter alia to Commission resolution 1985/13, requested Mr. Dumitru Mazilu to prepare a report on human rights and youth in order to facilitate the Sub-Commission's discussion of the topic. It may be recalled that the Commission, by resolution 1987/44, took note of the above-mentioned resolution of the Sub-Commission.

At its fortieth session, the Sub-Commission adopted resolution 1988/37. It recalled, inter alia, its appointment in 1985 of Mr. Dumitru Mazilu, expert from Romania, to prepare a report on human rights and youth, and that his

membership in the Sub-Commission had expired before the completion of the study entrusted to him as Special Rapporteur of the Sub-Commission. The Sub-Commission stressed the urgent need to have the report presented to it by Mr. Mazilu as soon as possible and requested the Secretary-General to approach once more the Government of Romania and invoke the applicability of the Convention on the Privileges and Immunities of the United Nations, and request the Government to co-operate fully in the implementation of resolution 1988/37 by ensuring that Mr. Mazilu's report be completed and presented to the Sub-Commission at the earliest possible date. It further requested the Secretary-General, in the event the Government of Romania did not concur in the applicability of the provisions of the said Convention to that case, to bring the difference between the United Nations and Romania immediately to the attention of the Commission at its forthcoming forty-fifth session. The Sub-Commission also requested the Commission, in the latter event, to urge the Economic and Social Council, in accordance with General Assembly resolution 89 (1) of 11 December 1946, to request an advisory opinion from the International Court of Justice on the applicability of the relevant provisions of the Convention on the Privileges and Immunities of the United Nations to the case and within the scope of the Sub-Commission resolution.

Conscientious objection to military service

The question of conscientious objection to military service has been discussed by the Commission since its twenty-seventh session. At its forty-first session the Commission had before it a report on this question prepared by two members of the Sub-Commission, Mr. Eide and Mr. Mubanga-Chipoya (E/CN.4/Sub.2/1983/30). On the recommendation of the Commission, the Economic and Social Council (resolution 1984/27) decided that the report should be printed and given the widest possible distribution. The Council, in that resolution, requested the Commission to study the report on conscientious objection to military service, including the recommendations contained therein, as well as the report of the Secretary-General containing the comments and observations, under the item entitled "The role of youth in the promotion and protection of human rights, including the question of conscientious objection to military service".

At its forty-first session, in decision 1985/114, the Commission decided to adjourn the debate on a draft resolution on this question until its forty-third session. At its forty-third session, the Commission adopted resolution 1987/46 on conscientious objection to military service by which inter alia, it requested the Secretary-General to report to the Commission at its forty-fifth session. In pursuance of this resolution, the Commission will have before it a report by the Secretary-General (E/CN.4/1989/30).

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

The International Convention on the Suppression and Punishment of the Crime of Apartheid was adopted and opened for signature and ratification on 30 November 1973 by General Assembly resolution 3068 (XXVIII). It entered into force on 18 July 1976.

As at 1 December 1988 there were 87 States parties to the Convention.

In 1980, the Commission decided, by resolution 12 (XXXVI), to maintain this question on its agenda as a standing item.

At its forty-fourth session, the Commission adopted resolution 1988/14, by which it took note with appreciation of the report (E/CN.4/1988/32) of the Group of three members of the Commission set up under the Convention. It also requested the Group to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporations whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-fifth session, and decided that the Group of Three should meet for a period of not more than five days before the forty-fifth session of the Commission to consider the reports submitted by States parties in accordance with article VII of the Convention.

The Group of Three is scheduled to meet in Geneva from 23 to 27 January 1989.

At its forty-fifth session, the Commission will have before it: (a) a note by the Secretary-General concerning the status of the Convention and the submission of reports by States parties in accordance with article VII (E/CN.4/1989/31), (b) reports received from States parties to the Convention in accordance with article VII thereof (E/CN.4/1989/31/Add.1-8 and further addenda as required), (c) views and information submitted by States parties, specialized agencies and non-governmental organizations, in accordance with Commission resolution 1988/14 (E/CN.4/1989/32 and addenda as required) and, (d) the report of the Group of Three (E/CN.4/1989/33).

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

By resolution 1983/10, the Sub-Commission recommended that a study should be undertaken by Mr. Asbjorn Eide on the achievements made and obstacles encountered during the Decade for Action to Combat Racism and Racial Discrimination, with special emphasis on the progress in that field, if any, between the first and second world conferences to combat racism and racial discrimination, taking into account also the resolutions the General Assembly might adopt on the report of the Second World Conference and the first stage of the implementation of the Programme of Action for the Second Decade. The Commission endorsed this proposal in resolution 1984/8.

The Economic and Social Council, in resolution 1984/24, subsequently authorized the study and requested Mr. Eide to present it to the Sub-Commission at its thirty-eighth session.

The first part of the study (E/CN.4/Sub.2/1985/7) was made available to the Sub-Commission at its thirty-eighth session. The second and final report was submitted to the Sub-Commission at its thirty-ninth session in 1987 (E/CN.4/Sub.2/1987/6). The Sub-Commission subsequently adopted resolution 1987/6, in which it approved the outline of the study as proposed in the final progress report, and recommended that the Commission should request the Economic and Social Council to authorize the Special Rapporteur to proceed with the collection of the information he needed for the completion of the study.

At its fortieth session, the Sub-Commission had before it a report by Mr. Eide on the progress of his study (E/CN.4/Sub.2/1988/5). The Sub-Commission subsequently adopted resolution 1988/6, in which it endorsed the decision by Mr. Eide to make a renewed call for additional information required to complete his study and requested him to submit a final report to the Sub-Commission at its forty-first session in 1989. At the same session the Sub-Commission adopted, without a vote, decision 1988/101 in which it requested the Chairman of the Commission to address a telegram on its behalf to the Government of South Africa demanding the immediate release of Nelson Mandela and Zephania Mothopeng, President of the Pan Africanist Congress of Azania.

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

By resolution 1988/16, the Commission requested the Secretary-General to inform it annually of the progress made in carrying out the plan of activities for the period 1985-1989 (A/39/167-E/1984/33 and Add.1 and 2) so that the Commission could make its contribution thereto. It furthermore requested the Secretary-General to envisage the organization of a seminar on "The political, historical, economic, social and cultural factors contributing to racism, racial discrimination and apartheid". The Commission further decided that the topic for thematic consideration for the year 1990 would be "The human rights of individuals belonging to ethnic groups in countries of immigration".

At its first regular session of 1988, the Economic and Social Council adopted resolution 1988/6 on the implementation of the Programme of Action for the Second Decade, in which it invited, inter alia, United Nations bodies to participate fully in the implementation of the plan of activities for the period 1985-1989, and decided, as a matter of priority, to give particular attention to the specific activities of the Programme of Action for the Second Decade directed towards the elimination of apartheid, in view of the present explosive situation in southern Africa.

At the current session, the Commission will have before it the report of the Secretary-General (E/CN.4/1989/34) pursuant to Commission resolution 1988/16; the reports of the Secretary-General submitted to the Economic and Social Council at its first regular session of 1988:

- (a) Analysis of the replies received from Governments on action taken under the Programme of Action for the Second Decade (E/1988/8) (this document is presented to the Council every two years pursuant to paragraph 10 of Assembly resolution 39/16); (b) Annual report of the Secretary-General on the

implementation of the Programme of Action of the Second Decade (E/1988/9 and Add. 1-2); (c) report on the United Nations training course on the preparation of national legislation to combat racism and racial discrimination (E/1988/10).

The Commission will also have before it the reports of the Secretary-General on this item to the General Assembly at its forty-third session in 1988: (a) study on the role of private group action to combat racism and racial discrimination: report of the Secretary-General (A/43/631); (b) note by the Secretary-General on the global compilation of national legislation against racial discrimination (A/43/637); (c) conference room paper on the global consultation on racism and racial discrimination, held in Geneva from 3 to 6 October 1988 (A/C.3/43/CRP.1).

Finally, the Commission will have before it for consideration the annual reports on racial discrimination, submitted by the International Labour Organisation (E/CN.4/1989/35), and the United Nations Educational, Scientific and Cultural Organization (E/CN.4/1989/36) in accordance with Economic and Social Council resolution 1588 (L) and General Assembly resolution 2785 (XXVI).

18. Status of the International Covenants on Human Rights

By its resolution 1988/27, the Commission requested the Secretary-General to submit to it, at its forty-fifth session, a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights, including all reservations and declarations, and to include in that report information on the work of the Economic and Social Council and the Committee on Economic, Social and Cultural Rights. Accordingly, the Commission will have before it information on the status of the International Covenants on Human Rights and the work of the Council and the Committee on Economic, Social and Cultural Rights (A/43/518), as well as the reservations, declarations, notifications and objections relating to the International Covenant on Economic, Social and Cultural Rights (E/C.12/1988/1) and the International Covenant on Civil and Political Rights and the Optional Protocol thereto (CCPR/C/2/Rev.1).

19. Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its fortieth session

The report of the Sub-Commission is considered annually by the Commission. The report on the Sub-Commission's work at its fortieth session is contained in document E/CN.4/1989/3-E/CN.4/Sub.2/1988/45.

At its fortieth session, the Sub-Commission adopted 40 resolutions and 13 decisions which are reproduced in the report.

Draft resolutions for consideration by the Commission on Human Rights

Chapter I, sections A and B, of the report contain eight draft resolutions and five draft decisions for consideration by the Commission. They are listed below:

Draft
resolutions

Title

- I. Co-ordinating role of the Centre for Human Rights (see also item 11)
- II. Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (see also item 7)
- III. Study on treaties, agreements and other constructive arrangements between States and indigenous populations
- IV. Programme of advisory services in the field of human rights (see also item 21)
- V. Movement and dumping of toxic and dangerous products and wastes
- VI. Draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care
- VII. Guidelines on the use of computerized personal files
- VIII. Slavery and slavery-like practices

Draft decisions

1. Human rights and disability
2. Question of human rights and states of emergency (see also item 10)
3. Realization of economic, social and cultural rights (see also item 8)
4. Traditional practices
5. The status of the individual and contemporary international law.

In chapter I, section C, of the Sub-Commission's report, the Commission's attention is drawn to the resolutions and decisions of the Sub-Commission which require consideration or action by the Commission. They are as follows:

Resolutions

Title

- | | |
|-----------------------------|--|
| 1988/12, paragraphs 3 to 5 | Situation of human rights in Haiti |
| 1988/13, paragraph 2 | Situation of human rights in El Salvador |
| 1988/14, paragraphs 5 to 7 | Situation of human rights in Guatemala |
| 1988/15, paragraphs 2 and 3 | Situation of human rights in Albania |
| 1988/16, paragraphs 2 to 5 | Situation of human rights in Chile |

1988/18, paragraph 7	Draft universal declaration on indigenous rights
1988/22, paragraph 2	Draft second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty
1988/25, paragraph 2	Draft declaration on the independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers
1988/32, operative paragraph	Draft international instrument on freedom of religion or belief
1988/37, paragraphs 2 and 3	Prevention of discrimination and protection of children: human rights and youth
1988/38, paragraph 5	Protection of human rights defenders

Decisions

1988/101	Elimination of racial discrimination
1988/104	Review of the work of the Sub-Commission
1988/110	Question of human rights of persons subjected to any form of detention and imprisonment: freedom of expression and opinion and administrative detention without charge or trial
1988/112	Elimination of intolerance and discrimination based on religion or belief: draft international instrument

In its resolution 1988/43, the Commission called upon the Sub-Commission, in the fulfilment of its functions and duties, to be guided by the relevant resolutions of the Commission and the Economic and Social Council. The Commission drew the attention of the Sub-Commission to the comments and suggestions made at the forty-fourth session of the Commission and requested the Sub-Commission to take them into account. Further the Commission requested the Chairman of the Sub-Commission to report to the Commission in the implementation of the guidelines contained in Commission resolution 1988/43. In pursuance of this resolution, the Chairman of the Sub-Commission will report to the Commission on this subject at the present session.

20. Rights of persons belonging to national, ethnic, religious and linguistic minorities

At its thirty-fourth session, the Commission established an informal open-ended working group to consider questions related to the drafting of a declaration on the rights of members of minority groups, on the basis of a text proposed by Yugoslavia (E/CN.4/L.1367) which was intended to serve as a starting point for an exchange of views. The Commission has continued to examine this question at each of its subsequent sessions, at which a sessional open-ended working group has been established by the Commission to consider the matter.

The Sub-Commission also examined the question, at its thirty-second, thirty-third, thirty-seventh and thirty-eighth sessions (Sub-Commission decisions 1 (XXXII), 1 (XXXIII) and 1984/101 and resolution 1985/6).

At its forty-fourth session, the Commission adopted resolution 1988/64, by which it decided to establish at its forty-fifth session an open-ended working group to continue consideration of the revised draft declaration proposed by Yugoslavia, taking into account all relevant documents. It decided further that the working group should have no fewer than four full meetings, preferably during the first two weeks of the forty-fifth session.

At its fortieth session, the Sub-Commission adopted resolution 1988/36, in which it invited Ms. Claire Palley, one of its members, to prepare, without financial implications, a working paper on possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities.

At its forty-fifth session, the Commission will have before it the report of the sessional open-ended working group (E/CN.4/1989/38).

21. Advisory services in the field of human rights

At its forty-fourth session, the Commission, by resolution 1988/54, requested the Secretary-General to report to it at its forty-fifth session on the progress made in the implementation of the programme for advisory services in the field of human rights.

In its resolution 1988/53, the Commission requested the Secretary-General to start operations under the Voluntary Fund for Advisory Services and Technical Assistance in the Field of Human Rights within the resources already available and to report to the Commission annually on the operation and administration of the Fund as part of his annual report on advisory services in the field of human rights. The Commission will have before it that report (E/CN.4/1989/42).

By its resolution 1988/73 on regional arrangements for the promotion and protection of human rights in the Asian-Pacific region, the Commission requested the Secretary-General to submit a further report to it at its forty-fifth session incorporating information on progress achieved in the implementation of that resolution. The Commission will have before it the report of the Secretary-General (E/CN.4/1989/43).

In resolution 1988/51 on assistance to Haiti in the field of human rights, the Commission decided to request the Secretary-General to extend the mandate of the Expert for one year and requested the Expert to establish direct contacts with the Government of Haiti with a view to taking any necessary action for the full restoration of human rights. The report of the Expert will be before the Commission in document E/CN.4/1989/40

The Commission will also have before it under this item the report of the Expert on the manner in which the Government of Equatorial Guinea intends fully to implement the plan of action proposed by the United Nations and on the progress achieved to date (E/CN.4/1989/41), in accordance with Commission resolution 1988/52.

In resolution 1988/50, the Commission decided to request the Secretary-General to renew for one year the mandate of the Expert appointed to assist the Government of Guatemala. The report of the Expert will be before the Commission in document E/CN.4/1989/39.

In connection with this item, the Commission will also have before it draft resolution IV contained in chapter I, section A, of the report of the Sub-Commission (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45).

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

After the proclamation by the General Assembly in 1981 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (resolution 36/55), the consideration of measures to implement the Declaration was taken up, at the request of the Assembly, by the Commission and the Sub-Commission.

At its forty-fourth session, the Commission adopted resolution 1988/55, in which the Sub-Commission was requested: (a) to prepare a compilation of provisions relevant to the elimination of intolerance and discrimination based on religion or belief contained in the Declaration and other international instruments; (b) to examine, mindful of General Assembly resolution 41/120 of 4 December 1986, and taking into account the provisions of the existing international instruments in the field, the issues and factors which should be considered before any drafting of a further binding international instrument on freedom of religion and belief took place; and (c) to report on the above issues to the Commission at its forty-fifth session.

The Commission, by the same resolution, decided to extend for two years the mandate of the Special Rapporteur, Mr. Angelo Vidal d'Almeida Ribeiro, and invited him, in carrying out his mandate, to bear in mind the need to be able to respond effectively to credible and reliable information that came before him, to seek the views and comments of the Government concerned on any information which he intended to include in his report and to carry out his work with discretion and independence. This resolution was endorsed by the Economic and Social Council in its decision 1988/142.

At its fortieth session, the Sub-Commission adopted resolution 1988/32 entitled "Draft international instrument on freedom of religion or belief", in which it recommended to the Commission that it should consider establishing a pre-sessional working group on the topic immediately after the mandate of the Working Group to draft a convention on the rights of the child had come to an end. In its decision 1988/112, adopted at the same session, the Sub-Commission, noting the request of the Commission in its resolution 1988/55, decided to request Mr. van Boven to prepare, without financial implications, a working paper with a view to assisting the Sub-Commission to carry out the tasks requested of it by the Commission at its forty-first session.

At its forty-fifth session, the Commission will have before it the report of the Special Rapporteur, Mr. d'Almeida Ribeiro (E/CN.4/1989/44).

23. Drafting of a declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms

This item was included in the agenda of the forty-fifth session by Commission resolution 1988/71, adopted at its forty-fourth session.

By the same resolution, the Commission also decided to continue at its forty-fifth session its work on the elaboration of the draft declaration, using as a basis the views expressed and proposals made in the working group at its previous sessions and to make available during the forty-fifth session of the Commission appropriate meeting time for the working group, preferably during the first two weeks of the session. The meeting of the working group for a period of one week prior to the forty-fifth session of the Commission was authorized by Economic and Social Council resolution 1988/39.

At its current session, the Commission will have before it the report of the working group scheduled to meet from 23 to 27 January 1989.

24. Draft provisional agenda for the forty-sixth session of the Commission

Rule 9 of the rules of procedure provides that at each session of the Commission, the Secretary-General shall submit a draft provisional agenda for the Commission's subsequent session, indicating in respect of each agenda item the documents to be submitted under that item and the legislative authority for their preparation, in order to enable the Commission to consider the documents from the point of view of their contribution to its work and of their urgency and relevance in the light of the current situation.

The Commission will have before it, before the conclusion of the forty-fifth session, a note for its consideration containing a draft provisional agenda for its forty-sixth session, together with information concerning the corresponding documentation.

25. Report to the Economic and Social Council on the forty-fifth session of the Commission

Rule 37 of the rules of procedure provides that the Commission shall submit to the Council a report, which shall normally not exceed 32 pages, on the work of each session containing a concise summary of recommendations and a statement of issues requiring action by the Council. It shall as far as practicable frame its recommendations and resolutions in the form of drafts for approval by the Council.