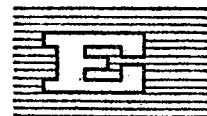


UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL  
E/CN.4/1180  
E/CN.4/Sub.2/364  
28 November 1975  
Original: ENGLISH

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

REPORT OF THE SUB-COMMISSION ON PREVENTION OF  
DISCRIMINATION AND PROTECTION OF MINORITIES  
ON ITS TWENTY-EIGHTH SESSION

Geneva, 25 August - 12 September 1975

Rapporteur: Mr. José Joaquín Caicedo PERDOMO

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## I. ORGANIZATION OF THE SESSION

### Opening and duration of the session

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities held its twenty-eighth session at the United Nations Office in Geneva from 25 August to 12 September 1975.
2. The session was opened (715th meeting) by Mr. Aureliú Cristescu (Romania), Chairman of the Sub-Commission at its twenty-seventh session, who made a statement.
3. The director of the Division of Human Rights made a statement on behalf of the Secretary-General.

### Attendance

4. The session was attended by members of the Sub-Commission, by rapporteurs not members of the Sub-Commission, by observers from Member States, by an observer from a non-Member State and by representatives of United Nations bodies, specialized agencies, a regional intergovernmental organization and non-governmental organizations. Details of attendance appear in annex I.
5. Some members informed the Secretary-General that they were unable to attend the whole or part of the session and, in accordance with rule 70 of the rules of procedure of the functional commissions of the Economic and Social Council, and with the consent of their Governments, appointed alternates (see annex I). The Secretary-General concurred with these nominations, and the alternates were therefore granted during the session the same status as members of the Sub-Commission, including the right to vote.

### Election of officers

6. At its 715th meeting, the Sub-Commission unanimously elected the following officers:

<u>Chairman:</u>	Mrs. Nicole Questiaux
<u>Vice-Chairmen:</u>	Mr. Abdelwahab Bouhdiba Mr. Branimir M. Janković Mrs. Renu Jotidilok
<u>Rapporteur:</u>	Mr. José Joaquín Caicedo Perdomo

### Agenda

7. At its 716th meeting the Sub-Commission unanimously adopted the following agenda:
  1. Election of officers
  2. Adoption of the agenda
  3. Exploitation of labour through illicit and clandestine trafficking

4. The problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live
5. 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
6. The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms
7. Implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination
8. Study of the problem of discrimination against indigenous populations
9. Study of the rights of persons belonging to ethnic, religious and linguistic minorities
10. Study of the question of the prevention and punishment of the crime of genocide
11. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)
12. Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII)
13. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: report of the Working Group established under Sub-Commission resolution 11 (XXVII) in accordance with Economic and Social Council decision 17 (LVI)
14. The question of the human rights of persons subjected to any form of detention or imprisonment
15. The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights
16. Updating of the special study of racial discrimination in the political, economic, social and cultural spheres
17. Draft general principles on equality and non-discrimination in respect of persons born out of wedlock
18. Review of further developments in fields with which the Sub-Commission has been concerned

19. Consideration of the future work of the Sub-Commission, including the drawing up of a five-year programme of work (Commission on Human Rights resolution 10 (XXXI))
20. Draft provisional agenda for the twenty-ninth session of the Sub-Commission
21. Report on the twenty-eighth session

#### Organization of work

8. The Sub-Commission took up the items of its agenda in the following order: 1, 2, 5, 18, 9, 13, 6 and 7, 8, 11, 3, 12, 14, 10, 4, 15, 19, 17, 16, 20, 21.
9. Informal working groups were set up to consider and report on agenda item 19 (see chap. XVI) and agenda item 17 (see chap. XVII).

#### Meetings, resolutions and documentation

10. The Sub-Commission held 27 meetings. The views expressed are summarized in the records of the 715th to 742nd meetings (E/CN.4/Sub.2/SR.715-742).
11. The Sub-Commission heard statements by the observer from Chile at its 729th, 731st and 738th meetings, by the observer from Cyprus at its 731st and 738th meetings and by the observer from Turkey at its 731st, 737th and 738th meetings.
12. The Sub-Commission heard a statement by the representative of the United Nations Council for Namibia at its 742nd meeting.
13. The representative of the United Nations Educational, Scientific and Cultural Organization made statements at the 718th and 722nd meetings. At its 718th, 729th and 733rd meetings the Sub-Commission heard statements by the representative of the International Labour Organisation.
14. The representative of the International Youth and Student Movement for the United Nations made statements at the 717th, 719th and 729th meetings. The representative of the International League for the Rights of Man made statements at the 719th, 729th and 731st meetings. The representative of the National Indian Brotherhood made a statement at the 729th meeting. At its 735th meeting the Sub-Commission heard statements made by the representatives of Amnesty International, the Anti-Slavery Society and the International Commission of Jurists. The representative of the Commission of the Churches on International Affairs made statements at the 731st and 737th meetings. At its 738th meeting the Sub-Commission heard a statement made by the representative of the International Alliance of Women.
15. The Sub-Commission adopted resolutions 1 (XXVIII) to 5 (XXVIII) and took several decisions. The texts of these resolutions and decisions appear in chapter XXI below. The Sub-Commission also adopted a confidential resolution relating to agenda item 12.
16. The five-year programme of work adopted by the Sub-Commission is given in annex II. Statements of the financial implications of resolution 5 (XXVIII) and of the Sub-Commission's decisions, prepared by the Secretary-General, are reproduced in annex III. Annex IV contains a list of the documents submitted for the Sub-Commission's consideration.

II. THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF  
POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE  
GIVEN TO COLONIAL AND RACIST REGIMES IN SOUTHERN AFRICA

17. The Sub-Commission considered agenda item 5 at its 716th to 718th meetings, on 26 and 27 August 1975.

18. The Commission on Human Rights, by its resolution 3 (XXX) of 14 February 1974, had authorized the Sub-Commission to appoint a special rapporteur to evaluate urgently the importance and the sources of political, military, economic and other assistance given by certain States to the racist and colonial régimes in southern Africa, as well as the direct or indirect effects of such assistance on the perpetuation of colonialism, racial discrimination and apartheid. On the recommendation of the Commission, the Economic and Social Council had adopted resolution 1864 (LVI) of 17 May 1974, in which it confirmed this authorization and recommended that the General Assembly include the topic in its agenda with a view to considering it at its thirtieth session. By its resolution 2 (XXVII) of 16 August 1974, the Sub-Commission appointed Mr. Ahmed M. Khalifa Special Rapporteur to carry out the study.

19. The Sub-Commission had before it a preliminary report submitted by the Special Rapporteur (E/CN.4/Sub.2/L.624) and a written statement submitted by the International Youth and Student Movement for the United Nations and the International League for the Rights of Man (E/CN.4/Sub.2/NGO/53).

20. In introducing his preliminary report at the 716th meeting, the Special Rapporteur emphasized that the study dealt mainly with the cases of the Republic of South Africa, Namibia and Southern Rhodesia and deliberately abstained from dealing with the Territories that were, or rather had been, under Portuguese domination, in view of the events of recent months. Chapter IV of the report, which was entitled "Recent developments", covered those changes and also dealt with the "policy of détente" of the South African Government.<sup>1/</sup>

21. During the discussion all the speakers stressed the importance of the study for the strengthening of United Nations efforts to combat apartheid and eradicate the colonial and racist régimes in southern Africa.

22. It was stated that the report confirmed that the South African economy was being buttressed and promoted by investments from certain countries with a view to neutralizing the effect of the economic sanctions which all States Members of the United Nations were called upon to apply. It was pointed out that, moved by economic and political interests, certain States were helping the racist régimes to avoid the embargo imposed on them by the United Nations and were thus assisting the racist régimes to exploit the indigenous populations.

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<sup>1/</sup> A fuller account of the Special Rapporteur's introductory statement appears in the summary record of the 716th meeting (E/CN.4/Sub.2/SR.716).



23. Some speakers drew attention to the military build-up in South Africa which in their view represented a serious threat to the maintenance of international peace and security, not only in relation to independent African States but to the entire region of the Indian Ocean and the South Atlantic.

24. It was felt that a link should be established between the study and United Nations documents concerning aggression, particularly article 7 of the definition of aggression approved by General Assembly resolution 3514 (XXIX), which justified legal use of armed force against a State in which there existed apartheid or colonialism. According to another view, the Special Rapporteur should bear in mind article 16, paragraph 1, of the Charter of Economic Rights and Duties of States (General Assembly resolution 3281 (XXIX)), recognizing that "it is the right and duty of all States, individually and collectively, to eliminate colonialism, apartheid, racial discrimination, neo-colonialism and all forms of foreign aggression, occupation and domination".

25. Some speakers expressed the view that the report should concentrate on the adverse consequences for the enjoyment of human rights of political, military, economic and other assistance given by certain countries and multinational and national corporations and avoid detailed, factual surveys on all kinds of aid, since other United Nations bodies were already dealing with that data. It was pointed out that the Sub-Commission was mainly concerned with the effects of the aid given to the racist régimes in southern Africa on the human rights of the non-white populations.

26. Other speakers felt that it would be difficult to deal with the whole problem without giving due consideration to what kind of help was being afforded and who was giving it to the racist and colonial régimes. It was suggested that more attention should be given to the role of foreign capital and white immigration, and to political and military relations between certain States and the racist régimes; such an investigation would help in condemning the forces that were sharing the responsibility for the flagrant violations of human rights taking place in the area. The necessity of revealing the role of multinational corporations was strongly stressed. The view was expressed that it would be desirable if the Rapporteur could conduct an economic study and analysis of the terms, profitability and procedures of investment in South Africa. Some speakers indicated that it was necessary to deal not only with direct involvement of certain States and corporations in the assistance given to racist régimes but to reveal indirect involvement of foreign capital and military co-operation, which had been increasing in recent times owing to the growing diplomatic, economic and moral isolation of the racist régimes.

27. Some speakers stated that the Special Rapporteur should elaborate on the real consequences of the presence of foreign capital and enterprises in southern Africa. In this connexion two views were expressed. One was that the aid given and received profited the non-white population in Southern Rhodesia and South Africa, since they were benefiting from foreign investments in the economy of those countries; the other view was that the more foreign investment there was, the less benefit accrued to the black population, and that prosperity increased white immigration. There was common agreement that the Special Rapporteur should examine those arguments in depth and express his opinion on this matter.

28. It was suggested that the Special Rapporteur should use more widely the material of various seminars dealing with subjects related to the question under discussion. As an example, the results of a United Nations seminar on apartheid, held in Brasilia, were mentioned. Some speakers called for a more thorough study of, inter alia, the reports of the Ad Hoc Working Group of Experts of the Commission on Human Rights dealing with violations of human rights in southern Africa, the reports of the Director-General of ILO on the application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa, and material published by the World Council of Churches.

29. Though there were varied opinions as to the credibility of the "policy of détente" of the South African Government, there was general endorsement of the omission of the present or former Portuguese territories from the scope of the Special Rapporteur's report.

30. In general, the members of the Sub-Commission requested the Special Rapporteur to develop the various aspects of the economic assistance given to the colonial and racist régimes in southern Africa; at the same time the balance should be preserved so that the report would be concise and readable as well as thoroughly documented.

31. It was suggested that the final study should include practical conclusions, based on the analysis of material contained in the preceding chapters, and should set out guidelines for action entailing a radical readjustment of the measures taken previously, which had not achieved the desired result.

32. At the conclusion of the debate on this item the Sub-Commission expressed its appreciation to the Special Rapporteur for his valuable work.

33. For the Sub-Commission's decision concerning the Special Rapporteur's final report, see annex II, item IX.

III. REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH  
WHICH THE SUB-COMMISSION HAS BEEN CONCERNED

34. The Sub-Commission considered agenda item 18 at its 718th and 719th meetings, on 27 August 1975.
35. It had before it a note by the Secretary-General reviewing developments between 16 June 1974 and 15 June 1975 (E/CN.4/Sub.2/356), a memorandum of the International Labour Office covering the period since May 1974 (E/CN.4/Sub.2/357) and a memorandum of the United Nations Educational, Scientific and Cultural Organization describing new activities of special interest since June 1974 in the fields of education, communication and the social sciences (E/CN.4/Sub.2/358). The representative of ILO circulated copies of the Eleventh Special Report of the Director-General on the Application of the Declaration concerning the Policy of Apartheid of the Republic of South Africa. At the request of a member of the Sub-Commission, the same representative also circulated the texts of the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers and the Recommendation concerning Migrant Workers, both adopted by the International Labour Conference in 1975.<sup>2/</sup> The Sub-Commission also had before it a written statement by the International League for the Rights of Man (E/CN.4/Sub.2/NGO/51) in relation with this item.
36. The representatives of the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization made statements at the 718th meeting.
37. Speakers paid tribute to the efforts made by the various organs and bodies of the United Nations family in the areas with which the Sub-Commission had been concerned. Some members suggested that it would be desirable if other organs and bodies of the United Nations system, the regional intergovernmental and the non-governmental organizations were to furnish similar reviews of activities undertaken by them in fields that were linked with the tasks of the Sub-Commission.
38. The question of how the Sub-Commission could play a greater role in furthering the objectives of the Decade for Action to Combat Racism and Racial Discrimination was raised.
39. One speaker stated that the Sub-Commission had hitherto been primarily concerned with discrimination in law and that it should henceforth deal with de facto acts of discrimination. In education, for example, there were a number of cases in which discrimination was practised, not because of specific legal standards, but because for practical reasons certain sectors of the population, such as women or inhabitants of rural areas, were unable to attain the level of education they were capable of reaching. Drawing attention to the sixth paragraph of section C of document E/CN.4/Sub.2/356, the same speaker stressed that efforts by States Members of the United Nations to put an end to the vestiges of nazism and fascism should be regarded as being of a priority nature in the Sub-Commission.

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<sup>2/</sup> Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and Migrant Workers Recommendation, 1975 (No. 151).

40. Another member of the Sub-Commission stated that it was necessary to promote the preparation of objective textbooks for schools, especially history books. In some countries there were many newspapers and school books that were impregnated with nationalist or ethnocentric bias and could instil the value judgements of a particular nation, race, sex, religion etc. The Sub-Commission should request UNESCO to prepare a study on the question for the Sub-Commission at its next session.

41. The fact that the International Covenants on Human Rights would enter into force very shortly gave cause for satisfaction. It was said that the entry into force of the two Covenants, and more especially of the International Covenant on Civil and Political Rights, represented a triumph for all concerned with human rights, including governmental and non-governmental organizations, the many personalities who were striving to promote human rights within the United Nations system, and those scholars throughout the world who emphasized the current concern of international law for the human being. The entry into force of the Covenants should entail not only the bringing into being of legal machinery and the renewal of some existing procedures but also a propaganda effort to inform every citizen of the world of the significance of the Covenants and other United Nations instruments on human rights. Some members expressed the hope that it would stimulate additional States to become parties to them, so as to make possible their universal application through the participation of a large number of States.

42. With the imminent entry into force of the two International Covenants, the importance was stressed of studying the legal, economic and social consequences of their provisions. Some speakers, including the representative of the ILO, expressed the view that it had now become a matter of urgency to take steps to ensure that the necessary procedures and machinery for supervising the implementation of the Covenants were established, as envisaged in the Covenants. Close consultations between the United Nations and the specialized agencies concerned would be required to that end.

43. The Sub-Commission decided to ask the working group set up to consider and report on agenda item 19 (see chap. XVI) to consider also the possibility of a study of the consequences of the entry into force of the International Covenants on Human Rights, bearing in mind inter alia the note by the Secretary-General concerning item 18 (E/CN.4/Sub.2/356).

IV. STUDY ON THE RIGHTS OF PERSONS BELONGING TO ETHNIC,  
RELIGIOUS AND LINGUISTIC MINORITIES

44. The Sub-Commission considered agenda item 9 at its 719th to 722nd meetings, on 27, 28 and 29 August 1975.

45. The Sub-Commission had before it the report (E/CN.4/Sub.2/L.621) submitted by the Special Rapporteur, Mr. Francesco Capotorti, in accordance with its resolution 1 (XXVII).

46. In introducing his report,<sup>3/</sup> the Special Rapporteur recalled that three previous reports on the study had already been submitted to the Sub-Commission.<sup>4/</sup> The present report consisted of an introduction and two parts. The introduction included the information that only 12 additional government replies had been received between the last session of the Sub-Commission and 30 June 1975, bringing the total number of replies which had reached the Special Rapporteur to 41, less than one third of the number of the State Members of the United Nations. In a considerable number of cases, the replies received had been confined to the reproduction of constitutional provisions. The introduction also contained a revised plan for the final study which took into account the information supplied by Governments and the contents of the country monographs so far prepared. Part one of the report, "The position of persons belonging to ethnic, religious and linguistic minorities in society", contained four chapters, in which the following questions were examined: (i) the sense of identity of minority groups; (ii) intergroup relations: difficulties and remedies; (iii) the objectives pursued by Governments in formulating their policies towards persons belonging to ethnic, religious and linguistic minorities; (iv) non-discrimination as a pre-condition of special measures in favour of persons belonging to ethnic, religious and linguistic minorities. Part two, entitled "Application of the principles set forth in article 27 of the International Covenant on Civil and Political Rights", also contained four chapters (chapters V to VIII) dealing respectively with the following points: (i) the right of persons belonging to ethnic minorities to enjoy their own culture; (ii) the right of persons belonging to religious minorities to profess and practise their own religion; (iii) the right of persons belonging to linguistic minorities to use their own language and (iv) the procedures provided in order to ensure the respect of the rights granted to members of ethnic, religious and linguistic minorities.

47. Speakers congratulated the Special Rapporteur for his efforts. It was said that the report, which was characterized as objective in its approach, constituted a valuable contribution to the activities of the United Nations in the field of protection of minorities and could well become a standard reference work on the subject of minority rights.

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<sup>3/</sup> A fuller account of the Special Rapporteur's introduction of his report may be found in the summary record of the 719th meeting (E/CN.4/Sub.2/SR.719).

<sup>4/</sup> E/CN.4/Sub.2/L.564, E/CN.4/Sub.2/L.582 and E/CN.4/Sub.2/L.595. After the completion of the discussion of the item, a memorandum dated 12 August 1975 received by the Secretary-General from the Government of Yugoslavia was circulated as document E/CN.4/Sub.2/363.

48. Members of the Sub-Commission expressed disappointment at the relatively few replies from Governments to the Special Rapporteur's repeated requests for information. It was noted that the question of the protection of persons belonging to ethnic, religious and linguistic minorities was one that every country had to face. The observations of as many Governments as possible would therefore have been extremely useful to the Special Rapporteur in the performance of his task.

49. Speakers were unanimous in declaring that each State should guarantee complete equality of rights between the majority and the minority, prohibit discrimination against the minority and ensure that persons belonging to minority groups were given the opportunity to preserve their identity. Great attention should be paid to the education of the "majority" population group in order to enable it to understand and accept the cultural manifestations of the minority. Some members maintained that national measures constituted the most effective method of protection of persons belonging to minority groups. Others contended that the whole range of questions relating to minorities came within the sphere of international relations; hence the need to establish a system of international legal standards whereby the protection and development of minorities could be effectively safeguarded. In this connexion, one member of the Sub-Commission expressed the hope that the United Nations would eventually establish the office of an international ombudsman, adequately financed and staffed, to investigate and report on oppression of groups or individuals.

50. Several members, however, stressed that the protection of minority groups should not lead to the disintegration of States. They emphasized that the study should not constitute a defence of separatist movements which endeavoured to strengthen the centrifugal forces in society and, thus imperilled the unity of nations. The Sub-Commission should express concern solely for the welfare of minorities. Secession should, however, not be condoned. What was needed was a balance between the right of a State to integrate its citizens and to promote stability and development and the right of certain groups to autonomous cultural development. It was further noted that the preservation of the cultural identity of a group should not entail the preservation of underdevelopment and backwardness. It was also pointed out that the study, according to its title, related to the rights of minorities, and it was maintained that they had no obligations different from those of other citizens.

51. The decisive role of economic factors in the question of the protection of persons belonging to minorities was generally recognized. Several speakers expressed the view that a differentiation should be made, when examining the problem, between the developed and the developing countries. In the former, minority aspirations were more enlightened and a free choice could be guided by a certain level of education and cultural awareness. In the developing countries, however, the manifestations of ethnocentrism and tribalism might be confused with the minority concept, though they were due largely to lack of education. It was stated in that connexion that the divisive policies followed during the colonial era were still hindering national integration, obstructing statehood and creating constant instability. Great attention should therefore be devoted in the study to those aspects of the question.

52. The following further comments and suggestions were offered, among others, to the Special Rapporteur for the final phase of his work on the study:

(a) The final report should cover as many areas of the world as possible in order to avoid the possibility that the Special Rapporteur's study might be regarded as too specifically concerned with the problem of minorities in Europe. To that end,

the Rapporteur was asked to make a study of the problem of minorities in the various continents, without, however, confusing minorities with indigenous populations. It was specifically suggested that the report should deal with the situation of the Arab population in Israel. Reference was also made during the debate to the problem of the Slovene and Croatian minorities in Austria. One member of the Sub-Commission stressed the importance of this problem and the need to find an appropriate solution in order to avoid any discrimination. The Sub-Commission was also informed of the policy pursued by that State in order to guarantee the rights of the Slovene and Croatian minorities.

(b) Because of the interpenetration between the current studies on minorities and indigenous populations, there should be co-ordination between the Special Rapporteurs of those studies in order to avoid, if possible, contradictions and unnecessary duplication.

(c) In order to prevent undesirable interpretations, it should be specifically mentioned in the final report that the Special Rapporteur had had, in accordance with the instructions of the Economic and Social Council, the Commission on Human Rights and the Sub-Commission, to keep the study within the context of article 27 of the International Covenant on Civil and Political Rights.

(d) The minimum requirement for the existence of a minority was that it should be a separate social and cultural entity. Not all ethnic, religious or linguistic groups met that criterion. With regard to the title of part one of the report, on the position of persons belonging to minority groups in society, it was suggested that the use of the word "society" was inappropriate. The use of the word "State" would allow a more precise analysis of the question, taking into account different levels of economic development and different economic, social and political systems.

(e) Chapter I of the report, entitled "The sense of identity of minority groups", should be examined in a more detailed manner since it dealt with one of the essential elements of the concept of "minority".

(f) Referring to paragraph 41 of the report, according to which segregation, assimilation, integration and pluralism were the main options open to Governments when they formulated their policies towards minorities, some members doubted whether it was advisable to make a clear-cut distinction between assimilation and integration, and between integration and pluralism.

(g) It should be stressed in the study that the promotion of the rights of persons belonging to minority groups had a positive effect on the strengthening of international peace and security and thus opened up extensive possibilities for the development of co-operation in the world.

(h) The study should take into account the action taken in the field of the protection of minorities by the European Commission on Human Rights and the Inter-American Commission on Human Rights.

(i) The report should include a section dealing with the duties of members of minority groups and their obligation of loyalty to the State to which they belong.

(j) Questions relating to ethnic and linguistic groups in African countries should be dealt with in separate chapters or sections because their situation was entirely different from that of minority groups in other continents, in particular in Europe.

53. At the 722nd meeting the representative of UNESCO made a statement.

54. The Special Rapporteur expressed his gratitude to the members of the Sub-Commission for their observations and undertook to take their suggestions into account in the elaboration of his final report.<sup>5/</sup>

55. At the 722nd meeting, the Chairman stated that the Sub-Commission had completed its consideration of the report and that its appreciation of the Special Rapporteur's study would be expressed in the Sub-Commission's report on its present session.

56. For the Sub-Commission's decision concerning the Special Rapporteur's final report, see Annex II, item XIII.

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<sup>5/</sup> For a summary of the Special Rapporteur's reply to the comments and suggestions made, see document E/CN.4/Sub.2/SR.722.



V. QUESTION OF SLAVERY AND THE SLAVE TRADE IN ALL THEIR PRACTICES AND MANIFESTATIONS, INCLUDING THE SLAVERY-LIKE PRACTICES OF APARTHEID AND COLONIALISM: REPORT OF THE WORKING GROUP ESTABLISHED UNDER SUB-COMMISSION RESOLUTION 11 (XXVII) IN ACCORDANCE WITH ECONOMIC AND SOCIAL COUNCIL DECISION 17 (LVI)

57. The Sub-Commission considered agenda item 13 at its 723rd and 739th meetings, on 29 August and 10 September 1975.

58. It had before it a note by the Secretary-General (E/CN.4/Sub.2/362 and Corr.1) and the report of the Working Group on its first session (E/CN.4/Sub.2/AC.2/3). Photo-copies of various papers received from the Anti-Slavery Society on "Developments in the field of slavery and institutions similar to slavery" were also made available to the members of the Sub-Commission at the request of one of the members.

59. The Working Group, which had been established under Sub-Commission resolution 11 (XXVII), consisted of Mr. Bali Ram Bhagat (India), Mr. José Joaquín Caicedo Perdomo (Colombia), Mr. Branimir M. Janković (Yugoslavia), Mr. Freddie A. Short (Sierra Leone) and Mr. Benjamin Charles George Whitaker (United Kingdom of Great Britain and Northern Ireland). It had held six meetings, on 20, 21, 22 and 27 August 1975. Mr. Janković introduced the report of the Group, on behalf of its Chairman Rapporteur, Mr. Bhagat.

60. In the debate in the Sub-Commission, various views were expressed as to the desirability and the nature of continuing machinery to deal with slavery. Some speakers doubted whether such machinery was necessary, and the question was even raised as to whether slavery still existed. A large number of speakers, however, believed that continuing machinery was necessary. It was emphasized that new and disguised forms of slavery existed in modern times. Such slavery-like practices included the exploitation of women and of migrant workers in many parts of the world, illicit traffic in women, the use of debt bondage as a means of tying agricultural labourers to feudal conditions, the practice of child marriage and forced marriage, the sale of children through "adoption", the destruction of indigenous tribes and the forced and brutal reduction of members of such tribes to the status of domestic slaves. The Working Group was commended for emphasizing the link between apartheid and slavery and for defining apartheid as slavery.

61. The view was expressed that traditional concepts of slavery did not adequately cover the new, and often disguised, slavery-like practices that existed in the modern world. Another view was that it was dangerous to overlook the definitions of various practices and institutions already contained in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 and the Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949.

62. Speakers endorsed various recommendations of the Working Group, including those relating to the need for greater publicity at the international level for the struggle against slavery, to a review of existing international conventions against slavery, and to the further development of co-operation with other United Nations bodies and agencies in those tasks. At the national level, the Working Group had recommended that Governments be called upon to adopt whatever legislation was still necessary to eradicate slavery.

63. Opinions varied as to whether the continuing machinery proposed by the Working Group should have the power to consider communications relating to slavery and analogous practices, make visits to various countries and invite States, non-governmental organizations and individuals to attend its meetings.
64. It was observed that women should be included in the membership of the Working Group on the grounds that illicit traffic in persons and the exploitation of the prostitution of others were of special concern to them.
65. At the 739th meeting a draft resolution (E/CN.4/Sub.2/L.632) was submitted by Mrs. Jotidilok, Mrs. Kinyanjui, Mr. Navarro Richardson and Mr. Sekyiamah. Mr. Sekyiamah introduced the draft resolution on behalf of the sponsors.
66. The representative of the Secretary-General made a statement of the administrative and financial implications of the draft resolution.
67. The sponsors accepted the oral amendment of Mr. Nettel to replace subparagraph (d) of the operative paragraph by the words "States be requested to grant to persons who have escaped from any form of slavery all possible assistance corresponding to their specific needs". The sponsors also accepted Mr. Nettel's proposal to delete the words "to include women in its composition" appearing in subparagraph (g).
68. In response to a request for clarification of subparagraph (e) of the operative paragraph, Mr. Sekyiamah said that he and the other sponsors were willing to delete that paragraph, reading "Educational programmes be elaborated and applied by UNESCO ...", provided that the report of the Sub-Commission reflected his remarks to the effect that human rights problems like slavery could not be dealt with without implanting a consciousness of human rights in the minds of the people of the world. This was the kind of task for which UNESCO was well fitted.
69. Mr. Smirnov suggested the replacement of subparagraph (g) of the operative paragraph by the following words:
- "The Commission on Human Rights and the Economic and Social Council made it possible for the Working Group to benefit from a longer period of work, specifically up to five working days."
70. On behalf of the sponsors, Mr. Sekyiamah announced the replacement of subparagraph (g) by the following text:
- "The Commission on Human Rights and the Economic and Social Council broaden the terms of reference of the Working Group so that it can invite States, governmental and non-governmental organizations and individuals to attend its meetings and assist it in its work, and enable it to benefit from a longer annual period of work, specifically up to five working days, and to have all possible assistance from the secretariat."
71. At its 739th meeting, the Sub-Commission, by a vote of 19 to none, with 3 abstentions, adopted the draft resolution as revised by the sponsors. The text of the resolution appears in chapter XXI, as resolution 5 (XXVIII).

72. At the 742nd meeting of the Sub-Commission, the Chairman, in accordance with paragraph 2 of Sub-Commission resolution 11 (XXVII) and with Council decision 17 (LVI), selected the following five members of the Sub-Commission to constitute the Working Group for the next session: Mr. Bali Ram Bhagat, Mr. José Joaquín Caicedo Perdomo, Mr. Branimir M. Janković, Mrs. Kezia Nyeri Egeria Kinyanjui and Mr. Benjamin Charles George Whitaker.

VI. THE HISTORICAL AND CURRENT DEVELOPMENT OF THE RIGHT TO SELF-DETERMINATION ON THE BASIS OF THE CHARTER OF THE UNITED NATIONS AND OTHER INSTRUMENTS ADOPTED BY UNITED NATIONS ORGANS, WITH PARTICULAR REFERENCE TO THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

73. The Sub-Commission considered agenda item 6 at its 724th, 726th and 727th meetings, on 1 and 2 September 1975. At the last two meetings, item 6 was considered jointly with item 7, "Implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination", in view of the close relationship between the studies which had been prepared on the two subject-matters.

74. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/L.625) submitted by the Special Rapporteur, Mr. Aureliu Cristescu, in accordance with Sub-Commission resolution 3 (XXVII).

75. In introducing his report,<sup>6/</sup> the Special Rapporteur stressed the importance of the right to self-determination as the corner-stone of peace and co-operation throughout the world. His report should not be regarded as an academic study but rather as a practical effort carried out with a view to serving as a basis for measures to strengthen United Nations action. The documents and the relevant facts had been presented in chronological order, the adoption of the Charter of the United Nations being the starting point of the study. Since the right to self-determination was a principle governing relations between States as well as a fundamental human right, special attention would be paid to the relationship between that right and the other fundamental human rights. While the political aspect of the right to self-determination would always remain topical, the concern of the international community about a new international economic order showed the need for a more detailed treatment of the economic aspects of the right. Moreover, economic development should not be dissociated from social and cultural development.

76. All the speakers congratulated the Special Rapporteur on his work. Some members of the Sub-Commission expressed doubts about the wisdom of having two separate studies related to the right to self-determination. Others did not fear any duplication provided that Mr. Cristescu and Mr. Gros Espiell continued their mutual consultations.

77. With respect to the political implications of the right to self-determination, the view was expressed that the Special Rapporteur should examine not only the international aspects but also the internal aspects and in particular the provisions of article 21 of the Universal Declaration. One member stated that when studying the role of the United Nations in the promotion and protection of self-determination on the basis of the Charter, the Special Rapporteur should consider not only the positive role of the United Nations but also instances where the Organization had failed to act.

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<sup>6/</sup> A fuller account of the Special Rapporteur's statement appears in the summary record of the 724th meeting (E/CN.4/Sub.2/SR.724).

78. Several members pointed out that the right of self-determination had a dynamic character and could not be dissociated from the concept of development. They stressed the importance of the economic aspects of the right to self-determination, which were embodied in instruments such as the Charter of Economic Rights and Duties of States. Particular attention should be given to the dangers of neo-colonialism and the questions of permanent sovereignty over natural resources, restrictive trade practices and the activities of multinational corporations.

79. The view was expressed that the Special Rapporteur should try to find new legal language reflecting a synthesis between the traditional approach of established international law and the new approach corresponding to the aspirations of the developing countries. Some members asked the Special Rapporteur to take into account the writings of highly qualified publicists in the field.

80. Several members stressed the fundamental difference between the right to self-determination, which was a collective right, and the other human rights, which were individual rights. The right to self-determination should be examined in its relationship with other human rights. Some members considered it necessary that the special rapporteurs for the two studies on self-determination should try to find a common definition of the concept "people", which was basic to the question of self-determination.

81. Several speakers expressed reservations with regard to the "Plan for the collection of information and views", which was produced as an annex to the report. The questionnaire was considered too complicated and too ambitious. While it could serve as a workable outline for the study, it was in its present form likely to confuse governments and would discourage replies. The questionnaire should be more concrete and ask for factual data rather than for government declarations on political issues. One speaker advised against excessive reliance on governmental sources.

82. The Special Rapporteur expressed to the members of the Sub-Commission his deep appreciation for their observations and undertook to take them into consideration in the continuation of his study.

83. For the Sub-Commission's decision concerning the Special Rapporteur's next report, see annex II, item X.

VII. IMPLEMENTATION OF UNITED NATIONS RESOLUTIONS RELATING  
TO THE RIGHT OF PEOPLES UNDER COLONIAL AND ALIEN  
DOMINATION TO SELF-DETERMINATION

84. The Sub-Commission considered agenda item 7 at its 726th and 727th meetings, on 2 September 1975, jointly with item 6, "The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms".

85. The Sub-Commission had before it the preliminary report (E/CN.4/Sub.2/L.626) submitted by the Special Rapporteur, Mr. Hector Gros Espiell, in accordance with its resolution 4 (XXVII).

86. In introducing his report at the 726th meeting, <sup>7/</sup> the Special Rapporteur drew attention to the important link between the implementation of United Nations resolutions on self-determination and the maintenance of international peace and security. He underlined the fundamental nature of the right of self-determination and its importance as a prerequisite for the enjoyment of all other human rights. He stressed the importance of implementing United Nations resolutions on the subject in all their aspects: legal, political, economic, social and cultural. The Special Rapporteur pointed out that the self-determination of peoples was not just a principle but was also a right, which derived from the Charter of the United Nations and had undergone progressive development in the United Nations. He drew attention to the fact that there was an abundance of documentation on this question that needed to be taken into account in the preparation of the study. He had received from Governments only a small number of replies to his questionnaire requesting information. He expressed the hope that additional government replies would be forthcoming, as he intended to attach special importance to their contents in preparing his final study. He also hoped that those United Nations bodies from which he had requested information and which had not yet replied would do so in time for his final report. In his final study he would include a comprehensive bibliography on the question.

87. All the members of the Sub-Commission who spoke on this item congratulated the Special Rapporteur on his excellent work and on the statement which he had made in introducing his report. The Special Rapporteur's approach received endorsement from all the members who spoke. He was praised for his clear conception of the task before him. Approval was expressed, in particular, regarding the parts of the report dealing with the economic aspects of self-determination and the intention of the Special Rapporteur to examine the role of multinational corporations in relation to the implementation of United Nations resolutions on self-determination. In this regard, it was said that "neo-colonial" activities of transnational corporations now had a role similar to that played in the past by colonialism.

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<sup>7/</sup> A fuller account of the Special Rapporteur's introductory statement appears in the summary record of the 726th meeting (E/CN.4/Sub.2/SR.726).

88. The importance of co-ordinating the study by Mr. Gros Espiell and that of Mr. Cristescu on "The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms" was stressed by all speakers. The general view was that they were two closely related but nevertheless distinct studies.

89. Reference was made to certain particular cases mentioned in the report of Mr. Gros Espiell. A member of the Sub-Commission emphasized the importance of self-determination for the people of Palestine and another referred to the particular case of Belize.

90. For the Sub-Commission's decision concerning the Special Rapporteur's final report see annex II, item XI.

VIII. STUDY OF THE PROBLEM OF DISCRIMINATION  
AGAINST INDIGENOUS POPULATIONS

91. The Sub-Commission considered item 8 of its agenda at its 727th, 728th and 729th meetings, on 2 and 3 September 1975.

92. The Sub-Commission had before it the report (E/CN.4/Sub.2/L.622) submitted by the Special Rapporteur, Mr. José R. Martínez Cobo, in accordance with Sub-Commission resolution 6 (XXVII).

93. In introducing his report,<sup>8/</sup> the Special Rapporteur stated that it contained a preliminary analysis of some substantive aspects of the problem, in connexion with a further four of the 10 areas included in part C of the outline for the collection of information for the study (E/CN.4/Sub.2/L.566, annex). He remarked that despite the lack of information, it had been possible to complete 19 country monographs, which formed the basis for the discussion of national measures included in the report. The Special Rapporteur pointed out that the report consisted of four chapters, preceded by an introduction outlining the steps taken in the preparation of the study since the twenty-seventh session of the Sub-Commission. The introduction also included, in paragraph 18, a plan which he proposed to follow in principle in drafting the final report on the study and which he wished to submit for consideration by the Sub-Commission. He explained that the plan was necessarily schematic and structural only and that reference should, therefore, be made to the outline prepared for the collection of information for the study in order to obtain a clear idea of the intended content of the different chapters. He then outlined the contents of the four substantive chapters of the report.

94. All the speakers warmly congratulated the Special Rapporteur on his report, which they termed an excellent document on a difficult and delicate matter.

95. One member thought that the study should discuss the Palestinian Arab population as the indigenous population of Israel. Another member opposed that view. The Special Rapporteur, making reference to earlier discussion and decisions in this regard, stated that, in not dealing with that population, he was abiding by those decisions.

96. Two speakers offered suggestions on the plan submitted for the consideration of the Sub-Commission. The Special Rapporteur's reactions to those suggestions are recorded in paragraph 102 (a) and (b) below.

97. It was remarked that, despite the title of the study, the Special Rapporteur had correctly veered away from limiting his study to questions of discrimination and had emphasized the need for special measures, since he had understood indigenous populations to be special kinds of minorities. The main difference between the concept of minorities and that of indigenous populations was a cultural one.

98. It was noted that the points of convergence of the studies on minorities and on indigenous populations were clear in that language, culture and religion were important for both. With respect to what was referred to as possibly one of the important points of divergence between them, it was stated that, though one of the main interests of minorities would appear to be to keep their sense of distinct

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<sup>8/</sup> A fuller account of the Special Rapporteur's introductory statement appears in the summary record of the 727th meeting (E/CN.4/Sub.2/SR.727).



identity, the international community and States were often obliged, with respect to indigenous populations, to steer a middle course between the desire to preserve the identity of those populations and the determination to enable them to participate in the cultural, economic and political development of the State in which they lived.

99. It was suggested that there was a need to concentrate on the characteristics differentiating indigenous populations from other minorities. In this connexion, the working definition adopted for the collection of information for the study was considered to be an asset and a step in the right direction, precisely because of what had been called its restrictive character, i.e., its enumeration of many specific characteristics.

100. It was noted that a definition of indigenous populations from the international point of view would be one of the results of the study and would constitute the basis of the proposals flowing from it, as part of the final report. As that definition would include the necessary elements for distinguishing indigenous populations from other minorities, it would add to the distinction between the two studies and was awaited with great interest.

101. It was stressed that continued efforts had to be made to prevent overlapping between the studies on minorities and on indigenous populations. It was noted that this had been achieved up to now, despite the fact that the information available for the two studies was identical on several points.

102. In connexion with certain specific points or suggestions made during the debate, the Special Rapporteur stated that:

(a) He had always intended devoting as much attention to social security and social service questions in the study as the information available would allow. Those questions were to be included in the final report, as shown in part C, VIII, b, 1, "Health, medical care, social security and social services", of the outline for the collection of information for the study. They would be dealt with in chapter X, as indicated in the necessarily schematic plan contained in paragraph 18 of the 1975 report.

(b) Up to now, it had been his intention to include questions dealing with the definition of indigenous populations from an international point of view, in a special section at the end of chapter V of the study, "Definition of indigenous populations". He would, however, give serious consideration to the suggestion that this matter be discussed in the introduction to the final report.

(c) Notes verbales requesting information for the study had been sent to all States Members of the United Nations, not only to those which the preliminary research had shown should be covered in the study, as it was deemed preferable that the States themselves should state their position before a final decision was taken by the Special Rapporteur on this matter.

(d) He did not think that the study was, or should be, particularly oriented to the countries in the western hemisphere and the Latin American countries in particular, as had been suggested. He stressed that the study was a global one, endeavouring to cover all relevant countries in all parts of the world.

(e) Questions of assimilation, segregation, integration and other possible policies in relation to indigenous populations would be amply discussed in

chapter VIII of the study, "Fundamental policy"; the same chapter would deal with the question of the review of the policy adopted by churches and other non-governmental bodies active among indigenous populations.

(f) He did not share the view that had been expressed by one member to the effect that indigenous populations were dying out everywhere, and rejected the view that the study could be considered as an epitaph for those populations. The table included in paragraph 234 of document E/CN.4/Sub.2/L.622 clearly showed that there had been a marked increase in the absolute figures of the indigenous populations in most countries.

(g) The reason for the decline in the relative numerical importance of the Aborigines in the total population of Australia, despite the fact that their birth rate was double or treble that of the other segments of the population, was to be found in the fact that Australia had been and was a country of immigration.

103. Comments and suggestions offered by members of the Sub-Commission to the Special Rapporteur for future phases of his work in the study included the following:

(a) Further efforts should be made to try to obtain replies from Governments, since they were vital for the completion of the study.

(b) It was hoped that the Special Rapporteur would find it possible to visit more countries with indigenous populations, as that had proved to be a useful means of gathering facts.

(c) There was a need for appropriate international standards on policy problems affecting indigenous populations.

(d) The Special Rapporteur should continue his work of shedding more light on actual discrimination against the indigenous populations and the special measures needed on their behalf, since, though they regarded themselves primarily as citizens of the country in which they resided, they nevertheless had certain desires and aspirations that must be recognized, defended and protected by international standards.

(e) It had been stated that, although assimilation was recognized by many Governments as an unquestioned goal, if the indigenous populations were consulted, they would, to a greater or lesser degree, express opposition to assimilation.

(f) Assimilation was considered relevant to the section dealing with the definition of indigenous populations in that those indigenous populations who were determined to be assimilated would no longer be regarded as indigenous when they became undifferentiated from other segments of the population.

(g) A study should be made of the influence on indigenous populations of evangelization by various churches, in order to determine the part played by missionary activities in the over-all development of indigenous groups.

(h) It might be appropriate to include in the final report some observations on the relationship between the concept of minorities and that of indigenous populations, particularly in relation to governmental action and international instruments.

104. Several speakers made reference to certain aspects of the situation prevailing in their countries.

105. The Special Rapporteur made a statement on the question of alleged genocidal practices against the Aché and similar practices against the Fighting Moros in Paraguay, which had been mentioned by a non-governmental organization in the course of the debate on the item. The Special Rapporteur said that he had not mentioned those indigenous populations before, as he was preparing a country monograph on Paraguay and had endeavoured, without success, to obtain direct official information from the Government of Paraguay on this matter. He stressed that he was not in a position to deny or affirm the existence of genocide in that respect, as he had stated in his report on the visit in June 1974 to Bolivia, Brazil, Paraguay and Peru. He stressed that while he had been in Paraguay last year, officials of the Department dealing with indigenous populations had told him that the Government would welcome any investigation of allegations that had been made.

106. The Special Rapporteur expressed to the members of the Sub-Commission his deep appreciation for their observations and undertook to consider all of them in future stages in the preparation of his study.

107. For the decision of the Sub-Commission concerning the Special Rapporteur's final report, see annex II, item XII.

IX. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

108. The Sub-Commission considered agenda item 11 at its 729th, 731st and 738th meetings, on 3, 4 and 10 September 1975.

109. By resolution 8 (XXIII) of 16 March 1967, the Commission on Human Rights had requested the Sub-Commission to give annual consideration to the item.

110. Some views were exchanged on the meaning and scope of Commission resolution 8 (XXIII) and on the Sub-Commission's role in its implementation. It was pointed out that the Commission had, on the one hand, in paragraph 2 of the resolution, requested the Sub-Commission to prepare, for the Commission's use, a report containing information on violations of human rights and fundamental freedoms from all available sources and, in paragraph 3, requested the Secretary-General to provide assistance and facilities to the Sub-Commission in accomplishing this task. So far the Sub-Commission had not submitted any such report to the Commission except in the form of a chapter in its report to the Commission, and had not requested from the Secretary-General any special assistance and facilities to enable it to prepare such a report. In paragraph 6 of resolution 8 (XXIII), the Commission had invited the Sub-Commission to bring to the attention of the Commission any situation which it had reasonable cause to believe revealed a consistent pattern of violations of human rights and fundamental freedoms, in any country, including policies of racial discrimination, segregation and apartheid, with a particular reference to colonial and other dependent territories.

111. It was on the other hand pointed out that, whereas a procedure had been established to deal with communications concerning human rights received by the Secretary-General, no detailed procedure had been elaborated which would guide the Sub-Commission in implementing resolution 8 (XXIII), that is, in preparing for the use of the Commission a report containing information on violations of human rights and fundamental freedoms from other available sources. One member felt that, in the absence of a procedure defining the Sub-Commission's mandate under paragraph 2 of Commission resolution 8 (XXIII), the Sub-Commission had to confine its consideration of item 11 of its agenda to a general debate, which would be reflected in a chapter in the Sub-Commission's report to the Commission and be open for discussion by the Commission. The Sub-Commission was not entitled to adopt any specific resolutions under this item.

112. It was pointed out, however, that the lack of a procedure to deal effectively with the broad mandate given to the Sub-Commission under paragraph 2 of Commission resolution 8 (XXIII) in no way indicated a lack of information about alleged violations of human rights in different parts of the world, such as in Chile, Cyprus, Angola or the occupied Arab territories, as well as regards the effects of the policy of racial discrimination and apartheid in South Africa and Southern Rhodesia.

113. Several members expressed their concern about the repeatedly reported violations of human rights and fundamental freedoms in Chile. It was recalled that already at its twenty-seventh session the Sub-Commission had adopted resolution 8 (XXVII) on this question, which the General Assembly had noted when it adopted its own resolution 3219 (XXIX), entitled "Protection of human rights in Chile". The conclusions of the third session of the International Commission for Inquiring into the Crimes of the Military Junta in Chile, held in Mexico City in February 1975, in which nationals of 35 countries had participated and which had condemned the Chilean Government, were recalled.

114. It was also emphasized that, despite the recommendations of United Nations bodies, violations of human rights in Chile still continued. The report of the Organization of American States had revealed that the right to life was not being respected, that torture was taking place and that the most fundamental freedoms had been set aside. An ILO report confirmed that arrests took place for political motives and that ill-treatment was inflicted on detainees. Attention was also drawn to the resolution adopted by the International Labour Conference at its sixtieth session, demanding the release of trade union leaders and others still in custody on political grounds, and urging that an end be put to torture and ill-treatment and that the exceptional jurisdiction of military courts should be abolished.

115. It was recalled that the World Conference of the International Women's Year, held in Mexico from 19 June to 2 July 1975, had adopted a resolution deploring the condition of women and children detained in Chile and urging the Chilean authorities to release all political prisoners, in particular women and children held as hostages.

116. Grave distress was expressed about continuing serious reports of violations of human rights in Chile, in particular torture practices to which persons arrested and imprisoned for a long period without trial were subjected. In this respect, attention was drawn to the evil practices carried out in interrogation centres by the security police. It was considered a matter of great concern that any legal guarantees with respect to persons detained by the security police proved to be ineffective. Some members expressed an urgent wish that persons detained for political reasons should be released immediately.

117. Several members pointed out with regret that the Ad Hoc Working Group established under resolution 8 (XXIII) of the Commission on Human Rights to inquire into the present situation of human rights in Chile, after having been authorized by the Chilean Government to visit Chile, had been denied access at the last moment.

118. The representative of the Commission of the Churches on International Affairs made a statement about the situation of missing persons in Chile. He stated inter alia that one element of the problem of violations of human rights and fundamental freedoms in Chile that seemed to have become aggravated in the weeks since the Chilean authorities had decided to postpone the visit of the Ad Hoc Working Group appointed by the Commission on Human Rights at its thirty-first session was the current situation of the prisoners listed as "missing" in Chile. It was estimated that some 2,000 persons had disappeared and were still missing following their detention after September 1973.

119. The observer for Chile made a statement denying that torture and serious violations of human rights existed in Chile. He stated that the case of the 119 missing persons caused concern to the Government of Chile, which had announced that the matter would be investigated. He further stated the reasons why his Government had for the time being refused entry into Chile to the Ad Hoc Working Group of the Commission on Human Rights and recalled in particular that on 21 May 1975 the Minister for Foreign Affairs of Chile had reiterated to the Secretary-General the wish of the Government of Chile to receive the Working Group.

120. At the 738th meeting, a draft resolution concerning the situation in Chile (E/CN.4/Sub.2/L.633) was submitted by Mr. Al-Zahawi, Mr. Bhagat, Mr. Bouhdiba, Mr. van Boven, Mr. Capotorti, Mr. Janković, Mrs. Kinyanjui, Mr. Martínez Báez, Mr. Nettal, Mrs. Questiaux, Mr. Sekyiamah, Mr. Short, Mr. Smirnov and Mr. Whitaker

121. Following a suggestion by Mr. Caicedo Perdomo, the sponsors accepted a change in operative paragraph 1 of the draft resolution by which the words "numerous and serious reports of" were added after the words "concern about".

122. At its 738th meeting, on 10 September 1975, the Sub-Commission, by a vote of 18 to none, with 5 abstentions, adopted the draft resolution, as orally revised. The text of the resolution appears in chapter XXI, as resolution 2 (XXVIII).

123. At the same meeting a draft resolution concerning the situation in Cyprus (E/CN.4/Sub.2/L.630) was submitted by Mr. Bhagat, Mr. Janković and Mr. Whitaker. It was emphasized that it was strictly with a humanitarian intention that the draft resolution had been submitted.

124. Concerning the situation of displaced persons in Cyprus, it was recalled that, according to press reports, a five-member working group of the European Commission on Human Rights had just been refused entry into one part of Cyprus. The Sub-Commission was urged to express its concern at the continuing plight of the displaced persons in Cyprus and to invite all parties concerned to do their utmost for the immediate repatriation of all displaced persons in Cyprus. On the other hand, it was said, under Security Council resolution 367 (1975) of 12 March 1975, negotiations between the Greek Cypriot and Turkish Cypriot representatives had been held since April 1975 and were due to continue with the participation of the Secretary-General of the United Nations in New York on 8 and 9 September 1975, and the adoption of the resolution might prejudice the outcome of those negotiations. Some members stated that, as the draft resolution had political overtones, it should not have been considered by the Sub-Commission and that on that ground they would abstain in the voting. One member of the Sub-Commission expressed his reservations on the draft resolution and pointed out that there were other humanitarian cases concerning refugees of greater urgency, of a far longer duration and giving rise to greater suffering on which the Sub-Commission had not adopted any similar resolution. The Turkish observer stressed that the right of return could not be considered at the expense of other human rights, such as, for example, the right to security. In answer to this line of argument, it was pointed out that the aim pursued by the Sub-Commission was purely humanitarian. The observer for Cyprus emphasized the importance of the draft resolution in facilitating the solution of the problem of displaced persons in Cyprus.

125. Mr. Whitaker, on behalf of the sponsors, revised operative paragraph 2 of the draft resolution to read as follows:

"Invites the parties concerned to do their utmost for a just solution and the return of the refugees to their homes in safety in accordance with the above-mentioned resolutions of the United Nations."

Mr. Whitaker accepted an oral proposal of Mr. Nettel to replace the word "refugees" by the words "displaced persons" in the revised operative paragraph 2.

126. Mr. Mahmood proposed that operative paragraph 2 should be replaced by the following: "Invites the parties concerned to do their utmost to find a just solution to the problem of displaced persons in Cyprus". His proposal was rejected by 7 votes to 6, with 11 abstentions.

127. At its 738th meeting, on 10 September 1975, the Sub-Commission, by a vote of 11 to 2, with 11 abstentions, adopted the draft resolution as orally revised by the sponsors. The text of the resolution appears in chapter XXI as resolution 1 (XXVIII).

128. After the Sub-Commission had adopted the resolution on the situation in Cyprus, the Turkish observer stated that his Government regretted the Sub-Commission's attitude and found itself obliged to consider that resolution null and void, since the Secretary-General of the United Nations had received an exclusive mandate from the Security Council to examine the situation in Cyprus with the parties concerned. The Cypriot observer thanked the Sub-Commission, on behalf of the displaced persons in Cyprus, for the humanitarian resolution it had adopted.

129. Some members expressed their distress about the loss of human life and other violations of essential human rights now taking place in Angola. It was said that the Angola independence movements were divided by ethnic loyalties, by ideologies and by the support given by foreign Governments. Thousands of individuals were being massacred because the independence movements followed alien interests.

130. At the same meeting a draft resolution (E/CN.4/Sub.2/L.634) was submitted by Mr. Bouhdiba, Mr. van Boven, Mr. Carter, Mr. Durlong, Mr. Khalifa, Mrs. Kinyanjui, Mr. Sekyiamah, Mr. Short and Mr. Whitaker on the situation in Angola. Mr. Janković and Mr. Al-Zahawi requested that their names be added to the list of sponsors.

131. At its 738th meeting, on 10 September 1975, the Sub-Commission adopted the draft resolution by 20 votes to none, with 3 abstentions. The text of the resolution appears in chapter XXI as resolution 3 (XXVIII).

X. EXPLOITATION OF LABOUR THROUGH ILLICIT  
AND CLANDESTINE TRAFFICKING

132. The Sub-Commission considered agenda item 3 at its 730th, 733rd and 740th meetings, on 4, 5 and 10 September 1975. It had before it a final version of the study (E/CN.4/Sub.2/L.629) prepared by Mrs. Halima Embarek Warzazi, pursuant to Sub-Commission resolution 5 (XXVII).

133. At the 730th meeting, Mrs. Warzazi made an introductory statement<sup>9/</sup> in which she analysed and commented upon the new information and replies made available to her by Governments, intergovernmental organizations in consultative status with the Economic and Social Council, and existing regional, subregional and bilateral international instruments on the subject. She stressed the necessity of solving the problem of illicit and clandestine trafficking in foreign labour and the problems of migrant workers in host countries and had made several suggestions in the report. At the same meeting, one speaker, after commending Mrs. Warzazi for the excellent work she had done, stressed the importance of the study for those countries which had to face the problem of illicit and clandestine traffic in foreign labour in two different directions. The same speaker emphasized that illicit traffic in labour could have other implications, such as white slavery, and that the situation of many migrant workers was very similar to slavery.

134. At the 733rd meeting, many members of the Sub-Commission who took the floor praised the report and the Special Rapporteur's introductory statement. It was suggested by several members that the full text of the introductory statement should be issued in document form.

135. At the same meeting, a suggestion was made to consolidate in one single document the preliminary report, the final report and the introductory statements, together with the recommendations that were to be submitted. It was also suggested that wide publicity should be given to that document for the information and guidance of the Governments concerned.

136. The Sub-Commission heard at the same meeting a statement from the representative of the ILO, who informed it of the wide range of programmes and projects being undertaken by the ILO and of the results achieved. He mentioned the ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers and the relevant Recommendation adopted at the sixtieth session of the International Labour Conference in 1975. He pointed out that they did not repeal the previous instruments but broadened them, with the aim, inter alia, of preventing illicit trafficking in migrant workers.

137. The discussion covered both aspects of the report of the Special Rapporteur: illicit and clandestine trafficking in foreign labour, and the problems encountered by migrant workers in host countries. It was pointed out that, since the report dealt with both aspects, that fact should be reflected in its title.

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<sup>9/</sup> A fuller account of the introductory statement by the Special Rapporteur appears in the summary record of the 730th meeting (E/CN.4/Sub.2/SR.730).



138. It was stressed that the problems of migrant workers, including the problems of illegal migration, were a consequence of economic underdevelopment, demographic growth, chronic underemployment and poverty in many countries of the world, but also a consequence of the accelerated economic development of certain countries, which needed an increasing quantity of labour in order to maintain their economic growth.

139. As regards the illicit and clandestine trafficking in foreign labour, members of the Sub-Commission agreed that the sending and receiving countries shared responsibility for the suppression of the illegal traffic in persons. The view was expressed that effective measures should be taken against employers, transporters and recruiters of illegal immigrants but that the workers themselves should not be subjected to unfair punishment. Many members stressed the importance of ensuring human treatment for foreign workers in illegal status. It was said that a sizable part of illegal migration was seasonal in character. One member of the Sub-Commission referred to the serious problems arising from the clandestine traffic in persons for purposes of prostitution: such practices were regarded as a form of slave trading.

140. Several members pointed out various problems of illegal migrant workers in the host countries, such as exploitation and the risk of arbitrary expulsion. The view was expressed that in most instances foreign workers, including those who had entered the country legally, were subject to discrimination in the fields of employment, housing, remuneration, social security and welfare programmes. It was agreed that the problems of migrant workers were complex and existed in the legal, social and economic fields as well as in the physical, spiritual and moral spheres.

141. Some members felt that migrant workers might be considered as a new category of minority and they felt that such workers should enjoy, if not all, at least some of the rights enumerated in article 27 of the International Covenant on Civil and Political Rights. The view was expressed that international standards should be worked out to guarantee migrant workers the enjoyment of their own culture while facilitating their adjustment to a new environment and the acquisition of the basic knowledge necessary for such adaptation.

142. It was emphasized that the basic human rights of migrant workers should be respected in all circumstances. It was also felt by some members that certain political rights, i.e. the right to participate in the life of the local community and in the election of local authorities, might be granted to migrant workers.

143. Upon a suggestion by a member of the Sub-Commission, an informal working group was set up to consider the proposals and suggestions made by the members at the previous session as well as those submitted at the current session, in order to formulate recommendations. The working group consisted of Mr. Antonio Martínez Báez, Mr. Beverly Carter, Jr., Mr. Francesco Capotorti, Mr. Branimir M. Janković, Mr. Ernesto Navarro Richardson and Mrs. Halima Embarek Warzazi.

144. Draft recommendations prepared by the Special Rapporteur with the help of the informal working group (E/CN.4/Sub.2/L.636) were submitted to the Sub-Commission at the 740th meeting.

145. At the same meeting Mr. Janković orally submitted a draft resolution sponsored by Mr. Carter, Mr. Martínez Báez, Mr. Navarro Richardson and himself, by which the Sub-Commission would express its appreciation to Mrs. Warzazi for the report; approve the draft recommendations submitted by Mrs. Warzazi; request the Secretariat to consolidate the preliminary and final reports in one single document and supplement it with the introductory statements of the Special Rapporteur; and decide to bring the report and the recommendations to the attention of the Commission on Human Rights and the ILO. The draft resolution was later withdrawn by the sponsors.

146. Several speakers stated that they had serious reservations regarding document E/CN.4/Sub.2/L.636, since the recommendations would not be acceptable to many States which would have to solve the problems dealt with in the report. In view of the importance of the subject and the short time available to study carefully the recommendations submitted by the Special Rapporteur, the majority of those who spoke indicated their desire that the question be re-examined at the next session of the Sub-Commission.

147. After discussion, the Sub-Commission adopted a decision to request the Secretariat to consolidate the preliminary report, the final report, the introductory statements and the draft recommendations in one single document and to send it to the Commission on Human Rights as reflecting the present status of the work on the subject in the Sub-Commission. The Sub-Commission also decided to place this item on its agenda for the twenty-ninth session and to consider the above-mentioned draft recommendations at that session.

XI. COMMUNICATIONS CONCERNING HUMAN RIGHTS: REPORT OF THE WORKING GROUP ESTABLISHED UNDER SUB-COMMISSION RESOLUTION 2 (XXIV) IN ACCORDANCE WITH ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1503 (XLVIII)

148. The Sub-Commission considered item 12 of its agenda in closed session at its 732nd to 735th and 738th meetings, on 5, 8 and 10 September 1975. The report on this consideration is contained in document E/CN.4/R.12 and addenda.

149. Four members of the Working Group, Mr. B. Carter, Mr. E. Navarro Richardson, Mr. E.K. Sekyiamah and Mr. S.N. Smirnov, met from 11 to 20 August 1975 for the fourth annual session of the Working Group, to consider communications, together with replies of Governments, received by the Secretary-General. The fifth member, Mr. S. Pirzada, was unable to attend the meetings.

150. The Sub-Commission had before it a confidential report of the Working Group (E/CN.4/Sub.2/R.18 and addenda). Following an introduction by the Chairman-Rapporteur of the Working Group, Mr. Sekyiamah, a detailed examination of the report took place.

151. At its 738th (closed) meeting, the Sub-Commission adopted a confidential resolution on the item by which it communicated its findings to the Commission on Human Rights.

152. At the 742nd meeting, the Chairman of the Sub-Commission, in accordance with Sub-Commission resolution 2 (XXIV), selected the same five members to constitute the Working Group for the next session.

153. In accordance with the wish of the Sub-Commission, which had been apprised of certain difficulties that had faced the Working Group when not all of its members were able to attend its sessions, the Chairman selected the following five members of the Sub-Commission to replace, if necessary, the members of the Working Group: Mr. Th. van Boven (alternate for Mr. Carter), Mr. A. Cristescu (alternate for Mr. Smirnov), Mrs. R. Jotidilok (alternate for Mr. Pirzada), Mr. A. Martínez Báez (alternate for Mr. Navarro Richardson) and Mr. F.A. Short (alternate for Mr. Sekyiamah).

XII. THE QUESTION OF THE HUMAN RIGHTS OF PERSONS SUBJECTED  
TO ANY FORM OF DETENTION OR IMPRISONMENT

154. The Sub-Commission considered agenda item 14 at its 735th and 739th meetings, on 8 and 10 September 1975. It had before it a note by the Secretary-General transmitting information submitted by Governments, specialized agencies and regional intergovernmental organizations (E/CN.4/Sub.2/359 and Add.1). The members of the Sub-Commission also had before them a dossier containing the replies of non-governmental organizations in consultative status with the Economic and Social Council. In addition, there was a written statement submitted by the International League for the Rights of Man (E/CN.4/Sub.2/NGO/52).

155. In his introductory statement, the Director of the Division of Human Rights recalled [that the General Assembly, by its resolution 3218 (XXIX), had noted with appreciation the decision of the Sub-Commission to review annually the developments in the field of the human rights of persons subjected to any form of detention or imprisonment, and referred to the responsibilities of the United Nations in this important area.]

156. The Chairman informed the Sub-Commission that the dossier containing photocopies of the replies of non-governmental organizations had been distributed to the members of the Sub-Commission in that form only, because the Secretariat could not assume alone the responsibility for determining whether that material was consistent with the provisions of resolution 7 (XXVII) relating to such replies.  
(Int. System)

157. All the members of the Sub-Commission who spoke on this item expressed their gratification at the decision of the Sub-Commission to review this question annually and their pleasure that the General Assembly had noted with appreciation the Sub-Commission's decision.

158. Some members of the Sub-Commission expressed their interest in the replies submitted. Regarding the Sub-Commission's approach to the item, the view was expressed [that the Sub-Commission should not necessarily deal with individual countries but should instead initially identify widespread practices that gave rise to international concern.] The Sub-Commission should focus on patterns of violations. Among the matters specifically mentioned were: (i) the prolonged and often indefinite detention of large numbers of prisoners who were not charged, tried, or convicted; (ii) the need for impartial inquiry into allegations of illegal arrest and detention; (iii) judicial control of arrest and detention; in this regard, it was said that often persons arrested and detained were in the hands of organizations over which it was impossible to exercise any judicial control; (iv) the role of secret police and para-military organizations; (v) the position of the family and relatives of arrested and detained persons. Furthermore, the view was expressed that the special problems of detained or imprisoned women should be examined.

159. The present United Nations instruments relevant to this question, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Standard Minimum Rules for the Treatment of Prisoners, were referred to in the course of the debate. Mention was also made of the draft

principles on freedom from arbitrary arrest and detention contained in the Study of the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile 10/ and of the study on the right of arrested persons to communicate with those whom it is necessary for them to consult in order to ensure their defence or to protect their essential interests (E/CN.4/966). Reference was made to the role of the reporting system in respect of the Standard Minimum Rules and to the potential relevance in this field of the system of periodic reports under the human rights programme.

160. The attention of the Sub-Commission was drawn to the fact that the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, currently in session, was also considering this question. The Congress, it was said, would emphasize the legal and criminological aspects of the question. Therefore, the Sub-Commission should not concentrate only on the legal aspects but should place more emphasis on the study of actual situations and of current abuses. The Sub-Commission should avoid duplicating the work of other United Nations bodies and should use the studies which they had made.

161. Certain methods connected with scientific and technological developments were identified as matters which should engage the attention of the Sub-Commission. These included: (i) surveillance techniques; (ii) lie detectors; (iii) truth serums; (iv) tests to detect the presence of alcohol or drugs.

162. Members of the Sub-Commission stated that the Commission on Human Rights should be requested to give urgent consideration to the draft principles on freedom from arbitrary arrest and detention, and that Governments should be reminded that acceptance and entry into force of the International Covenant on Civil and Political Rights would provide additional legal safeguards for persons subjected to detention or imprisonment.)

163. The view was expressed in the Sub-Commission that torture and other forms of cruel, inhuman and degrading treatment of persons detained or imprisoned was a phenomenon that was growing but that was often concealed. For this reason, the Sub-Commission should gather and disclose information so that world public opinion might be brought in to aid the fight against those practices. The Sub-Commission should give attention to all categories of detained and imprisoned persons. The view was expressed that the Sub-Commission should place particular emphasis on political prisoners. It was the unanimous view that the Standard Minimum Rules should be made applicable to political prisoners. From the information received it was observed that trade unionists were often subjected to various forms of detention or imprisonment.

164. (Guidance was requested from the Sub-Commission by the observers for some non-governmental organizations as to what kind of information should be submitted by non-governmental organizations and the form in which it should be submitted.) The Sub-Commission was invited by one non-governmental organization to recognize torture as a crime against humanity and to recommend that a convention be concluded recognizing torture as a crime against humanity.

165. At the 739th meeting, Mr. Th. van Boven introduced a draft resolution (E/CN.4/Sub.2/L.635) sponsored by Mr. Bouhdiba, Mr. van Boven, Mr. Capotorti, Mr. Khalifa, Mr. Martínez Báez, Mr. Nettel and Mrs. Questiaux, subsequently joined by Mr. Whitaker. The draft resolution was adopted by 16 votes to none, with 1 abstention. The text of the resolution appears in chapter XXI, as resolution 4 (XXVIII).

XIII. STUDY OF THE QUESTION OF THE PREVENTION AND PUNISHMENT OF  
THE CRIME OF GENOCIDE

166. The Sub-Commission considered agenda item 10 at its 736th and 737th meetings, held on 9 September 1975.

167. The Sub-Commission had before it the progress reports (E/CN.4/Sub.2/L.597 and E/CN.4/Sub.2/L.623) submitted by the Special Rapporteur, Mr. Nicodème Ruhashyankiko, in accordance with a decision of the Sub-Commission taken at its 712th meeting (E/CN.4/1160, chap. XIX).

168. In introducing his report,<sup>11/</sup> the Special Rapporteur commented on the main headings of both progress reports. Document E/CN.4/Sub.2/L.597 was divided into five chapters. The first dealt with questions relating to constitutional and legislative provisions adopted by States parties to the Convention on the Prevention and Punishment of the Crime of Genocide or by States that were not yet parties. The second chapter was devoted to questions relating to the state jurisdiction competent to try crimes of genocide. The third chapter contained a study of questions relating to invitations to become parties to the Convention addressed by the General Assembly to non-member States, in accordance with article XI. The fourth chapter dealt with the question of the extension of the Convention to territories for the conduct of whose foreign relations States parties to the Convention were responsible, and the fifth with the question of reservations.

169. Document E/CN.4/Sub.2/L.623 was divided into three chapters. Chapter I dealt with questions concerning the prevention and punishment of genocide from the national viewpoint and with measures in the fields of education, upbringing, culture and information calculated to contribute to the prevention of genocide. Articles IV, VII, VIII and IX of the Convention were examined in chapter II. Chapter III dealt with the effectiveness of existing international measures and the possibility of taking further international action to prevent and punish genocide.

170. Speakers congratulated the Special Rapporteur on his work. Several members drew attention to the fact that the crime of genocide was not confined to the past but was still a current phenomenon, which was connected with the broader concept of crimes against humanity. In that context, reference was made to the practice of apartheid in southern Africa.

171. According to several speakers, the study should not be purely legal, and the Special Rapporteur was asked to give more consideration to the economic, social and cultural conditions which could explain the causes of genocide. The Special Rapporteur should examine the reasons behind genocide and therefore expand paragraphs 56-98 of his progress report (E/CN.4/Sub.2/L.623), dealing particularly with the causes of genocide and with the questions concerning the prevention of genocide by other than juridical measures.

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<sup>11/</sup> A fuller account of the introductory statement by the Special Rapporteur appears in the summary record of the 736th meeting (E/CN.4/Sub.2/SR.736).

172. Several members welcomed the section on ecocide (E/CN.4/Sub.2/L.623, paras. 286-301) and encouraged the Special Rapporteur to further examine this dangerous phenomenon, which could lead to the destruction of the living conditions of mankind.

173. Some speakers stressed the importance of the question of the jurisdiction competent to deal with genocide. The Special Rapporteur should give attention to national judicial decisions and investigate the feasibility of establishing an international investigating body or an international criminal jurisdiction. Other speakers expressed scepticism about the realism of such proposals. One speaker stressed the importance of the jurisdiction of the International Court of Justice in this respect, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. It was also pointed out that, in the case of extradition procedures, the crime of genocide could in no way be considered as a political offence but rather as a crime against humanity under current international law. One speaker strongly objected to the inclusion in the study of the Eichmann trial without any critical evaluation of the legal and moral questions raised by that trial.

174. Some speakers - while insisting on the sacrosanct nature of the independence of rapporteurs and special rapporteurs - considered that it was necessary to provide some historical data because history was an indispensable dimension in the study of any social phenomenon. Some members suggested, however, that the Special Rapporteur should be very cautious and judicious in the choice and presentation of historical facts, which often touched on sensitive national feelings, and should distinguish between history and legend and present only historical facts, without any discrimination. They asked the Special Rapporteur to make an effort, when dealing with controversial issues, to present both sides of each case. According to others, the Special Rapporteur should not deem it necessary to delete facts that constituted indisputable historical truth.

175. In the discussion of the question of citing historical examples, some speakers referred explicitly to paragraph 30 of a previous progress report of the Special Rapporteur (E/CN.4/Sub.2/L.583) which had been submitted to the Sub-Commission at its twenty-sixth session.<sup>12/</sup> Comments had been made on that paragraph when the Commission on Human Rights considered, at its thirtieth session <sup>13/</sup> (1286th meeting), the item entitled "Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its twenty-sixth session".

176. Speakers unanimously stressed the independence of special rapporteurs, who were solely and exclusively responsible for their studies. Other United Nations organs and government representatives should exercise no pressure on the special rapporteurs, who did not receive instructions but suggestions which left the final decision to their independent judgement. However, some members pointed out that

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<sup>12/</sup> See E/CN.4/1128, part C.

<sup>13/</sup> See Official Records of the Economic and Social Council, Fifty-sixth session, Supplement No. 5, paras. 165-167.



the independence of the special rapporteurs did not prevent the members of the Commission on Human Rights as well as the members of the Sub-Commission from expressing their opinion on the studies.

177. The Special Rapporteur expressed to the members of the Sub-Commission his deep appreciation for their observations and undertook to take them into consideration in the preparation of his study.

178. For the Sub-Commission's decision concerning the Special Rapporteur's next report, see annex II. item XIV.

XIV. THE PROBLEM OF THE APPLICABILITY OF EXISTING  
INTERNATIONAL PROVISIONS FOR THE PROTECTION  
OF HUMAN RIGHTS TO INDIVIDUALS WHO ARE NOT  
CITIZENS OF THE COUNTRY IN WHICH THEY LIVE

179. The Sub-Commission considered item 4 of its agenda at the 737th meeting, on 9 September 1975.

180. The Sub-Commission had before it parts of the report (E/CN.4/Sub.2/L.628 and Add.1-4) prepared by Baroness Elles in accordance with Sub-Commission resolution 10 (XXVII).

181. The Special Rapporteur presented her report 14/ and stated that because of the dimensions and complexity of the study and the limited number of replies to her questionnaire so far received from Governments, specialized agencies, regional organizations and non-governmental organizations, she was not in a position to complete her report for the twenty-eighth session of the Sub-Commission. She would make every effort to do so for the twenty-ninth session.

182. For the decision of the Sub-Commission concerning the Special Rapporteur's final report, see annex II, item VIII.

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14/ A fuller account of the Special Rapporteur's introductory statement appears in the summary record of the 737th meeting (E/CN.4/Sub.2/SR.737).

XV. THE INDIVIDUAL'S DUTIES TO THE COMMUNITY AND THE  
LIMITATIONS ON HUMAN RIGHTS AND FREEDOMS UNDER  
ARTICLE 29 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

183. The Sub-Commission considered agenda item 15 at its 737th meeting, on 9 September 1975. It had before it a preliminary study (E/CN.4/Sub.2/L.627) prepared by Mrs. Erica Irene Daes pursuant to Sub-Commission resolution 9 (XXVII).

184. The author made an introductory statement 15/ in which she said that the study was based on the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and other relevant international instruments and, in particular, on the fundamental principles and recommendations of the Proclamation of Teheran, which stressed that the primary aim of the United Nations in the sphere of human rights was the achievement by each individual of the maximum freedom and dignity. She also stated that she was taking into account, in particular, the debates at the twenty-seventh and twenty-eighth sessions of the Sub-Commission. The study would aim at striking the proper balance between the freedom of the individual and his duty to respect the rights of others and to meet the just requirements of morality, public order and the general welfare in a democratic society.

185. Several members of the Sub-Commission felt that the subject-matter of the study was of great importance, and they expressed their full agreement with the approach adopted by the Special Rapporteur for the preparation of the study and their gratitude to her for the work she had already done.

186. Some members were of the opinion that a study of the limitations to be placed on the exercise of individual freedoms was called for in the light of certain needs, in particular the necessity to prevent and punish racial discrimination and racist propaganda.

187. Some members expressed their reservations regarding the concept of the study as such. They said that the problems dealt with in the study had been discussed in many United Nations bodies, and concrete proposals for further restrictions on the rights of individuals had been rejected. It was stated by some members that, in their view, there was no need to protect the State against individuals but, on the contrary, that individuals should be protected from encroachment by the State. Several members of the Sub-Commission were apprehensive that some of the concepts contained in the report might be used as a pretext by certain States to violate the human rights that had been established by the international community after a great deal of effort.

188. Another member said that the approach to the study might need to be clarified in order to avoid the risks involved in the use of some concepts such as "loyalty to the State", especially as regards economic, social and cultural rights.

189. There was general agreement with regard to the observations in the report to the effect that certain fundamental principles should govern the application of limitations, including the rule of law and the requirements that limitations should be prescribed by law, that they should be strictly necessary to achieve the purpose intended and that they should be not so sweeping as to negate totally the rights on which they were imposed.

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15/ A fuller account of the Special Rapporteur's statement appears in the summary record of the 737th meeting (E/CN.4/Sub.2/SR.737).

190. The Special Rapporteur answered questions put by some members of the Sub-Commission. She said that she would pay the greatest attention to the debates and would deal with all problems relevant to the study with a view to promoting respect for human rights and fundamental freedoms. Further, she stated that she would request the Secretariat to send a reminder to Governments and specialized agencies requesting them to reply to her questionnaire by 1 January 1976, and also to request appropriate information from regional organizations.

191. For the Sub-Commission's decision concerning the Special Rapporteur's next report, see annex II, item XV.

XVI. CONSIDERATION OF THE FUTURE WORK OF THE SUB-COMMISSION,  
INCLUDING THE DRAWING UP OF A FIVE-YEAR PROGRAMME OF  
WORK (COMMISSION ON HUMAN RIGHTS RESOLUTION 10 (XXXI))

192. The Sub-Commission considered agenda item 19 at its 739th meeting, on 10 September 1975.

193. The Sub-Commission had before it a note by the Secretariat (E/CN.4/Sub.2/L.631), the report of the working group set up at the 719th meeting of the Sub-Commission (E/CN.4/Sub.2/L.638) and a written statement submitted by the International Youth and Student Movement for the United Nations (E/CN.4/Sub.2/NGO/54).

194. The Commission on Human Rights, by paragraph 4 of its resolution 10 (XXXI) of 5 March 1975, had requested the Sub-Commission to draw up a five-year programme of its work, in particular by establishing a calendar for the various studies undertaken and taking into account the continuing tasks assigned to it. By paragraph 5 of the resolution the Commission had decided to consider thoroughly and comprehensively and with priority at its thirty-second session the question of the long-term programme of work of the Commission, taking into account the reports to be submitted to the Commission in accordance with its resolution 10 (XXX) and 10 (XXXI).

195. At its 719th meeting, the Sub-Commission decided to create an informal working group composed of five of its members, which was requested to make recommendations concerning the future work of the Sub-Commission and in particular to draw up a five-year programme of work, as provided in Commission resolution 10 (XXXI).

196. The five members of the working group were: Mr. Bhagat, Mr. Bouhdiba, Mr. van Boven, Mr. Martínez Báez and Mr. Smirnov.

197. Mr. Bhagat was elected Chairman-Rapporteur of the working group.

198. The report of the working group (E/CN.4/Sub.2/L.638) was presented by Mr. Bhagat at the 739th meeting. The relevant passages of the report read as follows:

"Deliberations of the working group

"6. Various members of the group expressed the opinion that not more than three final studies should be considered at any one session of the Sub-Commission. A greater number of final studies would not make it possible to examine such studies in depth and it was felt that it would be more desirable to delay consideration of certain studies rather than give the Sub-Commission inadequate time for their discussion. The concern of the Commission not to have to examine, in view of its agenda, more than two or three final reports a year was also noted.

"7. It was further felt that it would be conducive to a more effective examination of final reports if these were distributed to the members of the Sub-Commission well in advance of the session at which they would be considered, so as to enable their thorough study by the members.

- "8. Several members agreed that the final examination of the study on 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 being prepared pursuant to Sub-Commission resolution 3 (XXVII), scheduled for submission in 1977, should be advanced to the 1976 session, because of its impact on matters of great importance considered by other United Nations organs.
- "9. The group recognized that a large number of studies had been scheduled for submission and discussion in 1976 but that it would be impossible to consider all these reports in depth at that session. It was further suggested that at any session the number of agenda items should be limited to 14 or 15.
- "10 It was recognized that the anticipated coming into force of the International Covenants on Human Rights would affect the future work of the Sub-Commission but that no specific suggestions could be made at present. It was proposed that this question might be considered at the next session in the light of decisions that might be taken before that time by the organs entrusted with specific responsibilities for the implementation of the Covenants.
- "11. Should the work on draft general principles on equality and non-discrimination in respect of persons born out of wedlock not be concluded at the current session of the Sub-Commission, consideration of this item should be continued in 1976.
- "Recommendations of the working group
- "12. The working group has prepared the annexed schedule of tasks 16/ to be undertaken during the period 1976-1980 and proposes the dates incorporated therein as being those most suitable for the discussion of the studies currently in progress.
- "13. The proposed programme of work of the Sub-Commission during the forthcoming five-year period must necessarily take into consideration that it was probable that the Commission on Human Rights and the Economic and Social Council at any of their future sessions would refer to the Sub-Commission additional items for consideration and that as a result of such referrals, or on the Sub-Commission's own initiative, new studies would be undertaken as part of the responsibilities of the Sub-Commission under its terms of reference.
- "14. The working group considers that in planning its future work the Sub-Commission should maintain a balance between its continuing tasks and studies on specific subjects.

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16/ See annex II.

"15. The working group recognizes that a substantial burden of the preparation of the various studies and the preparation of the Sub-Commission sessions falls on the Secretariat and that the Division of Human Rights requires provision for adequate manpower resources in order to enable it to provide to the Sub-Commission and its rapporteurs the assistance which they may legitimately expect in order to give effect to the proposed programme of work."

199. Certain members of the Sub-Commission questioned the recommendation contained in the report of the working group that certain studies currently in progress be required to be submitted by the Special Rapporteurs so far in advance of the date of the discussion of the reports by the Sub-Commission. One speaker recommended that the final study on implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination should be considered by the Sub-Commission in 1976. One speaker suggested the inclusion in the future work of the Sub-Commission of two further studies: (i) "The adverse consequence of immigration into territories dominated and occupied by racist régimes for the enjoyment of human rights by the indigenous populations of those territories", this study to parallel the study presently in progress on "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"; (ii) "Laws affecting the human rights of the Arabs in Israel". The speaker agreed that the decision whether these studies should be undertaken should be referred to the Commission on Human Rights.

200. The representative of the Secretary-General presented a statement on the administrative and financial implications of the recommendations contained in the report of the working group.

201. The opinion was expressed in the Sub-Commission that members and special rapporteurs might, for reasons of economy, travel economy class. Some members also expressed the opinion that at future sessions, four meetings should be allocated for the consideration of the Sub-Commission's draft report to the Commission.

202. The Sub-Commission requested the competent organs to examine the view expressed by some of its members that the work of the Sub-Commission would benefit from the restoration of the previous practice of alternating its sessions between United Nations Headquarters in New York and the United Nations Office at Geneva.

203. The report of the working group (E/CN.4/Sub.2/L.638), including the five-year programme of work, 17 was approved.

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17 See annex II below.

XVII. DRAFT GENERAL PRINCIPLES ON EQUALITY AND NON-DISCRIMINATION  
IN RESPECT OF PERSONS BORN OUT OF WEDLOCK

204. The Sub-Commission considered agenda item 17 at its 740th meeting, on 10 September 1975.

205. In its resolution 1787 (LIV) of 18 May 1973, the Economic and Social Council requested the Secretary-General to transmit to Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status, for their comments and observations, the draft general principles on equality and non-discrimination in respect of persons born out of wedlock drawn up by the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its nineteenth session in 1967. The Council requested the Commission to consider the matter at its thirty-first session. It also invited the Commission for Social Development and the Commission on the Status of Women to consider, as appropriate, the Study of Discrimination against Persons Born out of Wedlock 18/ prepared by Mr. Voitto Saario, Special Rapporteur of the Sub-Commission, and the draft general principles relating thereto, 19/ in the light of the comments received by the Secretary-General.

206. By its resolution 1 (XXXI) of 7 February 1975, the Commission requested the Sub-Commission to consider further the draft general principles on equality and non-discrimination in respect of persons born out of wedlock, in the light of the comments made by other United Nations bodies, the specialized agencies and non-governmental organizations and of the summary records of the discussion of this question by the Commission on Human Rights at its thirty-first session, and to submit the results of its work to the Commission at its thirty-second session in such form (recommendations, statements) as it considered appropriate.

207. The Sub-Commission had before it the summary records of the relevant meetings of the thirty-first session of the Commission on Human Rights (E/CN.4/SR.1294-1297) and documents E/CN.4/1157 and Add.1.

208. At its 725th meeting, the Sub-Commission decided to establish an informal working group consisting of five of its members - Mrs. Jotidilok, Mrs. Kinyanjui, Mr. Janković, Mr. Ortiz Martín and Mr. Whitaker - to undertake the examination and review of the draft general principles on equality and non-discrimination in respect of persons born out of wedlock.

209. The report of the working group (E/CN.4/Sub.2/L.637) was introduced by its Chairman, Mrs. Kinyanjui, at the 740th meeting of the Sub-Commission.

210. The recommendation of the working group read as follows:

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18/ United Nations publication, Sales No. E.68.XIV.3.

19/ Ibid, annex VII.



"...

"6. The working group approved a suggestion that the title should be amended to read:

'Draft general principles on equality of children and non-discrimination in respect of persons born out of wedlock'.

"Preamble

"7. The first three paragraphs of the preamble were approved.

"8. The working group approved a suggestion to include a reference to the Declaration of the Rights of the Child of 1959 in both the fourth and fifth preambular paragraphs. The revised text of these paragraphs reads as follows:

'Whereas the principle of the same social protection for all children, whether born in or out of wedlock, has been proclaimed in the Declaration of the Rights of the Child of 1959 and in article 25, paragraph 2, of the Universal Declaration of Human Rights and confirmed by article 10, paragraph 3, of the International Covenant on Economic, Social and Cultural Rights and by article 24 of the International Covenant on Civil and Political Rights,

'Whereas a sizable portion of the population of the world is composed of persons born out of wedlock, many of whom, because of the nature of their birth, are the victims of legal or social discrimination in violation of the principles of equality and non-discrimination set out in the Declaration of the Rights of the Child of 1959 and in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenants on Human Rights,'

"9. The sixth and seventh preambular paragraphs were approved without change.

"Operative part

"10. The working group agreed that the division of the main body of the text into parts should be eliminated. The headings 'Part I, 'Part II' and 'Part III' should therefore be deleted.

"11. In paragraph 1, the group approved the insertion of the word 'her' after 'his' and the deletion of the words 'in so far as compatible with the principle of the protection of the family'. The revised text reads as follows:

'1. Every person born out of wedlock shall be entitled to legal recognition of his/her maternal and paternal filiation.'

"12. Paragraphs 2 and 3 were approved.

"13. In paragraph 4, the working group endorsed a suggestion to add the word 'she' after the word 'he' in the first sentence. The revised sentence reads:

'4. The husband shall be presumed to be the father of any child born to his wife whether he/she is conceived or born during the marriage.'

"14. As regards paragraph 5, the working group agreed to replace the word 'child' by the word 'person'. The sentence now reads:

'5. Any person born of parents who intermarry after the birth of that person shall be considered to be born of that marriage.'

"15. Paragraph 6 was approved subject to the addition of the word 'her' after 'his'. The revised text now reads:

'6. Every person born in wedlock, or considered to be born in wedlock as a result of the subsequent marriage of his/her parents, shall retain his/her status notwithstanding the invalidity or annulment of the marriage.'

"16. The working group agreed that all references in paragraphs 7, 8, 9, 11 and 12 to 'he' or 'his' should be expanded to read 'he/she' or 'his/her'. In addition, the group approved the insertion, at the end of the first sentence of paragraph 9, of the words 'provided filiation has been established'. The revised text of these paragraphs reads as follows:

'7. Every person born out of wedlock, once his/her filiation has been established, shall have the same legal status as a person born in wedlock.

'8. Every person born out of wedlock whose filiation is established in relation to both parents shall have the right to bear a surname determined as in the case of a person born in wedlock. If his/her filiation is established in relation only to his/her mother, he/she shall be entitled to bear her surname, modified, if necessary, in such a manner as not to reveal the fact of birth out of wedlock.

'9. The rights and obligations pertaining to parental authority shall be the same, whether the child is born in wedlock or out of wedlock, provided filiation has been established. Unless otherwise decided by the court in the best interest of the child born out of wedlock, parental authority shall be exercised according to the same rules as for a child born in wedlock if his/her filiation is established in relation to both parents, or by his/her mother alone if his/her paternal filiation is not established.

'...

'11. Every person born out of wedlock shall, once his/her filiation has been established, have the same maintenance rights as persons born in wedlock. Birth out of wedlock shall not affect the order of priority of claimants.

- '12. Every person born out of wedlock shall, once his/her filiation has been established, have the same inheritance rights as persons born in wedlock. Legal limitations or restrictions on the freedom of a testator to dispose of his/her property shall afford equal protection to persons entitled to inheritance, whether they are born in wedlock or out of wedlock.'
- "17. Paragraph 10 was approved unchanged.
- "18. Paragraph 13 was approved, subject to the replacement of the full stop at the end of the second sentence by a colon. The relevant portion of the paragraph now reads: 'Special protection ... out of wedlock: in particular, when ...'.
- "19. In paragraph 14, the working group agreed to replace the words 'as regards' by 'including', to delete the words 'to the special care which shall be' and 'born out of wedlock' and to delete the commas after 'mothers' and 'society'. The revised text reads as follows:
- '14. Political, social, economic and cultural rights shall be enjoyed equally by all persons, whether they are born in wedlock or out of wedlock, without prejudice, including social welfare services provided to children and their mothers by the State or society when necessary.'
- The Group subsequently decided to renumber paragraph 14 as paragraph 16 ...
- "20. The group decided to run the two sentences in paragraph 15 together and to renumber it as paragraph 14.
- "21. The group agreed to delete all but the first sentence of paragraph 16 and to renumber it as paragraph 15. In its revised form the paragraph reads:
- '15. The adoption of a child born out of wedlock shall be subject to the same rules and provisions and shall have the same consequences as the adoption of children born in wedlock.'
- "22. The group decided to renumber paragraph 14 as paragraph 16.
- "23. The group approved the insertion of a new paragraph 17 reading as follows:
- '17. The State shall seek, while fostering the values of family life, to obtain a greater comprehension by society of the problems of persons born out of wedlock and their parents with a view to doing away with prejudice against them.'
- "...
- "25. The group considered whether these revised draft principles should now be entitled 'Recommendations', a 'Declaration' or a 'Convention'. The group, after discussion, recommends to the Sub-Commission in favour of these being a 'Declaration'."

211. During the discussion, the view was expressed that the draft principles should not take the form of a convention or of a declaration.

212. One member observed that in certain countries adoption did not exist. In many Moslem countries, for instance, traditionally, children born out of wedlock were taken care of and raised by the community in which they had been found. He felt that specific mention should be made in the draft principles of the right to life, in order to cover the problem of infanticide. Some other members observed that the draft principles might still present special problems for many cultures and warranted further study.

213. The Sub-Commission expressed its appreciation for the work of the working group; it was agreed that the report of the group should be submitted to the Commission on Human Rights, as a provisional account of the Sub-Commission's work, for any comments the Commission might wish to make thereon. The item would be placed on the agenda of the twenty-ninth session of the Sub-Commission to permit further consideration of the working group's report at that session, taking into account recent legislative developments on the subject in the various countries.

XVIII. UPDATING OF THE SPECIAL STUDY OF RACIAL DISCRIMINATION  
IN THE POLITICAL, ECONOMIC, SOCIAL AND CULTURAL SPHERES

214. The Sub-Commission considered agenda item 16 at its 740th meeting, on 10 September 1975.

215. By a decision of 18 May 1973 of the Economic and Social Council, Mr. Hernán Santa Cruz, Special Rapporteur for the study on racial discrimination,<sup>20/</sup> had been entrusted with the task of updating his study, with special emphasis on discrimination based on colour.

216. In a letter addressed to the Chairman (E/CN.4/Sub.2/360) the Special Rapporteur informed the Sub-Commission that an unexpected change of activities and residence had prevented him from completing the updating of the study. The Special Rapporteur was convinced that he should not confine his task to a mere completion of his previous study with reference to new facts but that he should give it more depth and a new orientation. In order to be in a position to perform his task adequately he would find it necessary to visit a certain number of countries in the South American, Caribbean and North American regions, as well as in Africa.

217. The representative of the Secretary-General furnished more details concerning the Special Rapporteur's requests as regards the performance of his functions in the coming year and the financial implications, which would be subject to approval by the competent United Nations organs.

218. For the Sub-Commission's decision concerning the Special Rapporteur's next report, see annex II, item XVI.

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<sup>20/</sup> Special Study on Racial Discrimination in the Political, Economic, Social and Cultural Spheres (United Nations publication, Sales No. E.71.XIV.2).

XIX. DRAFT PROVISIONAL AGENDA FOR THE TWENTY-NINTH  
SESSION OF THE SUB-COMMISSION

219. The Sub-Commission considered agenda item 20 at its 740th meeting, on 10 September 1975. In accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII), a note by the Secretary-General (E/CN.4/Sub.2/L.639) containing a draft provisional agenda for the twenty-ninth session of the Sub-Commission, indicating the documents to be submitted under each item and the legislative authority for their preparation, was before the Sub-Commission.

220. Several members made comments and proposals concerning the items on the draft provisional agenda.

221. The Sub-Commission approved the draft provisional agenda for its twenty-ninth session as follows: 21/

1. Election of officers
2. Adoption of the agenda
3. Review of further developments in fields with which the Sub-Commission has been concerned

Reports by the Secretary-General, ILO and UNESCO.

Legislative authority: Sub-Commission resolution 5 (XIV).

4. The problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live

A report by the Special Rapporteur, Baroness Elles\*.

Legislative authority: Economic and Social Council resolutions 1790 (LIV) and 1871 (LVI) and Sub-Commission resolution 10 (XXVII).

5. Updating of the special study of racial discrimination in the political, economic, social and cultural spheres

Consideration of the updated final report by Mr. Hernán Santa Cruz\*.

Legislative authority: Economic and Social Council decision of 18 May 1973.

6. 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

Consideration of final report by the Special Rapporteur, Mr. Ahmed Khalifa\*.

Legislative authority: Economic and Social Council resolution 1864 (LVI), Commission resolution 3 (XXIX) and Sub-Commission resolution 2 (XXVII).

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21/ An asterisk indicates that the document or report is likely to exceed the 32 pages referred to in Council resolution 1894 (LVII).

7. The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by the United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms

Consideration of the draft report by the Special Rapporteur,  
Mr. Aureliu Cristescu\*.

Legislative authority: Economic and Social Council resolution 1865 (LVI)  
and Sub-Commission resolution 3 (XXVII).

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

No document may be needed for this item.

Legislative authority: Economic and Social Council resolution 1235 (XLII)  
and Commission resolution 8 (XXIII).

9. Communications concerning human rights: reports of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII)

Confidential report of the Working Group and supporting papers\*.

Legislative authority: Economic and Social Council resolution 1503 (XLVIII)  
and Sub-Commission resolutions 1 (XXIV) and 2 (XXIV).

10. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism

A report by the Secretary-General and a report by the Working Group on Slavery.

Legislative authority: Economic and Social Council decision of 17 May 1974; Commission resolution 13 (XXIII) and Sub-Commission resolutions 7 (XXVI) and 11 (XXVII).

11. The question of the human rights of persons subjected to any form of detention or imprisonment

A report by the Secretary-General\*.

Legislative authority: Sub-Commission decision 1 (i) taken at its 686th meeting on 19 September 1973 and approved by Commission decision 6 (i) taken at its 1286th meeting on 6 March 1974; and Sub-Commission resolution 7 (XXVII).

12. The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights

Consideration of a draft report by the Special Rapporteur, Mrs. Erica Irene Daes\*.

Legislative authority: Sub-Commission decision 1 (ii) taken at its 686th meeting on 19 September 1973 and approved by Commission decision 6 (ii) taken at its 1286th meeting on 6 March 1974; and Sub-Commission resolution 9 (XXVII).

13. The role of the Sub-Commission in the implementation of the Programme for the Decade for Action to Combat Racism and Racial Discrimination

14. Draft general principles on equality and non-discrimination in respect of persons born out of wedlock

15. Exploitation of labour through illicit and clandestine trafficking

16. Consideration of the future work of the Sub-Commission and of the draft provisional agenda for the twenty-ninth session of the Sub-Commission

A note by the Secretary-General.

Legislative authority: Sub-Commission resolution F adopted at its tenth session and Economic and Social Council resolution 1894 (LVII).

17. Report on the twenty-ninth session\*.

XX. ADOPTION OF THE REPORT

222. The Sub-Commission considered the draft report on its twenty-eighth session at its 741st and 742nd meetings, on 12 September 1975, and unanimously adopted the report as amended.



XXI. RESOLUTIONS AND DECISIONS ADOPTED BY THE SUB-COMMISSION  
AT ITS TWENTY-EIGHTH SESSION

A. Resolutions

1 (XXVIII). Question of the violation of human rights  
and fundamental freedoms 22/

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities,

Recalling General Assembly resolution 3212 (XXIX) and in particular  
paragraph 5 thereof, calling for the safe return of all refugees in Cyprus to their  
homes,

Recalling further Commission on Human Rights resolution 4 (XXXI) and in  
particular paragraph 1 thereof, calling upon all parties concerned to adhere  
strictly to the principles of the United Nations, international instruments in the  
field of human rights and the relevant resolutions of the General Assembly and the  
Security Council and to undertake urgent measures for the return of all refugees in  
Cyprus to their homes in safety,

Noting that the above-mentioned resolutions have not as yet been implemented,

1. Expresses concern at the continuing plight of the displaced persons in  
Cyprus;
2. Invites the parties concerned to do their utmost for a just solution and  
the return of the displaced persons to their homes in safety in accordance with the  
above-mentioned resolutions of the United Nations;
3. Requests the Commission on Human Rights to review, at its thirty-second  
session, the implementation of the present resolution.

2 (XXVIII). Question of the violation of human rights  
and fundamental freedoms 23/

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities,

Recalling that in its resolution 8 (XXVII), having expressed its deep concern  
about reports of gross violations of human rights and fundamental freedoms in Chile,  
including arbitrary arrests, torture, and cruel and inhuman treatment of prisoners  
and persons detained in gaols and concentration camps, it made an urgent appeal to  
the Government of Chile to respect the Universal Declaration of Human Rights and  
comply with the International Covenants on Human Rights, signed and ratified by  
the Government of Chile, and to take all necessary steps to restore and safeguard  
basic human rights and fundamental freedoms in Chile, particularly those involving  
a threat to human life and liberty,

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22/ Adopted at the 738th meeting, on 10 September 1975. See chap. IX,  
para. 127.

23/ Adopted at the 738th meeting, on 10 September 1975. See chap. IX,  
para. 122.

Recalling also that the General Assembly in its resolution 3219 (XXIX) urged the Chilean authorities to respect fully the principles of the Universal Declaration of Human Rights and to take all necessary steps to restore and safeguard basic human rights and fundamental freedoms, particularly those involving a threat to human life and liberty, to release all persons who had been detained without charge or imprisoned solely for political reasons and to continue to grant safe conduct to those who desire it,

Noting that the General Conference of the International Labour Organisation at its sixtieth session urged the Chilean authorities, inter alia, to release the trade union leaders, and others still in custody on political grounds, to put an end to torture and ill treatment, to do away with special courts and exceptional military jurisdiction and to decree a general amnesty,

Noting also that the World Conference of the International Women's Year demanded that the Chilean authorities should immediately release all political prisoners, especially women and children and other relatives held as hostages,

Taking into account that the Commission on Human Rights in its resolution 8 (XXXI) noted with serious concern the continuing reports of violations of human rights in Chile and set up an Ad Hoc Working Group to inquire into the present situation of human rights in Chile,

Considering that, notwithstanding urgent appeals made by various bodies of the United Nations system, flagrant violations of human rights in Chile, such as arbitrary arrests, torture and cruel, inhuman and degrading treatment of arrested persons and political prisoners and detainees, including former members of the Chilean Government and Parliament, continue to be reported,

Seriously distressed by the action of the Chilean authorities, which, contrary to their previous official assurances, refused to let into the country the Ad Hoc Working Group of the Commission on Human Rights,

1. Once again expresses its utmost concern about the numerous and serious reports of continuing flagrant and widespread violations of basic human rights and freedoms in Chile and its particular worry about the fate of large numbers of people who are reported to be missing;
2. Once again urges the Chilean authorities to take without delay all necessary measures for the restoration and protection, in accordance with the provisions of the above-mentioned resolutions, of basic human rights and freedoms, to stop tortures, cruel, inhuman and degrading treatment, and persecution for political reasons, and to free all persons detained without a charge brought against them or arrested for political reasons;
3. Requests the Secretary-General to bring this resolution to the attention of the Chilean authorities.

3 (XXVIII). Question of the violation of human rights  
and fundamental freedoms 24/

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities,

Elated at the independence of Guinea-Bissau, Mozambique, Cape Verde and São Tomé and the prospect of independence for Angola,

Concerned at the situation in Angola and the division among the nationalist groups which threaten to compromise the imminent independence of that country,

Distressed at the dislocation and loss of lives in the territory arising from the conflict,

Alarmed at the interference by alien interests and foreign Powers in the internal affairs of Angola which seems to exacerbate the differences between the nationalist movements,

Grateful to the Organization of African Unity and various African leaders for their attempts to bring the nationalist groups together,

Alarmed at reports of encroachment by the racist South Africa Government on Angola's territorial integrity,

1. Appeals to the nationalist movements to unite for the speedy independence of Angola;

2. Calls upon all foreign Powers and alien interests to desist from interfering in the affairs of Angola;

3. Condemns South Africa for the encroachment on the territorial integrity of Angola;

4. Appeals to all concerned organizations to give humanitarian assistance to the victims of the conflict;

5. Reiterates the right of the peoples of Angola to speedy and immediate independence and condemns the interference of foreign Powers and alien interests in the affairs of Angola.

4 (XXVIII). Question of the human rights of persons subjected  
to any form of detention or imprisonment 25/

The Sub-Commission on Prevention of Discrimination and Protection of  
Minorities,

Noting the conviction expressed in General Assembly resolution 3218 (XXIX) that, because of the increase in the number of alarming reports on torture, further

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24/ Adopted at the 738th meeting, on 10 September 1975. See chap. IX, para. 131.

25/ Adopted at the 739th meeting, on 10 September 1975. See chap. XII, para. 165.

and sustained efforts are necessary to protect under all circumstances the basic human right to be free from torture and other cruel, inhuman or degrading treatment or punishment,

Mindful that the General Assembly noted with appreciation the decision of the Sub-Commission in its resolution 7 (XXVII) to review annually the developments in the field of the human rights of persons subjected to any form of detention or imprisonment,

Noting with interest the information received from Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council pursuant to paragraph 1 of its resolution 7 (XXVII),

1. Reminds Governments and all other authorities concerned that the entry into force of the International Covenant on Civil and Political Rights would lend further legal support to the safeguard of the human rights of persons subjected to any form of detention or imprisonment and that that Covenant does not allow any derogation from the right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment;

2. Takes the view that among many issues needing immediate attention, the following deserve particular concern:

(a) Prolonged and often indefinite detention of large numbers of unconvicted persons without formal charges brought against them;

(b) The necessity of impartial judicial investigation into alleged illegal practices against arrested and detained persons;

(c) The lack or ineffectiveness of judicial control over arrest and detention practices;

(d) The role of secret police and para-military organizations;

(e) The position of the family and relatives of arrested and detained persons;

3. Recommends that the Commission on the Status of Women consider the special problems relating to the human rights of women detained or imprisoned;

4. Invites the Commission on Human Rights to give urgent consideration to the Study of the Right of Everyone to be Free from Arbitrary Arrest, Detention and Exile 26/ and the draft principles annexed to it;

5. Requests the Secretary-General to invite, in view of the next annual review in this field at its twenty-ninth session, Governments, specialized agencies, regional intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council concerned to provide any reliably attested information on the question, in particular relating to the problems mentioned in paragraphs 2 and 3 above, and further requests the

Secretary-General to submit well in advance of its next session the information received from Governments, specialized agencies and regional intergovernmental organizations, together with a synopsis of the materials received from non-governmental organizations;

6. Also requests the Secretary-General to make available to the Sub-Commission a report on the work done by the Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in so far as it touches upon the question of the human rights of persons subjected to any form of detention or imprisonment.

5 (XXVIII). Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism 27/

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting the report of the Working Group on Slavery (E/CN.4/Sub.2/AC.2/3) in particular the conviction of the Working Group that apartheid and colonialism are contemporary forms of slavery,

Noting further the recommendations of the Working Group,

Recommends that:

(a) All eligible States which are not yet parties to the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery of 1956 and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 be called upon to become parties as soon as possible and to enact any legislation necessary to ensure that their laws conform to the terms of those treaties;

(b) Since slavery in all its practices and manifestations is determined by certain economic, social and political conditions, Governments be called upon to focus their attention on all measures which, in the framework of their economic, social and political development, would lead to the eradication of slavery; such measures include land reform and reform of the education system with a view to ensuring the dissemination of technical knowledge, especially in the field of agriculture, and credit assistance;

(c) States be called upon to examine thoroughly situations resulting from economic dependence which engender not only the known forms of economic slavery, such as debt bondage, but also other practices leading to slavery in all its manifestations and to take appropriate measures for their gradual elimination;

(d) States be requested to grant to persons who have escaped from any form of slavery all possible assistance corresponding to their specific needs;

(e) The non-governmental organizations possessing competence in the fields with which the Working Group is concerned be invited to increase their co-operation with the Working Group;

(f) The Commission on Human Rights and the Economic and Social Council broaden the terms of reference of the Working Group so that it can invite States, governmental and non-governmental organizations and individuals to attend its meetings and assist it in its work, and enable it to benefit from a longer annual period of work, specifically up to five working days, and to have all possible assistance from the secretariat.

## B. Decisions

1. The Sub-Commission decided to request the secretariat to consolidate in one single document the preliminary report, the final report, the introductory statements and the draft recommendations on the exploitation of labour through illicit and clandestine trafficking presented by Mrs. Halima Warzazi and send it to the Commission on Human Rights as reflecting the present status of the work on the subject in the Sub-Commission, and to place the item on its agenda for the twenty-ninth session and consider the draft recommendations at that session. 28/
2. The Sub-Commission decided to transmit the report of the working group on the draft general principles on equality and non-discrimination in respect of persons born out of wedlock to the Commission on Human Rights as a provisional account of the Sub-Commission's work and to consider it further at its twenty-ninth session. 29/
3. The Sub-Commission approved the draft provisional agenda for its twenty-ninth session. 30/
4. The Sub-Commission requested the competent organs to examine the view expressed by some of its members that the work of the Sub-Commission would benefit from the restoration of the previous practice of alternating its sessions between United Nations Headquarters in New York and the United Nations Office at Geneva. 31/
5. The Sub-Commission approved the report of the working group on its future work, including a five-year programme of work. 32/

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28/ Adopted at the 740th meeting, on 10 September 1975, see chap. X.

29/ Adopted at the 740th meeting, on 10 September 1975, see chap. XVII.

30/ Adopted at the 740th meeting, on 10 September 1975, see chap. XIX.

31/ Adopted at the 739th meeting, on 10 September 1975, see para. 202.

32/ Adopted at the 739th meeting, on 10 September 1975, see chap. XVI and annex II.

Annex I

ATTENDANCE

Members and alternates

Mr. Wisam Al-Zahawi	(Iraq)
Mr. Bali Ram Bhagat	(India)
Mr. Abdelwahab Bouhdiba	(Tunisia)
Mr. Th. C. van Boven	(Netherlands)
Mr. José Joaquín Caicedo Perdomo	(Colombia)
Mr. Francesco Capotorti, Mr. Margiotta Broglio*	(Italy)
Mr. Beverly Carter, Jr., Mr. John Carey*	(United States of America)
Mr. Aureliu Cristescu	(Romania)
Mrs. Turkia Ould Daddah	(Mauritania)
Mr. I. D. J. Durlong, Mr. B. A. Clark*	(Nigeria)
Mr. Manouchehr Ganji	(Iran)
Mr. Branimir M. Janković, Mr. Silvio Devetak*	(Yugoslavia)
Mrs. Renu Jotidilok	(Thailand)
Mr. Ahmed M. Khalifa	(Egypt)
Mrs. Kezia Nyeri Egeria Kinyanjui	(Kenya)
Mr. Antonio Martínez Báez	(Mexico)
Mr. José R. Martínez Cobo, Mr. Eduardo Tobar*	(Ecuador)
Mr. Ernesto Navarro Richardson, Mrs. Elizabeth de Lacayo*	(Nicaragua)
Mr. Erik Nettel	(Austria)
Mr. Gonzalo Ortiz Martín	(Costa Rica)
Mr. Sharifuddin Pirzada, <sup>a/</sup> Mr. Fasal Mahmood*	(Pakistan)

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\* Alternate.

<sup>a/</sup> Did not attend the session.

Mrs. Nicole Questiaux	(France)
Mr. E. K. Sekyiamah	(Ghana)
Mr. Freddie A. Short	(Sierra Leone)
Mr. Sergey N. Smirnov	(Union of Soviet Socialist Republics)
Mr. Benjamin Charles George Whitaker	(United Kingdom of Great Britain and Northern Ireland)

Rapporteurs not members of the Sub-Commission

Mrs. Erica Irene Daes  
Baroness Elles  
Mr. Hector Gros Espiell  
Mr. Nicodème Ruhashyankiko  
Mrs. Halima Warzazi

States Members of the United Nations represented by observers

Australia, Chile, Colombia, Cyprus, Federal Republic of Germany, Greece,  
Israel, Poland, Turkey.

Non-member States represented by observers

The Holy See.

United Nations bodies

Office of the United Nations High Commissioner for Refugees, United Nations  
Council for Namibia.

Specialized agencies

International Labour Organisation, United Nations Educational, Scientific  
and Cultural Organization.

Regional intergovernmental organizations

Council of Europe.

Non-governmental organizations

Category I

International Alliance of Women - Equal Rights, Equal Responsibilities,  
International Youth and Student Movement for United Nations, World Federation of  
United Nations Associations.



Category II

All India Women's Conference, Amnesty International, Anti-Slavery Society, Baha'i International Community, Caritas Internationalis (International Confederation of Catholic Charities), Commission of the Churches on International Affairs, Friends World Committee for Consultation, International Commission of Jurists, International Council of Jewish Women, International Federation of University Women, International Federation of Women Lawyers, International League for the Rights of Man, International Movement for Fraternal Union among Races and Peoples, Pan-Pacific and South-East Asia Women's Association, Women's International League for Peace and Freedom, World Jewish Congress, World Young Women's Christian Association.

Roster

Minority Rights Group, National India Brotherhood.

Annex II

FIVE-YEAR PROGRAMME OF WORK (1976-1980) ADOPTED BY THE  
SUB-COMMISSION AT ITS 739th MEETING, ON 10 SEPTEMBER 1975<sup>a/</sup>

(a) Continuing tasks, to be included in the agenda in 1976, 1977, 1978, 1979  
and 1980

- I. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)
- II. Communications concerning human rights: report of the Working Group established under Sub-Commission resolution 2 (XXIV) in accordance with Economic and Social Council resolution 1503 (XLVIII)
- III. Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: report of the Working Group established under Sub-Commission resolution 11 (XXVII) in accordance with Economic and Social Council resolution 17 (LVI) <sup>b/</sup>
- IV. The question of the human rights of persons subjected to any form of detention or imprisonment
- V. Review of further developments in fields with which the Sub-Commission has been concerned
- VI. Consideration of the future work of the Sub-Commission
- VII. Draft provisional agenda of the next session of the Sub-Commission

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<sup>a/</sup> See chap. XVI.

<sup>b/</sup> Subject to decisions that might be taken by the Sub-Commission concerning this item after the entry into force of the International Covenant on Civil and Political Rights (see Sub-Commission resolution 11 (XXVII)).

(b) Studies

	Year of discussion					Year of submission of final report
	1976	1977	1978	1979	1980	
VIII. The problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live	F					1976
IX. 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	F					1976
X. The historical and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms	D	F				1977
XI. Implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination		F				1976
XII. Study of the problem of discrimination against indigenous populations			F			1977
XIII. Study of the rights of persons belonging to ethnic, religious and linguistic minorities		F				1976

D = draft report.

F = final report.

	Year of discussion					Year of submission of final report
	1976	1977	1978	1979	1980	
XIV. Study of the question of the prevention and punishment of the crime of genocide			F			1976
XV. The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights	D		F			1977
XVI. Updating of the special study of racial discrimination in the political, economic, social and cultural spheres	F					1976

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D = draft report.

F = final report.

Annex III

FINANCIAL IMPLICATIONS OF RESOLUTION 5 (XXVIII) AND OF DECISIONS  
ADOPTED BY THE SUB-COMMISSION AT ITS TWENTY-EIGHTH SESSION

1. At its twenty-eighth session, the Sub-Commission took a number of decisions having financial implications: in pursuance of a recommendation of the Commission on Human Rights, it adopted a five-year programme for its future work; it noted that Mr. Hernán Santa Cruz wished to present his updated report on racial discrimination at the twenty-ninth session instead of the twenty-eighth; it decided to consider at its twenty-ninth session the draft recommendations of Mrs. Halima Warzazi on the exploitation of labour through illicit and clandestine trafficking; and it adopted resolution 5 (XXVIII) on slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism. Prior to the adoption of these decisions and of resolution 5 (XXVIII), statements of their administrative and financial implications were submitted on behalf of the Secretary-General, in compliance with financial regulation 13.1 and with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council. These statements, which bear essentially on items of expenditure not previously included in appropriations or proposed appropriations, are summarized below.

2. Should the action taken by the Commission on Human Rights and the Economic and Social Council in respect of the above-mentioned decisions and resolution of the Sub-Commission require the Secretary-General to enter into commitments in 1976-1977, additional credits, as appropriate, would be required for that biennium.

The problem of the applicability of existing international provisions  
for the protection of human rights to individuals who are not  
citizens of the country in which they live

3. Under the terms of the five-year programme which has been approved by the Sub-Commission, Baroness Elles will now present her final report to the Sub-Commission in 1976. The Special Rapporteur wishes to come to Geneva once in 1976 for consultations with the Division of Human Rights and once to present her report to the next session of the Sub-Commission. The financial implications involved are as follows:

	<u>1976</u> (\$US)
(a) Travel (first class) and subsistence of Baroness Elles to consult with the Division of Human Rights (London/Geneva/London: total time 10 days)	980
(b) Travel (first class) and subsistence to present report to Sub-Commission (London/Geneva/London: total time 10 days)	980
TOTAL	<u>1,960</u>

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

4. Under the terms of the five-year programme, the Special Rapporteur (Mr. Ahmed M. Khalifa) will present his final report to the Sub-Commission in 1976. The Special Rapporteur wishes to undertake a two-week study tour to West Africa, which he had been unable to do in 1974, in January 1976. He has also indicated that he wishes to visit Geneva in November 1975 for consultations with the Division of Human Rights.

5. Taking into consideration the over-all savings in cost which would be brought about by the earlier submission of the final report, the financial services of the United Nations Office at Geneva have indicated that the cost of the proposed travel plan of the Special Rapporteur could be covered from funds previously authorized. The financial implications are as follows:

	<u>1975</u> (\$US)	<u>1976</u> (\$US)
(a) Travel (first class) and subsistence of Special Rapporteur to consult with Division of Human Rights (Cairo/Geneva/Cairo: total time 4 working days)	1,130	
(b) Travel (first class) and subsistence of Special Rapporteur on two-week study tour in 1976		2,300

The historical and current development of the right of self-determination on the basis of the Charter of the United Nations and other instruments adopted by the United Nations organs

6. Under the terms of the five-year programme, the Special Rapporteur (Mr. Aureliu Cristescu) will present his draft report to the Sub-Commission in 1976 and his final report in 1977.

7. In order to continue his study, the Special Rapporteur has indicated that he wishes to visit UNESCO headquarters in Paris in 1976 in connexion with his already scheduled visit to Geneva to consult with the Division of Human Rights.

8. The additional costs are estimated as follows:

	<u>1976</u> (\$US)
Additional travel costs (first class) of Special Rapporteur to consult with UNESCO, Paris (in conjunction with his four-week visit to Geneva to consult with the Division of Human Rights)	100

Study of the problem of discrimination  
against indigenous populations

9. Under the terms of the five-year programme, the Special Rapporteur (Mr. José R. Martínez Cobo) will present his final report to the Sub-Commission in 1978, but it is to be available to the Sub-Commission in 1977.

10. In order to continue his study, the Special Rapporteur has indicated that it would be necessary for him to undertake a study trip in 1976 to Mexico, Guatemala, the United States of America and Canada, for a period of approximately three weeks. In addition, the Special Rapporteur has expressed the wish that one member of the Secretariat should accompany him during this trip.

11. On the basis of the indications given by the Special Rapporteur, the financial implications are estimated as follows:

	<u>1976</u> (\$US)
I. <u>Travel and subsistence of the Special Rapporteur</u> <u>(resident in Mexico)</u>	
(a) First class travel (Mexico/Guatemala/ United States/Canada/Mexico)	1,500
(b) Additional cost for domestic travel	700
(c) Subsistence (22 days at average of \$50 per day)	<u>1,100</u>
	3,300
II. <u>Travel and subsistence of a substantive staff</u> <u>member (duty station in Geneva)</u>	
(a) Economy class travel (Geneva/Mexico/Guatemala/ United States/Canada/Geneva)	2,500
(b) Additional cost for domestic travel	700
(c) Subsistence (22 days at average of \$35 per day)	<u>770</u>
	<u>3,970</u>
	7,270

Updating of the study on racial discrimination

12. In a letter to the Chairman of the Sub-Commission, the Special Rapporteur (Mr. Hernán Santa Cruz) stated that he would be unable to present his report to the Sub-Commission at its twenty-eighth session but that he would be in a position to submit a report in 1976. In order to update his study, the Special Rapporteur expressed the wish to visit some countries in the Americas as well as some territories in Africa which are acceding to independence or have achieved it recently, to establish contact with persons who would enrich his knowledge of the subject-matter. The financial implications are as follows:

	<u>1976</u> (\$US)
<u>Travel and subsistence of the Special Rapporteur</u> <u>(resident in Paris) and cost of outside expertise</u>	
I. (a) Travel (first class) Paris/Canada/ United States/Latin America/Paris	2,750
(b) Additional cost for domestic travel	700
(c) Subsistence (22 days at average of \$50 per day)	<u>1,100</u>
	4,550
II. (a) Travel (first class) Paris/Mozambique/ Angola/other countries of Africa/Paris	2,925
(b) Domestic travel	700
(c) Subsistence (22 days at average of \$50 per day)	<u>1,100</u>
	4,725
III. (a) Travel (first class) and subsistence of Mr. Santa Cruz to consult with the Division of Human Rights (Paris/Geneva/Paris: total time 3 weeks)	1,500
(b) Travel (first class) and subsistence of Mr. Santa Cruz to present his report to the Sub-Commission (Paris/Geneva/Paris: total time 10 days)	<u>920</u>
	2,420
IV. Four man-months of outside expertise at the P-3 level	<u>8,500</u>
TOTAL	20,195

Exploitation of labour through illicit and  
 clandestine trafficking

13. The Sub-Commission decided to consider the draft recommendations of the Special Rapporteur (Mrs. Halima Warzazi) at its twenty-ninth session. She would therefore travel to Geneva in 1976 to be present when they are discussed. The financial implications are as follows:

	<u>1976</u> (\$US)
Travel (first class) and subsistence of Mrs. Warzazi to be present when her recommendations are discussed in the Sub-Commission (Rabat/Geneva/Rabat: total time five days)	900



Working Group on Slavery

14. If the Commission on Human Rights and the Economic and Social Council approve the recommendation of the Sub-Commission, in its resolution 5 (XXVIII), the Working Group on Slavery will meet for five working days in 1976. The financial implications of a five-day meeting immediately prior to the Sub-Commission's twenty-ninth session are as follows:

	<u>1976</u> (\$US)
(a) Estimated per diem for five experts for five working days	1,600
(b) Travel costs would be covered under members' travel to attend the Sub-Commission session.	
(c) Conference costs would be absorbed under permanent and temporary assistance funds available from existing resources at the United Nations Office at Geneva for servicing conferences in 1976-1977.	

Annex IV

LIST OF DOCUMENTS BEFORE THE SUB-COMMISSION  
AT ITS TWENTY-EIGHTH SESSION

1. Documents issued in the general series

- E/CN.4/Sub.2/355 and Corr.1      Provisional agenda and annotations thereto: note by the Secretary-General
- E/CN.4/Sub.2/356      Review of further developments in fields with which the Sub-Commission has been concerned: note by the Secretary-General
- E/CN.4/Sub.2/357      Review of further developments in fields with which the Sub-Commission has been concerned: memorandum submitted by the International Labour Office
- E/CN.4/Sub.2/358      Review of further developments in fields with which the Sub-Commission has been concerned: memorandum submitted by the United Nations Educational, Scientific and Cultural Organization
- E/CN.4/Sub.2/359 and Add.1      The question of the human rights of persons subjected to any form of detention or imprisonment: note by the Secretary-General
- E/CN.4/Sub.2/360      Updating of the special study of racial discrimination in the political, economic, social and cultural spheres: letter dated 29 August 1975 addressed to the Chairman of the Sub-Commission by Mr. Hernán Santa Cruz, Special Rapporteur
- [E/CN.4/Sub.2/361]      [Number not assigned]
- E/CN.4/Sub.2/362 and Corr.1      Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: note by the Secretary-General
- E/CN.4/Sub.2/363      Study on the rights of persons belonging to ethnic, religious and linguistic minorities: memorandum dated 12 August 1975 from the Government of Yugoslavia
- E/CN.4/Sub.2/AC.2/3      Report of the Working Group on slavery on its first session

E/CN.4/Sub.2/NGO/51

Review of further developments in fields with which the Sub-Commission has been concerned: written statement submitted by the International League for the Rights of Man

E/CN.4/Sub.2/NGO/52

The question of the human rights of persons subjected to any form of detention or imprisonment: written statement submitted by the International League for the Rights of Man

E/CN.4/Sub.2/NGO/53

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: written statement submitted by the International Youth and Student Movement for the United Nations and the International League for the Rights of Man

E/CN.4/Sub.2/NGO/54

Consideration of the future work of the Sub-Commission, including the drawing up of a five-year programme of work (Commission on Human Rights resolution 10 (XXXI)): written statement submitted by the International Youth and Student Movement for the United Nations

E/CN.4/Sub.2/NGO/55

The question of the human rights of persons subjected to any form of detention or imprisonment: written statement submitted by the International Youth and Student Movement for the United Nations

2. Documents issued in the limited series

E/CN.4/Sub.2/L.597

Study of the question of the prevention and punishment of the crime of genocide: progress report by Mr. Nicodème Ruhashyankiko, Special Rapporteur

E/CN.4/Sub.2/L.621

Study on the rights of persons belonging to ethnic, religious and linguistic minorities: report by Mr. Francesco Capotorti, Special Rapporteur

- E/CN.4/Sub.2/L.622 Study of the problem of discrimination against indigenous populations: report submitted by the Special Rapporteur, Mr. José R. Martínez Cobo
- E/CN.4/Sub.2/L.623 Study of the question of the prevention and punishment of the crime of genocide: progress report by Mr. Nicodème Ruhashyankiko, Special Rapporteur
- E/CN.4/Sub.2/L.624 The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régimes in southern Africa: preliminary report submitted by Mr. Ahmed M. Khalifa, Special Rapporteur
- E/CN.4/Sub.2/L.625 The **historical** and current development of the right to self-determination on the basis of the Charter of the United Nations and other instruments adopted by United Nations organs, with particular reference to the promotion and protection of human rights and fundamental freedoms: preliminary report submitted by Mr. Aureliu Cristescu, Special Rapporteur
- E/CN.4/Sub.2/L.626 Implementation of United Nations resolutions relating to the right of peoples under colonial and alien domination to self-determination: note by the Secretary-General
- E/CN.4/Sub.2/L.627 and Corr.1 The individual's duties to the community and the limitations on human rights and freedoms under article 29 of the Universal Declaration of Human Rights: preliminary report prepared by Mrs. Erica-Irene Daes
- E/CN.4/Sub.2/L.628 and Add.1-4 The problem of the applicability of existing international provisions for the protection of human rights to individuals who are not citizens of the country in which they live: report prepared by Baroness Elles, Rapporteur
- E/CN.4/Sub.2/L.629 Exploitation of labour through illicit and clandestine trafficking: note by the Secretary-General

E/CN.4/Sub.2/L.630

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII): draft resolution submitted by Mr. Bhagat, Mr. Janković and Mr. Whitaker

E/CN.4/Sub.2/L.631

Five-year programme of work of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: note by the Secretariat

E/CN.4/Sub.2/L.632

Question of slavery and the slave trade in all their practices and manifestations, including the slavery-like practices of apartheid and colonialism: report of the Working Group established under Sub-Commission resolution 11 (XXVII) in accordance with Economic and Social Council decision 17 (LVI): draft resolution submitted by Mrs. Jotidilok, Mrs. Kinyanjui, Mr. Navarro Richardson and Mr. Sekyiamah

E/CN.4/Sub.2/L.633

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII): draft resolution submitted by Mr. Al-Zahawi, Mr. Bhagat, Mr. Bouhdiba, Mr. van Boven, Mr. Capotorti, Mr. Janković, Mrs. Kinyanjui, Mr. Martínez Báez, Mr. Nettel, Mrs. Questiaux, Mr. Sekyiamah, Mr. Short, Mr. Smirnov and Mr. Whitaker

E/CN.4/Sub.2/L.634

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII): draft resolution submitted by Mr. Bouhdiba, Mr. van Boven, Mr. Carter, Mr. Durlong, Mr. Khalifa, Mrs. Kinyanjui, Mr. Sekyiamah, Mr. Short and Mr. Whitaker

E/CN.4/Sub.2/L.635

Question of the human rights of persons subjected to any form of detention or imprisonment: draft resolution submitted by Mr. Bouhdiba, Mr. van Boven, Mr. Capotorti, Mr. Khalifa, Mr. Martínez Báez, Mr. Nettel and Mrs. Questiaux

E/CN.4/Sub.2/L.636

Exploitation of labour through illicit and clandestine trafficking: draft recommendations submitted by Mrs. Halima Warzazi, Rapporteur

E/CN.4/Sub.2/L.637

Draft general principles on equality and non-discrimination in respect of persons born out of wedlock: report of the informal working group established by the Sub-Commission at its 725th meeting

E/CN.4/Sub.2/L.638

Consideration of the future work of the Sub-Commission, including the drawing up of a five-year programme of work (Commission on Human Rights resolution 10 (XXXI)): report of the working group set up at the 719th meeting of the Sub-Commission

E/CN.4/Sub.2/L.639

Draft provisional agenda for the twenty-ninth session: note by the Secretary-General

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